

PLANNING COMMITTEE
Council of the County of Maui

MINUTES

Council Chamber

September 19, 2014

CONVENE: 1:34 p.m.

PRESENT: VOTING MEMBERS:

Councilmember Donald G. Couch, Jr., Chair
Councilmember Michael P. Victorino, Vice-Chair (arrived at 1:37 p.m.)
Councilmember Gladys C. Baisa (excused from 1:45 p.m. to 2:48 p.m.)
Councilmember Elle Cochran
Councilmember Stacy Crivello (left at 2:28 p.m.)
Councilmember Mike White

EXCUSED: Councilmember Don S. Guzman

STAFF: Chancy Hopper, Legislative Analyst
Kim Willenbrink, Legislative Analyst
Kit Zulueta, Communication Director
Pauline Martins, Committee Secretary

Tina Thompson, Executive Assistant to Councilmember Crivello, assisting
at Molokai Council Office (via voice conference)
Sharon Brooks, Legislative Attorney, assisting at Lanai Council Office
(via voice conference)
Dawn Lono, Council Aide, Hana Council Office (via voice conference)

ADMIN.: Michael J. Hopper, Deputy Corporation Counsel, Department of the
Corporation Counsel
John Rapacz, Planning Program Administrator, Department of Planning
Joseph Alueta, Administrative Planning Officer, Department of Planning
Mark Walker, Deputy Director, Department of Finance
Scott Teruya, Administrator, Real Property Tax Division, Department of
Finance

OTHERS: Paul Laub
Plus (2) other people

PRESS: *Akaku Maui Community Television, Inc.*

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PC-33 HOME BUSINESSES (CC 12-74)

CHAIR COUCH: . . . (*gavel*) . . . Will the Planning Committee meeting of September 19, 2014 please come to order. It is a little bit after 1:30. And my name is Don Couch, I'm the Chairperson of this Committee. And before we start I would like everybody to turn off your cell phones or put them in silent mode, please. And I want to welcome our Members. Council...Vice-Chair of the Committee Victorino will be excused. He'll be a little bit late. We have Council Chair Gladys Baisa.

COUNCILMEMBER BAISA: Good afternoon, Chair.

CHAIR COUCH: Good afternoon. Councilmember Elle Cochran.

COUNCILMEMBER COCHRAN: Aloha.

CHAIR COUCH: Aloha. Councilmember Stacy Crivello.

COUNCILMEMBER CRIVELLO: Aloha, Chair.

CHAIR COUCH: Aloha. And Councilmember Guzman is excused. And Councilmember Mike White.

COUNCILMEMBER WHITE: Aloha, Chair.

CHAIR COUCH: Aloha. And thank you for hanging in there. All right. We have, from the Administration we will have, we may have Will Spence. He's I know tied up in another meeting right now, but at least we have Joe Alueta, he's the Administrative Planning Officer.

MR. ALUETA: Good afternoon, Chair.

CHAIR COUCH: Good afternoon. Yeah. We have Deputy Corporation Counsel Mike Hopper.

MR. HOPPER: Good afternoon, Chair.

CHAIR COUCH: Good afternoon. And we have Scott Teruya who will talk to us, he's the Administrator of the Real Property Tax Division, Department of Finance. And I'm not sure if we have Director of Finance Agsalog, he may or may not be down here. The Legislative...the Committee Staff is Legislative Analyst Chancy Hopper. Good afternoon. And Legislative Analyst Kim Willenbrink. Good afternoon.

MS. WILLENBRINK: Good afternoon, Chair.

CHAIR COUCH: And Committee Secretary Pauline Martins. Good afternoon. All right. We have, on today's agenda we have PC-33 which is Home Businesses, the home business bill. And we will be doing public testimony now. And it looks like we have one member signed up from the

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public to testify. That would be Paul Laub. And as you are coming down, Mr. Laub, just for anybody else who wants to testify in the Chambers, please sign up at the desk in the back there. You have, testimony is to be limited just to this item. And pursuant to the Rules of the Council you will have three minutes to testify with one minute to conclude. And when testifying please state your name and the type...name of any organization you are representing. So, Members, without objections, we'll start public testimony.

COUNCIL MEMBERS: No objections.

CHAIR COUCH: Okay. Mr. Laub.

... BEGIN PUBLIC TESTIMONY ...

MR. LAUB: Thank you, Chair. I'm Paul Laub and I'm representing two organizations, one is the Maui County Veterans Council and the other one is the Maui Native Hawaiian Chamber of Commerce who both wish to thank you very much for your hard work on this bill which we really like. A couple of things here. The only change that I see to the bill that might be helpful is that 19.67.040 E where you might add "motor" to "vehicles". The key thing to this self-help program bill which it really is a very important self-help program, is that this does not affect the tax rate of the home that it's going to be in, that it stays at a home tax rate just as it would be if there was no home-based business. Thank you very kindly.

CHAIR COUCH: Thank you. Members, any questions of the testifier? Seeing none, let me just ask again, what was that, 19 point...

MR. LAUB: 67.040 E. And it says vehicles, no more than two vehicles, and I thought it might be helpful if it said no more than two motor vehicles.

CHAIR COUCH: Okay. All right. Thank you.

MR. LAUB: Thank you, sir.

CHAIR COUCH: Any further questions for the testifier? Seeing none, I'll go to the District Offices. But let's see, somebody looks like they may or may not be going to testify. No? No. Okay. All right. Assisting us from the Hana District Office is Dawn Lono. Any testifiers there, Dawn?

MS. LONO: Good afternoon, Chair. This is Dawn Lono at the Hana Office and there is no one waiting to testify.

CHAIR COUCH: Lanai District Office, Sharon Brooks.

MS. BROOKS: Good afternoon, Chair. This is Sharon Brooks at the Lanai Office, there is no one waiting to testify on Lanai.

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CHAIR COUCH: Thank you. And Molokai District Office, Tina Thompson.

MS. THOMPSON: Good afternoon, Chair. This is Tina Thompson from the Molokai District Office and there is no one waiting to testify.

CHAIR COUCH: Thank you. And it looks like no one in the Chambers is wanting to come down and testify either because there's no one else in the Chambers. So, Members, without any objection, I'd like to close public testimony.

COUNCIL MEMBERS VOICED NO OBJECTIONS.

CHAIR COUCH: Okay. Public testimony is closed.

... END OF PUBLIC TESTIMONY ...

CHAIR COUCH: All right, Members, we're in receipt of County Communication 12-74, from the Planning Director, transmitting in response to Resolution 11-97, a summary of the Lanai, Maui, and Molokai Planning Commission's comments on a proposed bill relating to home businesses. We also have a correspondence dated September 9th, from me, to the Department of Corporation Counsel, transmitting a revised proposed bill, A Bill for an Ordinance Amending Title 19, Maui County Code, Relating to Home Businesses. The purposes of the revised bill are to establish the standards and restrictions for the regulation of home businesses; home businesses as a permitted use in the Residential and Rural zoning districts subject to qualifying standards and restrictions; home businesses as special use in Residential and Rural zoning districts, where permitted use standards and restrictions are not met, but the home business qualifies under special use standards and restrictions and obtains a County Special Use Permit; and home businesses as a special use in the Agricultural zoning district. Let me first ask if Planning has any further comments before we get into the bill. Anything from Planning?

MR. ALUETA: I think just looking through the bill and my only comment that came out, comment was on the parking requirements, whether 19.36 would, A, would need to be amended to add home-based business, and also whether or not because you are putting parking like they have to provide so much stalls, whether or not they would be subject to the standard provision meaning as far as being paved and striped and how that would handle. It would be out of character I guess from a residential standpoint if you required them to basically take out their front lawn to put in certain stalls, and whether or not those stalls are in addition to the two that is required for single-family residence as well as one, the one additional stall for accessory dwellings. We just would like to have some clarification when somebody comes in and registers, you know, how...or not register but how you want the parking to be arranged, look, and whether or not you want to waive them from certain standards.

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CHAIR COUCH: Okay. Members, while Mr. Alueta has some good comments, let's take a look at the September 9th communication from me to the Corporation Counsel. We'll be working off of that. So he was discussing the parking that we were talking about which is on Page 7 of that I believe. It's 19.67.030 Section F, home business shall accommodate a maximum of 4 parking spaces on lots less than 1 acre, 6 parking spaces on lots of 1 to 2 acres, 10 parking spaces on lots of more than 2 acres to 5 acres, and 12 parking spaces for lots over 5 acres. It's my understanding and when we discussed all this, it was, this was up to a maximum of, you don't have to provide that many, it's a maximum of. Now your question is is it including the two that are required or the number that are required for the dwelling itself, is that your question?

MR. ALUETA: Right. Well one, I guess in looking at it, are you requiring a minimum parking stalls to be provided, and then you're also...and then I guess you're saying a maximum of. Is that what you're indicating that...so are you requiring stalls to begin with for anyone that's operating a home-based business?

CHAIR COUCH: Okay.

MR. ALUETA: Is that how many stalls are requiring...are those required stalls going to have...would normally be listed in 19.36, I believe 19.36A of the Parking Code, Off-Street Parking Code, what standards would you...I mean we would reply a paved and striped, you know, sometimes landscaping, we wouldn't, not. So are you going to...

CHAIR COUCH: Uh-huh.

MR. ALUETA: I'm just trying to find out or are you saying that they can tandem park them behind existing stalls, and then I guess your language is written so that you don't want them to have too many stalls, meaning you don't want to have a whole --

CHAIR COUCH: Correct.

MR. ALUETA: --20 stalls, you're saying the maximum of stalls. So I just need to know what the minimum is requirement, what standards they're going to have, and then anything over that we don't necessarily require paving requirements at this time.

CHAIR COUCH: Okay. We will bring that up when we get to that portion. Corporation Counsel, do you have any concerns?

MR. HOPPER: No, Mr. Chair.

CHAIR COUCH: Okay. All right, Members, we will be going off that section there. Essentially I believe we're okay with everything, we've gone through everything up to Page 6. Page 6 we've added some stuff as, based on our last meeting. Just on Page 6 we just added another Section 19.67.080 which is Review. That's the only change we ever, we made to Page 6. We just added Review. If you go to Page 7 at 19.67.030 down to D, we said "on-site home business hours of

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operation shall be limited to between 8:00 a.m. and 7:00 p.m.” as discussed earlier today. I mean at the earlier meetings. Anybody have any concerns about that? Okay. Then the next one E, we had some testimony that people wanted to make it clear that automotive repair was not...or needs a Special Use Permit and is not a permitted use. So we added the language at the end of E that says “automotive repair and body shops shall require a Special Use Permit, as described in Section 19.67.050. Okay. Then F we removed from the parking, provided that the parking spaces are utilized only between 8:00 and 7:00 p.m. because we put the hours of business in there. So this is where we want to talk about parking. We’ve gotten some testimony in writing that I believe I submitted to the Committee or the Committee received from the Kihei Community Association, and I want to thank them for their testimony on this. They would like to see and I kind of agree that we say that we don’t allow on-street parking for home businesses, ‘cause that’s a lot of the concerns of the neighbors is that they’re going to take up a lot of parking on the street. Any thoughts on that, Members?

VICE-CHAIR VICTORINO: Mr. Chair?

CHAIR COUCH: Yes, Mr. Victorino.

VICE-CHAIR VICTORINO: Although I concur with that idea, how the heck you going to enforce it is a question. My question, how would you enforce it? Because I mean let’s be very honest, I don’t care where you go in this town right now, I can tell you where there’s some businesses being operated and there’s cars on the street, but are those cars for the business, for the residence, for somebody visiting there across the street? How do you prove that? Again, we come up with these ideas and I, you know, even like the other one that I’m not too keen about is you have those extra parking spaces and...

CHAIR COUCH: Well, we’re going to get to that extra --

VICE-CHAIR VICTORINO: Yeah.

CHAIR COUCH: --parking spaces after.

VICE-CHAIR VICTORINO: Because that was another one --

CHAIR COUCH: Yeah.

VICE-CHAIR VICTORINO: --I’m not keenly happy with because if I have four parking spaces available in my house and after business hours have concluded my son or somebody comes over and parks in it, hello. You know I mean there are some real definitive challenges, and you know what, I don’t care how we do it, somewhere, somehow, somebody, it’s not going to get right.

CHAIR COUCH: Right.

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VICE-CHAIR VICTORINO: So as far as on-street parking, just like with B&Bs we said they couldn't park on the street, how do you prove that? That's my question. I mean if you can prove it, that's one issue, and who has the burden of proof? And then who are you going to call? You going call Permitting or Planning or Police? Who you going call? Maybe you're gonna call Ghostbusters. Maybe that's who you're gonna call. No but honestly, we're laughing but it's not a funny thing 'cause normal people are hitting me with things on the street every day, you know. And Mr. Hokama brought another bunch of questions --

CHAIR COUCH: Yeah, yeah.

VICE-CHAIR VICTORINO: --which I have brought up a number of times and never had an answer to. And then we're going to have to discuss that also. But going to this no on-street parking, I think we can say it, how do we enforce it is the key. You know saying it is one thing, enforcing it is a whole different dynamic. We have right now on the books nobody can park overnight on streets.

CHAIR COUCH: Right.

VICE-CHAIR VICTORINO: I drive anywhere in your district, my district, his district, I no care what district you go, mine, anyone, there's lots of cars parked on the street overnight.

CHAIR COUCH: Right. And we've all gotten complaints from people who have gotten --

VICE-CHAIR VICTORINO: . . . *(inaudible)* . . .

CHAIR COUCH: --tickets. Well it's complaint driven as well. When somebody calls the Police Department then they go and do a sweep.

VICE-CHAIR VICTORINO: So we're going to put this on the Police also?

CHAIR COUCH: This one I would ask the Department, but this is one of those things that if somebody says hey, these guys are parking all the time, this is more of a way to say look, you guys can't do your home business if you're doing this. It's not of somebody's going to come around and say oh look, these guys are, look like they're parking for the business. It's one of those that this is another tick on the box that you can say these, you know, this business is having people park all the time on the street, you know, can you ask them to not do that, and that would be Zoning Enforcement I would think, Mr. Rapacz.

VICE-CHAIR VICTORINO: Okay.

CHAIR COUCH: Oh and we have Mr. John Rapacz from Planning, he's Zoning Enforcement Director or Division head.

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MR. RAPACZ: Thank you. Member Couch, it sounds like if parking were prohibited by law on the street in general then of course the police could be called about that, but it would also be in this case a zoning violation if it were a customer of the business parking on the street.

VICE-CHAIR VICTORINO: So now we need...Mr. Chair, we need to put a sign visibly on the street saying no parking for this business that's operating in this particular house.

CHAIR COUCH: Again, it's one of those situations where if we wanted the police to enforce that then we would need the signs. If we want to say look, Mr. Victorino, you're doing your business and you're having your people park on the street, please get them inside, it's part of the law, and if you keep violating it then we can start issuing notices of violations if the neighbors keep complaining. It's one of those things. Like we do all of our other zoning stuff, it's just another thing to check.

VICE-CHAIR VICTORINO: Okay. Just another...

CHAIR COUCH: Does that make sense?

VICE-CHAIR VICTORINO: Yeah. Just another neighbor against neighbor situation . . . *(inaudible)* . . .

CHAIR COUCH: Well all of our laws are pretty much that way.

VICE-CHAIR VICTORINO: And you know how that works real well.

CHAIR COUCH: Yeah.

VICE-CHAIR VICTORINO: That's working very well out there. So okay, I'm cool with that. It's just that every time we put something additional to it, who enforces it --

CHAIR COUCH: Right.

VICE-CHAIR VICTORINO: --and when does it get enforced has always been the big question. And we've got more laws than fleas and we still can't enforce all of 'em. You know I got simple analogies to what you have out there and everybody can understand that.

CHAIR COUCH: Yeah.

VICE-CHAIR VICTORINO: Thank you, Chair.

CHAIR COUCH: Members, any other comments on that? Adding, first of all, it would be adding no on-street parking, and any other comments directly on parking as to what Mr. Alueta mentioned? Or are we up for a minimum? Should we provide, ask them provide a minimum? Should we require...I...it's my personal opinion we shouldn't require them to follow the 19.36A as far as

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striping and pavement 'cause we don't want them to tear out their lawn and put in pavement, but that's up to the Committee.

VICE-CHAIR VICTORINO: So you're asking, you know, like you had four parking, six parking depending on, yeah. How do you distinguish where that parking is on the property? Just anywhere? Is that what you're basically saying?

CHAIR COUCH: Well that's what I'm asking is, does the Committee want to go...because we have, again, we have big huge lots, multiple acres down to a 10,000 square foot lot or even the 7,000 square foot lot. And if there's no room for parking on there then I would think that you're not able to have customers.

VICE-CHAIR VICTORINO: Well again I'll play the devil's advocate with this one because let's say you have a 7,000 square foot lot, right, you can't park on the street, right, so all you can do is park in the driveway. And so two cars come in and park back to back.

CHAIR COUCH: Or the lawn. If you're a business...

VICE-CHAIR VICTORINO: If there's a lawn. If you even got a lawn.

CHAIR COUCH: Right. If you're a business...

VICE-CHAIR VICTORINO: You got a 7,000 square foot lot you don't have much of a lawn. Let me be honest.

CHAIR COUCH: No, understood.

VICE-CHAIR VICTORINO: And, you know, probably no area to park. I mean I've got 5,000-6,000 square foot lots right here in Kea Lani and Kaimana, there's no lot, there's no lawn to park on. So what I'm saying is then if you allow four spaces or two spaces or whatever amount of spaces you allow beyond their residential, how do you account for it? And that's the question I'd ask.

CHAIR COUCH: And, Mr. White...oh, okay. It...my response to that would be is if you can't provide parking for your customers then you can't have customers. It's to...the whole idea is not to be disruptive or change the character of the neighborhood. And if it's to the point where you can't provide parking for your customers it's time to go to a commercial lot. As opposed to a lot of the businesses that we're dealing with have, may have one customer at a time or none, they go to their customers.

VICE-CHAIR VICTORINO: So this is why I'm asking, if you say you need two spaces, let's use that as ...*(inaudible)*...

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CHAIR COUCH: No, I'm just saying do we want a minimum? The question from Mr. Alueta was do we want a minimum or are we just allowing maximum. We had only talked about no more than before.

VICE-CHAIR VICTORINO: Well you just...

CHAIR COUCH: The question is...

VICE-CHAIR VICTORINO: You just said, you know, your answer to that was oh, it's up to them how they want to handle it so long as they can have the spaces on the property, right?

CHAIR COUCH: Correct. That's where if we add no off-street parking...no on-street parking --

VICE-CHAIR VICTORINO: Yeah.

CHAIR COUCH: --then that will cause the, pretty much the --

VICE-CHAIR VICTORINO: Everybody to . . . *(inaudible)* . . . --

CHAIR COUCH: --minimum/maximum.

VICE-CHAIR VICTORINO: --parking in...

CHAIR COUCH: Right.

VICE-CHAIR VICTORINO: Okay. So, Mr. Alueta, my question to you is if we say fine, just so long as they can find a parking space on the property, would that suffice?

MR. ALUETA: Thank you, Mr. Chair. I guess the main issue is like do you want it to be paved? I mean ideally you're only allowing two customers at a time, and so in an ideal situation we'd rather just say that you must provide two additional stalls in addition to the two that are required and you allow for tandem. And that they be paved but not necessarily striped. So that someone could theoretically if they had a driveway apron and the lot was appropriately set back, they could be able to accommodate two cars in front of their garage or two in the garage and then two in front of the garage. Most driveways would be able to accommodate that. That would be acceptable. I do support the idea of no having on-street parking. That does, again, minimize the impact on the surrounding properties. From an...we'd rather have it than not have it in the Code for an enforcement. Yes, enforcement would be an issue, but some of these home-based businesses that we are talking about, a lot of them it's going to be blatant if they have a car, if they have a line of taxi cabs parked out in front of their house if they're running a taxi dispatch or if they're a lock and smith or a Roto-Rooter type of business. It's, it would be easier for us to say hey, you're parked in front of your house, if you're running a home-based business out of your house you need to at least park it, your vehicle on the property. That makes...it's a little more easier to enforce, and it makes it clear also to the people that I'm running a home-based

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business, I'll park it onsite. Yes, customers...customer-wise it may be more difficult to enforce that aspect of it, but I'm not...given how you've already eliminated or you're limiting it to two customers at a time, I don't foresee any, that being a big issue. So like I say, I'd rather have it onsite. We would rather have direction as how the parking should be accommodated onsite and with a minimum, so if you're requiring two at any one time, at least two onsite that are paved. And then, you know, as far as providing the maximum, that's you may want to look at maybe providing that additional parking...if additional parking stalls are provided, they're provided somewhere else other than the front lawn, the front yard setback. So meaning they can either park it on the side of the house or on the back of the house.

VICE-CHAIR VICTORINO: Well...*(inaudible)*...

MR. ALUETA: So I mean that's, those are just my basic thoughts, but I think the clarity in as far as what you're going to require and then allowing for tandem and then putting that also in the Code as far as 19.36 and by saying that you must provide two stalls and they may be tandem.

VICE-CHAIR VICTORINO: Okay. But you want 'em paved? I keep hearing that. I heard that three times from you.

MR. ALUETA: That's the easiest because, you know, if it's a common thing you tend to get, it's not going to look pretty. I mean erosion and safety issues. But that's the standard requirements to provide paved parking for all required stalls. Non, if there's not required stalls the additional parking can be grassed or...and located somewhere else.

VICE-CHAIR VICTORINO: Okay. Okay, Mr. Chair, thank you.

CHAIR COUCH: Okay. Mr. White.

COUNCILMEMBER WHITE: Thank you, Chair. Mr. Alueta, when you're considering the parking issue, are you considering if we need two additional spaces that that would be in addition to the two spaces in the garage and the two spaces immediately outside the garage between the garage and the road? So they would need...I mean I'm just thinking of a situation where you've got the ability to park four cars and if there are two cars there on a normal basis or three cars there, but during your business hours the cars are gone except for the person who's running the business, are we saying that if you have three available stalls you actually need to add two more? Or if you have those three available stalls that's enough?

MR. ALUETA: Yeah.

COUNCILMEMBER WHITE: I'm not really sure how we're counting the two minimum or the number of additional stalls we might be requiring.

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MR. ALUETA: It'd be two in addition to the two required for the single-family residence. So if the two theoretically are in the garage then two outside would cover the home-based business. If they've converted the garage into the home-based business --

COUNCILMEMBER WHITE: Right.

MR. ALUETA: --then they would have to accommodate --

COUNCILMEMBER WHITE: Two more.

MR. ALUETA: --the two stalls somewhere else. But, you know, if they've converted the garage so that it no longer meets the parking requirement for the dwelling unit then they would need to provide two stalls somewhere else on the property to meet the minimum. So we're saying if you run a home-based business you would need to provide four paved parking stalls on the property.

COUNCILMEMBER WHITE: Okay.

MR. ALUETA: And --

COUNCILMEMBER WHITE: That's good.

MR. ALUETA: --just like with the B&Bs and short-term rentals and others, we allow for tandem parking, and so I think that's a good...that would be acceptable in this case.

COUNCILMEMBER WHITE: Right. So if you have a slightly longer driveway and you can fit two cars behind each other that's, you're in good shape. Okay, thank you. Thank you, Chair.

CHAIR COUCH: Okay. Ms. Crivello or Ms. Cochran, any comments on the parking?

COUNCILMEMBER CRIVELLO: Not for me. Thank you.

CHAIR COUCH: Okay. I still think if we throw on no on-street parking, if we throw that requirement in there then we don't need a minimum because it's totally up them however many, you know, they have to leave room for their customers if they want customers and it's 'cause they don't want 'em to park on the street. Yes, Mr. White.

COUNCILMEMBER WHITE: But to Mr. Victorino's point, how do you monitor that? Because if the customers...let's say Mr. Victorino and I God forbid live together in the same house...

VICE-CHAIR VICTORINO: That's not fair.

COUNCILMEMBER WHITE: And our mother --

CHAIR COUCH: Sorry, that picture is just...

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COUNCILMEMBER WHITE: --Stacy says, yeah, a customer is coming over so you two Mikes gotta move your cars out on the street. The customer is going to be parking on the, in the approved spot and because we're residents of that area we're not going to be breaking any laws by parking on the street.

CHAIR COUCH: But you aren't breaking any laws by parking on the street anyway.

VICE-CHAIR VICTORINO: True.

CHAIR COUCH: But I know, displacement, yeah.

COUNCILMEMBER WHITE: Hence the challenge of enforcement so.

VICE-CHAIR VICTORINO: Or, or, or...and again this is the other thing, you said they come all the time, well you'll recognize, well what if Mike comes once a month. It's going to be pretty hard for me to remember he coming every month but maybe I'll be lucky to remember that. But he comes once a month or maybe twice a month. Certain customers only come once in a great while, how do you enforce that? You're really talking about some people coming every day or somebody you can recognize every day.

CHAIR COUCH: Yeah, if there's...we're trying to figure out --

VICE-CHAIR VICTORINO: Yeah.

CHAIR COUCH: --how to deal with the extreme --

VICE-CHAIR VICTORINO: Yeah.

CHAIR COUCH: --condition where somebody is saying, you know, this business is causing a problem in this neighborhood, here is why, and this is one of the reasons why. Most of the businesses that will be involved in this, this won't be an issue, it's just for the extreme cases.

VICE-CHAIR VICTORINO: So, you know, and again, Mr. Chair, if we just add...I like the idea of tandem parking, I think that's important to be put in, and no on-street parking. Add those two in. No need no minimal. You know I don't know if that can be done, Mr. Alueta, what do you think of that? Just no...tandem parking allowed in paved areas, if you want to use that term, and no on-street parking for customers. I don't know, you're shaking your head, tell me what you think.

MR. ALUETA: No. Thank you. I have no, I guess, set idea of how many stalls should be provided, I'm just throwing out a number of if you require, if you're allowing up to two customers at any one time then...and plus one employee, potentially one employee from offsite, two stalls would be at least an adequate start as a minimum. And if they need more stalls that's to make their business survive then one, either they would accommodate it in the back of the property where it's not

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visible or back behind a building just like you have the storage, or they need to think about getting a Special Use Permit from the Planning Commission for, that don't...because they don't meet the standard 'cause your business is bigger than it should be. Or they need to relocate to a Business district. What we're saying is that that seems to be the, for our other kind of commercialized residential uses such as B&B and STRs we allow, we require stalls, a minimum of stalls, two is a good start. And having them tandem is also allowable. So --

VICE-CHAIR VICTORINO: Well...

MR. ALUETA: --it's up to you, if you only want to require one stall, that's up to you. We're just saying is like we would like to have some type of minimum requirement and then rather than saying a maximum of stalls.

VICE-CHAIR VICTORINO: I think, Chair, listening to Mr. Alueta I agree with the tandem parking, I agree with no on-street parking, and if I gotta give in on this one and I don't know about the two but one additional stall to what you already have on your property which would be used for the business purpose. You know one additional. So I mean if you got a driveway that can accommodate two cars or four cars parked tandem you don't gotta do more than one. 'Cause what I'm afraid of, you got some small lots that even putting one additional paved parking stall may be a real challenge.

CHAIR COUCH: Right.

VICE-CHAIR VICTORINO: Really a challenge. Two? Maybe almost virtually impossible. I know, I'm just saying if you're going to do that then that's my compromise, and I don't know what the Department think but that would be my compromise on that deal.

CHAIR COUCH: Well another reason for no minimum is what if you've got a business that doesn't have customers, that you're just doing stuff out of the house and you take off. Then do you need two parking spaces for that? I don't think so. That's why they're...

VICE-CHAIR VICTORINO: I just said one.

CHAIR COUCH: Well I know but...so, you know, it's one of those things where we've got pretty far ends of the spectrum so we're trying to catch as much as we can but not envelop anybody.

VICE-CHAIR VICTORINO: Well I like the one because I think it's just, it's the happy medium.

CHAIR COUCH: Well, what if you don't have customers coming or like you say once in a great while you got a customer that drives by and then goes in?

VICE-CHAIR VICTORINO: Well I, you know, again that's how many people are going to have that, two versus...

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CHAIR COUCH: Right.

VICE-CHAIR VICTORINO: Yeah. You know, again, you're going to stay here all day trying to go maybe this, maybe that.

CHAIR COUCH: Exactly, that's why we didn't put any minimum in.

VICE-CHAIR VICTORINO: Well I'm saying since the Department has strongly suggested a minimum of two then I would go a minimum of one. That gives everybody an opportunity to be, get it done. So and if they can...I don't know what else you can do, but this is what the Department is telling us, Mr. Chair.

CHAIR COUCH: Okay. Mr. White.

COUNCILMEMBER WHITE: I understand where Mr. Victorino is coming from, but if we have a potential of two customers at any given time plus one employee I think it's appropriate that if for a residential use there's a requirement of having parking for two. That it makes some sense to have a minimum of two additional, because we've got to get to the point where we've got the parking for the two potential customers and the one employee. Or maybe it's tied to the number of employees. But I'm not sure how much of a difficulty it's going to be in most situations because the, most driveways have adequate parking for two residential vehicles and the additional two for, that, you know, that we're setting as a minimum. So I think it's going to be more the exception that they don't have the capacity to do it with --

CHAIR COUCH: Right.

COUNCILMEMBER WHITE: --the existing driveway. But just to throw that out.

CHAIR COUCH: Okay. Any other comments? So right now the language as it sits does not talk about no on-street parking. Can I get consensus to add language to say that there's no on-street parking? At least that.

COUNCIL MEMBERS: Consensus.

CHAIR COUCH: Okay. Now I'd certainly be willing to take a motion to talk about minimums. I still don't think that there's a minimum necessary, because with no on-street parking then if they can't park their customers and there are the complaints that come in then they have to, you know, consider getting a commercial space, in my opinion. But we're trying to, you know, we're trying to get the...we have the home occupation issue as well, you know, you've got the bookkeepers and the whatnot who don't get any customers whatsoever. But there's some fine-line folks, for instance, maybe somebody who can cut one chair cutting hair for the day, that kind of thing, that's a customer, or a massage therapist, or a, you know, a life coach or whatever, some sort of counseling going on.

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VICE-CHAIR VICTORINO: Mr. Chair?

CHAIR COUCH: Yes.

VICE-CHAIR VICTORINO: Even if you're talking bookkeepers and all that, and a lot of that is done online, you can do it online. Many times when it comes down to the final product you gotta go there and pick it up anyhow.

CHAIR COUCH: There's, a lot of people do it both ways. One will take it to their customers, some people will have their customers come.

VICE-CHAIR VICTORINO: The vast majority will have you pick it up, but whatever, you know, that's my experience. You know most people would like you to come, pick it up, you know, 'cause they print it all up and they make sure that it's all correct. 'Cause sometimes in the transfer it doesn't always come out the same way. Anyhow, anyhow, I would make a motion just for the sake of just getting something to discuss, a minimum of one additional parking space dedicated to the business. Just for the sake of having something on the table then we can go from there. 'Cause I agree with you, two may be too much for many businesses. Even one might be too much but it's better than none at all, and I think maybe even some kind of language and I don't know if this can be done, Chair, but some kind of language that if you add one and you get complaints down the road then you need to add another one. The Department would have the ...*(inaudible)*...

CHAIR COUCH: One motion at a time.

VICE-CHAIR VICTORINO: Well I'm just saying if there's some language I can put later on, but...

CHAIR COUCH: Yeah. So your motion is to have a minimum of one...

VICE-CHAIR VICTORINO: One additional paved stall.

CHAIR COUCH: Paved stall.

VICE-CHAIR VICTORINO: Paved stall, and don't have to be marked but paved stall. Just for the sake of conversation.

CHAIR COUCH: Okay. Do I have a second on that? *(NOTE: No response.)*

VICE-CHAIR VICTORINO: Okay.

CHAIR COUCH: Okay. All right. Let's take a break on parking for right now, just let it think in your head. Not a break...

UNIDENTIFIED SPEAKER: Until we've got this solved.

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CHAIR COUCH: Yeah. And go to G. We had a couple of comments, both phone calls and testimony about signs, and we discussed 'em a little bit last time. One person in particular, couple people asked that we consider signs be optional. Any concerns or comments on whether or not signs should be optional? I know some people want it to say, you know, you gotta have a sign to show this where it is so people aren't going to a different door, but other folks are saying we don't want a lot of signs in our neighborhood. And if Aunty Mary's piano lessons, they don't really want to put a sign up they don't have to. What are your thoughts there? Mr. White.

COUNCILMEMBER WHITE: I think optional is okay with me. If you've got an address and the address is easily visible, that should solve it.

VICE-CHAIR VICTORINO: Well I think...thank you, Mr. White.

CHAIR COUCH: Mr. Victorino.

VICE-CHAIR VICTORINO: I think I agree with Mr. White that you must have a clearly defined address on your front. No need be...but your...because you go to some houses there is no number, there is --

CHAIR COUCH: Right.

VICE-CHAIR VICTORINO: --you know. So your house or your...

CHAIR COUCH: But we already have a law for that.

VICE-CHAIR VICTORINO: Well the law...yeah, right. But this is a business now so maybe making sure that if they don't...but something that's definitive, yeah, I agree. No need sign, but ...*(inaudible)*... for a sign.

CHAIR COUCH: Okay. The other issue with the signs was the size of the sign. As before I showed you a four by...I mean a two by two which is a four square foot sign. Other spaces thought it might be better to have...well, some people wanted to go to two square feet which was pretty tiny. So I thought a compromise might be three square feet, and to show you, we made some visual props again. This is a two foot by two foot or a four square foot sign. Right here.

VICE-CHAIR VICTORINO: Oh my God.

CHAIR COUCH: Okay. So that's the size. Now if you wanna go to a two square foot sign which is 1.4 feet by 1.4 feet, this is the size. So here are the two extreme sizes. And just so you guys know I've been, I was, it was strongly suggested I didn't put other names on here without permission. So I have the signs that I was going to have, I have them just for your own benefit if you would like.

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COUNCILMEMBER WHITE: I'm sure they're very fancy.

CHAIR COUCH: Now this is a two square foot sign, one foot, 1.4 feet by 1.4 feet. This is also a two square foot sign, one foot by two foot.

VICE-CHAIR VICTORINO: I don't see any trouble in either one.

CHAIR COUCH: Okay. And then lastly this is a three square foot sign. I'm thinking this size versus a four square foot sign is sufficient enough and it's also not going to affect the neighborhood. Thoughts? Comments?

VICE-CHAIR VICTORINO: I tend to go with the two foot sign. I think that's...

CHAIR COUCH: Two foot by two foot? This one?

VICE-CHAIR VICTORINO: Yeah. No, no, the other one.

CHAIR COUCH: This one?

VICE-CHAIR VICTORINO: No, the other one. The one by one that equals two.

CHAIR COUCH: Oh, the one by one.

VICE-CHAIR VICTORINO: Yeah, 1.1, yeah. Your...

COUNCILMEMBER WHITE: The one by two.

VICE-CHAIR VICTORINO: One by two. I still think it's, that would be sufficient. Right?

CHAIR COUCH: Now we do need some Vannas. I didn't get any good volunteers for Vanna's this...Chancy, do you want to...

VICE-CHAIR VICTORINO: Oh, just throw her under the bus. I think the smaller ones would be more than sufficient.

COUNCILMEMBER WHITE: Numbers one and three.

VICE-CHAIR VICTORINO: Yeah.

COUNCILMEMBER WHITE: Or two and four. . . .*(inaudible)*. . .

CHAIR COUCH: This one?

COUNCILMEMBER CRIVELLO: Two and four.

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VICE-CHAIR VICTORINO: Two and four.

CHAIR COUCH: Those two?

VICE-CHAIR VICTORINO: Yeah.

COUNCILMEMBER CRIVELLO: Uh-huh.

CHAIR COUCH: Okay, so those are...that's two square feet.

VICE-CHAIR VICTORINO: Yeah.

CHAIR COUCH: Both of 'em are two square feet. Now those can be seen from...I know Ms. Zulueta is back there, can you read those signs?

MS. ZULUETA: Yes.

CHAIR COUCH: Okay. Of course she made 'em so. Okay. So then, Members, then that talks about changing that from four square feet to two square feet. So without objection, we'll change that.

COUNCIL MEMBERS: No objections.

CHAIR COUCH: Okay. So we'll go back down to two square feet. Okay. Continuing on on that page.

MS. WILLENBRINK: Excuse me, Chair.

CHAIR COUCH: Yes.

MS. WILLENBRINK: Did you want to include the optional?

CHAIR COUCH: We're thinking about that at this point.

MS. WILLENBRINK: Thank you, Chair.

CHAIR COUCH: I think Mr. White was okay with it, Mr. Victorino was, wanted some sort of distinction of where that address, that business was, whether the address or not, and I kind of agree with Mr. Victorino that we need to at least be able to see where the business is. So at this point no, but when we go through the...once we finish everything if anybody has a motion to be made I'm more than happy to entertain those motions. So on 19.67.040 A one person...we changed...it says "only one person, other than those residing on the property, may be employed at the home business site" which is what we all discussed and everybody was agreed, it doesn't matter. Especially if Mr. Victorino and Mr. White are living together that it, you know, they both should be allowed to run the business. Now the one thing from I think it was the Kihei

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Community Association suggested that we discuss at least was adding the words “at any given time” which would allow for people to have more than one employee but only one employee at a time at the business. Any concerns with adding that language? Any thoughts? Nothing? Okay, then without objection, we’ll add that language. Just at any given time, only one person at any given time other than...I’m sorry, only one person other than a member...and other than those residing on the property may be employed at the home business site. And we have to add a...we would have to expand that language to say something about may be present at the home business site. Something around there. Okay. We’ll work on that language.

VICE-CHAIR VICTORINO: So you’re trying to say more than one person...

CHAIR COUCH: You can have more than one employee but only one --

VICE-CHAIR VICTORINO: Yeah.

CHAIR COUCH: --employee at a time.

VICE-CHAIR VICTORINO: During the normal course of your business hours no more than one employee can be on premise at any given time.

CHAIR COUCH: Right.

COUNCILMEMBER COCHRAN: That’s weird.

VICE-CHAIR VICTORINO: That’s the way it should be put.

CHAIR COUCH: Yeah, at any given. Only one person at any given time...

VICE-CHAIR VICTORINO: During normal...during your business hours.

CHAIR COUCH: Well you’re not...when you’re not there...if you’re out of business hours you’re not...

VICE-CHAIR VICTORINO: Well then, well, you’re out of business hours then five of my employees come over.

CHAIR COUCH: You can, you can have five guests come over.

VICE-CHAIR VICTORINO: Five employees.

CHAIR COUCH: Five employees.

VICE-CHAIR VICTORINO: I’m playing the devil’s advocate.

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CHAIR COUCH: I know, I know.

VICE-CHAIR VICTORINO: Okay, so.

CHAIR COUCH: So I'm thinking that the language should say only one person at any given time other than those residing on the property may be employed at the home business site.

VICE-CHAIR VICTORINO: Any employee...

CHAIR COUCH: Does that work, Mr. Hopper? I just want to get you involved in the conversation, you've been silent for most of the day.

MR. HOPPER: Mr. Chair, with the amount of changes going on I think this is going to be one where once we get this all compiled, our office is going to do a full review of this. So I will help to the extent that I can as we go along and get the best language we can, but really going to need to sit down and look at this as a whole in the end to really get it down to where we need it.

CHAIR COUCH: Okay, sure.

MR. HOPPER: But I think for now, I mean I understand I think what the Committee is going for.

CHAIR COUCH: Okay. Any other comments? Just don't want this to be a one-sided conversation over on this side of the room, guys.

UNIDENTIFIED SPEAKER: ...*(inaudible)*...

CHAIR COUCH: I know, you're looking at time. All right. Page 8, No. D. We basically revised it to clarify, it was kind of twisted, so we just said "installation of mechanical equipment, other than equipment which is common in a residential dwelling unit, is not allowed." It used to say "any structure associated with the home business shall not have the installation of mechanical equipment other than equipment which is common in a residential dwelling unit." So shorter and sweeter and more succinct is what we did on that. Per our discussions last time in No. E, we changed to two vehicles as we discussed. It says "materials, equipment or more than two vehicles associated with the home business shall not be stored or parked outside a structure on the property". Now we had a testifier this, today talked about should it be motor vehicles. Any comments on that? I don't know that what other vehicles might be associated with the home business. Unless it's a bunch of bikes but you don't want them parked out in front of the street anyway. Okay. And again, we're going to go for, you know, minimum 80 percent on this, and if we can do better that's great. But if we can get 80 percent of it taken care of and see what happens when they do get, try to implement this.

VICE-CHAIR VICTORINO: Well you're hearing from the Corporation Counsel that they want to review everything.

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CHAIR COUCH: Oh, yeah, yeah, they're going to review. Yes. Yes.

VICE-CHAIR VICTORINO: So I mean you make it 80 percent but they have to review it, we can come back and tell us we're at 80 percent, Mr. Chair. Thank you.

CHAIR COUCH: And then also 19.67.050, Special Use. "Only two persons, other than those residing on the property, may be employed at the home business site" and we'll figure out what the, "at any given time" fits in there. The last thing is D, we removed from, at the last meeting we said "however, the character of the property may show minimal evidence of its business use". It used to say "its business use including a baseyard" we took out "including a baseyard". And then the new section we added on Page 9, 19.67.080 Review. "The Council shall review this chapter beginning May 1, 2016, and every two years thereafter." So the first review is in 18 months as requested by Mr. Victorino and then every 2 years thereafter until everybody's confident that we're okay and then we can strike that review. Okay. Any comments on any of those? Mr. White.

COUNCILMEMBER WHITE: Thank you, Chair. I still have a question, if somebody has a small construction company --

CHAIR COUCH: Yes.

COUNCILMEMBER WHITE: --and they have two acres, is this...is E in 040, is that going to apply to them in such a way that if they have any construction materials at all it has to all be stored in a structure even if they've got a two-acre lot? Or how is that going to be applied to them?

CHAIR COUCH: You're talking on Page 7?

COUNCILMEMBER WHITE: No, eight.

CHAIR COUCH: Oh, I thought you said 040. Sorry.

COUNCILMEMBER WHITE: It's...

CHAIR COUCH: "Vehicles, trailers, and other equipment associated with the home business shall be stored or parked in an organized manner in an inconspicuous location on the lot." Is that your concern?

COUNCILMEMBER WHITE: No, I'm looking at on the top of Page 8, E, the third item down "Materials, equipment or more --

CHAIR COUCH: Oh, okay.

COUNCILMEMBER WHITE: --than two vehicles associated with the home business shall not be stored or parked outside a structure on the property."

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CHAIR COUCH: Correct. This was, again, this is the outright permitted use section, so if you have a construction company on a two-acre lot, if you've got more than two vehicles then you need a special use for your baseyard type operations. But if it's just, you know, you have a lot somewhere else where you have all your equipment and you're just driving your truck home, you're okay because that's, it says no more than two vehicles. But if you start doing more than two vehicles then you need either the Special Use Permit...

COUNCILMEMBER WHITE: So are we grandfathering in existing businesses or not?

CHAIR COUCH: They're not legal right now. I guess...is there...

COUNCILMEMBER WHITE: Well I'm just, you know, out in the Ag-zoned areas there's lot of people that have got businesses that have been there for ages and ages.

CHAIR COUCH: And I totally understand that.

COUNCILMEMBER WHITE: Workshops and lots of equipment, and it's, and some of it's tied to ag, some of it's tied to construction. But...

CHAIR COUCH: Correct me if I'm wrong, Department or Corporation Counsel, but those are not legal at this point and we're trying to make it so we have a position so they are or they can be.

COUNCILMEMBER WHITE: Well, this wouldn't make them legal, they'd have to go through I guess ...*(inaudible)*...

CHAIR COUCH: Currently they would have, they have go through a Conditional Use Permit to get that. So this is making it a little bit easier for them.

COUNCILMEMBER WHITE: Do we have a list of those that have gone through the Conditional Use Permit process?

MR. ALUETA: The only ones that I can think of have eventually gone to a Change in Zoning process. Maybe Fong Baseyard on Waiko Road might still be operating under Conditional Permit. Diversified Machinery also was under a Special Use Permit and Conditional Permit off of Waiale Road for many years. I'm not too familiar with any out in Haiku area like those...I do know that we have issued violations on a few and have resolved some of those for those who have used Ag land as de facto baseyards.

COUNCILMEMBER WHITE: Okay. I just, you know, I --

MR. ALUETA: Mr. Chair?

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COUNCILMEMBER WHITE: --spend a lot of time on the RPT site and there's a whole lot of businesses that are operating on parcels where they're not bothering anybody, and they're conducting I guess, you know, their baseyards for businesses that are operating all over the County so.

MR. ALUETA: Mr. Chair?

CHAIR COUCH: Yes.

MR. ALUETA: While we're on that Section of E on the outright permitted home-based businesses, where we're talking about "material, equipment, and no more than two vehicles associated with the home-based business shall not be parked outside a structure on the property." We're just curious, you know, going back to our previous discussions on required parking. An employee, their car, would that not be a vehicle associated with the home-based business and therefore would you not, are you not indicating that they would be, have to park inside of a building? And that's what we're trying to get at, because I mean we have no objection with them parking outside --

CHAIR COUCH: Right.

MR. ALUETA: --it's just that I'm not sure what you mean by two vehicles.

CHAIR COUCH: This was to, when we were talking about this, this was a situation where, you know, five tree trimmer trucks start parking all in the yard or on the street or whatever after hours.

COUNCILMEMBER WHITE: Yeah, that's my recollection too, Chair, that these were, the vehicles that we're speaking of there were those that were marked as company vehicles, not employee vehicles.

CHAIR COUCH: Correct.

COUNCILMEMBER WHITE: If that makes...

MR. ALUETA: Okay. Okay. Then that would be, that would...if that's the intent.

COUNCILMEMBER WHITE: I'm still having a little bit of a problem just, again, thinking about we've got somebody who's got two vans and they've got to build a whole new structure.

CHAIR COUCH: If they got the third van, yeah. It says no more than two.

COUNCILMEMBER WHITE: Oh yeah, right.

CHAIR COUCH: Okay.

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MR. ALUETA: Oh, no more than two. Okay.

CHAIR COUCH: Yeah, no more than two. Okay.

MR. ALUETA: Does that include...I mean I'm talking over with my boss on what you're meaning by this and do you mean by this, customers also? So because that's associated with the business. So right now, so one employee vehicle and then one customer vehicle could park outside, and then any more than that would have to be accommodated inside.

CHAIR COUCH: Well during the day, usually those vehicles that are associated with...if it's a marked vehicle they're out doing their thing. They're out...because it's not...yes, Mr. Rapacz.

MR. RAPACZ: Thank you, Mr. Chair. Just from an enforcement end, when we get a complaint that there are three vehicles parked on the property outside of the garage, then we know based on this provision, the way it's written, there would be one vehicle too many parked outside. Is that right?

CHAIR COUCH: If they all say Rapacz's Repair, yeah.

MR. RAPACZ: Okay. Or if they don't, if one of them is a customer and there are two...one employee and two customers then we have a violation because more than two vehicles associated with the business are parked outside of a structure.

CHAIR COUCH: Shall we...we should probably put after hours then on this? I think the intent is we don't have a bunch of people parking their vehicles, their marked vehicles saying oh, you know, this is --

MR. ALUETA: Joe's Taxi Service.

CHAIR COUCH: --Joe's Taxi Service and parking all their cars there.

MR. RAPACZ: So it's more of a visual concern than a required parking or adequate --

CHAIR COUCH: Yes, yes.

MR. RAPACZ: --parking concern?

CHAIR COUCH: Yes, it's a visual that, you know, the tree trimming service doesn't have all their big vehicles parked all over the yard. Ms. Cochran and then Mr. White.

COUNCILMEMBER COCHRAN: So then we want to specify marked, right? I mean it just says "vehicles" that's why I think...*(inaudible)*...

CHAIR COUCH: Well it says associated with the home business, so maybe we...yeah.

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COUNCILMEMBER COCHRAN: No, but it could just...I mean 'cause they're saying it could be the employee, it could be the --

CHAIR COUCH: Right.

COUNCILMEMBER COCHRAN: --client, the guest --

CHAIR COUCH: Right.

COUNCILMEMBER COCHRAN: --or whatever, so you're saying it's the company car basically.

CHAIR COUCH: Yeah.

COUNCILMEMBER COCHRAN: And so it must be a marked, signed, you know.

CHAIR COUCH: Right.

COUNCILMEMBER COCHRAN: So then that would clarify exactly what they need to look for or is that it's marked, associated with that home business.

CHAIR COUCH: Okay.

MR. RAPACZ: Mr. Chair, if it were to say identified as being associated with the business.

CHAIR COUCH: Identified as being, see, another lawyer telling us how it works. Right on. Identified as...and what did you say, Mr. Rapacz?

MR. RAPACZ: As being associated with the...

CHAIR COUCH: As being associated.

MR. RAPACZ: With the home business.

CHAIR COUCH: Okay. You have that?

COUNCILMEMBER COCHRAN: Follow...oh, sorry.

CHAIR COUCH: Yes.

COUNCILMEMBER COCHRAN: Following up, Chair. I hear Mr. White's concern 'cause I know large areas and people have equipment and they're associated with their business, but it's not...it's rural, it's country, it's large lots, it's, you know, pasture. I don't...it's not bothering

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anybody. It's part of the ambiance and atmosphere of this type of business and area. So I can see where it could be a hardship.

CHAIR COUCH: And I totally agree with that but at this point if people were to take a look at it those would be illegal, illegally parked, and so I mean it's one of those things where are we going to open --

COUNCILMEMBER WHITE: A Pandora's box.

CHAIR COUCH: --a Pandora's box.

COUNCILMEMBER WHITE: We're opening the box.

CHAIR COUCH: We're trying to keep it down, keep it closed as this point.

VICE-CHAIR VICTORINO: I think that one has been open for a long time.

COUNCILMEMBER WHITE: No, because the reality is if it's not bothering anybody...

CHAIR COUCH: And that's exactly what this law says. The law says, you know, if it's not bothering anybody, and that's what our intent here, too, if it's not bothering anybody. Mr. Rapacz isn't going to be driving down out in the country saying oh, look, Mr. White has a bunch of things on his lot.

COUNCILMEMBER WHITE: Well he may not be, but Mr. Alueta is.

CHAIR COUCH: Oh, I know. Okay. It's just, it's complaint, again, complaint driven. Because those businesses are...the way it is now those businesses are complaint driven. If somebody were to complain about whatever ones you're talking about, they would be going there and enforcing right now.

VICE-CHAIR VICTORINO: Mr. Chair?

CHAIR COUCH: Yes, Mr. White.

VICE-CHAIR VICTORINO: Okay, go ahead.

CHAIR COUCH: He was finishing.

COUNCILMEMBER WHITE: I was next after her, so.

CHAIR COUCH: Yes.

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COUNCILMEMBER WHITE: The way I read E, when you talk about materials, equipment, and vehicles, I think those are materials, equipment, and vehicles tied to the company.

CHAIR COUCH: Yes.

COUNCILMEMBER WHITE: So but to play the devil's advocate like my friend to the left of me --

CHAIR COUCH: Oh, two devils now.

COUNCILMEMBER WHITE: --all I would have to do to avoid Mr. Rapacz's wording is just not identify my trucks and then we're back to square one.

CHAIR COUCH: Well, you're allowed as a homeowner allowed to have as many trucks as you want.

COUNCILMEMBER WHITE: No, I understand that. But I think anyone in the neighborhood is, even if the vehicles are not marked or identifiable to being part of a business, the neighbors are going to know which ones are which. So I'm not sure I would say identifiable or identified as, I would just say associated with the, you know, the business. But we have to word it...Mr. Rapacz can come up with a way of wording that it's not employees' cars or --

CHAIR COUCH: Customers.

COUNCILMEMBER WHITE: --your customers.

MR. ALUETA: So, Mr. Chair, I guess that would be, you know, you could keep the same language, it just, and just put "excluding customers or employee vehicles".

CHAIR COUCH: Oh, okay.

MR. ALUETA: So you just put "excluding" so that we know that...

CHAIR COUCH: Customer or employee vehicles.

MR. ALUETA: 'Cause we're just not, we're not trying to count them, that's what you're trying to say.

CHAIR COUCH: Right.

MR. ALUETA: And then the required parking would be able to accommodate that. Okay.

CHAIR COUCH: Any concerns, comments on that, folks?

COUNCILMEMBER WHITE: No.

CHAIR COUCH: All right, well we'll do that then.

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VICE-CHAIR VICTORINO: I think that's a little better.

CHAIR COUCH: Okay.

VICE-CHAIR VICTORINO: Mr. Chair?

CHAIR COUCH: Now...

VICE-CHAIR VICTORINO: Wait, wait. You know you...I asked after he went.

CHAIR COUCH: Yes, you did.

VICE-CHAIR VICTORINO: No, that's okay. I know you --

CHAIR COUCH: Yes, you did.

VICE-CHAIR VICTORINO: --forget very quickly.

CHAIR COUCH: I know I do.

VICE-CHAIR VICTORINO: Yeah, no problem. But, you know, I've heard a number of times today about the phrase "complaint driven", and I'm going to try to jog your memory a little and in fact some of us were here when we changed the signage law and we opened Pandora's box. Remember when people started to complain one after because one guy complained and he said, well, look at the guy across the street and we went from place to place to place. Right, gentlemen? You guys went crazy for a long time, and then we had to sit there and try to define what the changes were and we spent a lot of time and effort. So when you say we make changes that not gonna have an effect on those that are out there because nobody has said anything, remember, when you open the box and people know the new law or think they know the new law they'll start calling. That's what I'm afraid of.

CHAIR COUCH: Well but here's my point and as Mr. White and Ms. Cochran pointed out that there are places out there now doing it.

VICE-CHAIR VICTORINO: I know that. Come on now, I've been here long enough, I understand.

CHAIR COUCH: And they're all --

VICE-CHAIR VICTORINO: All over.

CHAIR COUCH: --currently illegal. Yes, they are. According to all our Zoning Code, they are, and so it is complaint driven now. We're just making it a little bit easier for some of those folks to be

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able to do their thing without having to go through a big huge process. But those that have been mentioned right now are not legal. Correct me if I'm wrong, Mr. Rapacz or Mr. Alueta.

UNIDENTIFIED SPEAKER: Correct.

CHAIR COUCH: You have to say that on the...

MR. RAPACZ: You're not wrong.

CHAIR COUCH: So it's already complaint driven and they are enforcing it in that way. It's the RFS system.

VICE-CHAIR VICTORINO: All right.

CHAIR COUCH: All right. Now, Members, I handed out something from Member Hokama who's not a voting Member here. He had some concerns and he would like us to discuss them, so let me read and I know Mr. Teruya is on his way back in. But let me read some of his letter. It says, as a non-voting Member...

COUNCILMEMBER COCHRAN: Chair? Wait, Chair.

CHAIR COUCH: Yes?

COUNCILMEMBER COCHRAN: Sorry. Before we jump to this --

CHAIR COUCH: Oh, okay.

COUNCILMEMBER COCHRAN: --Mr. Hokama's letter, the review portion of your bill.

CHAIR COUCH: Yes.

COUNCILMEMBER COCHRAN: You said two years? I have mine written as 18 months, that's not...that would be 24 months.

CHAIR COUCH: The first one is within 18 months, then everyone after that is 2 years, and I think we discussed that on the floor that we won't do it...the first review we want to do in 18 months and then after that every 2 years.

COUNCILMEMBER COCHRAN: So, Council shall review this chapter beginning May 1, 2016, every 18 months thereafter, and every 18 months thereafter. That's what my sentence says. What does your say?

CHAIR COUCH: It says every two years thereafter.

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COUNCILMEMBER COCHRAN: Where's...

CHAIR COUCH: No, it does? Oh, I'm sorry.

COUNCILMEMBER COCHRAN: That's not what mine says.

CHAIR COUCH: The notes I have are different from the...

COUNCILMEMBER COCHRAN: I'm trying to find it then.

MS. WILLENBRINK: Yes, Chair, this was just in our discussion yesterday, you wanted to change it to every two years.

CHAIR COUCH: Oh, I'm sorry. Okay. We can leave it at 18 months thereafter or do we want to change that to every two years thereafter?

COUNCILMEMBER COCHRAN: So you're looking for a consensus on it?

CHAIR COUCH: Yes.

COUNCILMEMBER COCHRAN: Oh, okay. So I...

CHAIR COUCH: Yeah.

COUNCILMEMBER COCHRAN: It's not written then yet.

CHAIR COUCH: Yeah, you're right.

COUNCILMEMBER COCHRAN: Okay, got it.

CHAIR COUCH: Any thoughts on that? Do we want to review it every 18 months? I mean we...to get something on the schedule, we'll be done with the first review when it's time for the second review the way some of this goes sometimes. But I would like to get the first review going once...

VICE-CHAIR VICTORINO: Yeah, I think two years thereafter I think would be more than sufficient. You know the first one is really going to be the key.

CHAIR COUCH: Correct.

VICE-CHAIR VICTORINO: Like we found out with a few other items lately that, you know, we don't review it and seven years later we have some real major challenges.

CHAIR COUCH: Exactly. Exactly.

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VICE-CHAIR VICTORINO: So yeah, I think 18 months, you know, I think would be really good the first time --

CHAIR COUCH: For the first one and then two years.

VICE-CHAIR VICTORINO: --and then two years after that. Yeah.

CHAIR COUCH: Okay.

COUNCILMEMBER COCHRAN: Yes.

CHAIR COUCH: Thank you for pointing that out --

COUNCILMEMBER COCHRAN: Consensus.

CHAIR COUCH: --Ms. Cochran.

COUNCILMEMBER COCHRAN: Okay, thanks. Yeah, I just wanted clarification, so.

CHAIR COUCH: Yeah. Thank you.

COUNCILMEMBER COCHRAN: Thank you.

CHAIR COUCH: All right, I'll read mister...into the record Mr. Hokama's letter. It says, "As a non-voting member of the Planning Committee, I would like to share my concerns regarding the subject bill for an ordinance. The following are comments: No. 1. Clarify the reason that a condominium is not given the same opportunity to do a home business. No. 2. Maui County Code Section 3.48.305 B.1 provides that only a parcel used exclusively as the owner's principal residence and granted a home exemption...shall be classified as 'homeowner' without regard to its highest and best use. Question: If there is a home business, does this homeowner qualify for a 'home exemption'? And No. 3. If a homeowner with a parcel zoned 'Residential' applies for a home business, the real property rate will go from \$5.57 for Residential to \$4.46 for Commercial Residential. As such, there would be a loophole for homeowners to sign up as a home business to get the lower rate. In short, I have concerns that the proposed bill does not provide fair and equitable tax treatment." So with that, I'd like to bring Mr. Teruya up. Oh, and I want to recognize Deputy Director of Finance, Mr. Walker. Thank you. Okay. Mr. Teruya, after reading the bill that we have before us today and having a discussion with my staff and me, any thoughts...let's go with No. 2 on Mr. Hokama's list at this point. It says Maui County Code Section 3.48.305 B.1, et cetera. Any thoughts on that?

MR. TERUYA: Okay, thank you, Chair and the Members. Good afternoon. As far as No. 2, I think that might be...that is a very good point; however, it may be better off taken up in BF because we're talking about the word "exclusively" and I think we've talked about this many years now is the

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County Code talks about having a, being classified as homeowner meeting two tests. One being exclusively used as the homeowner's principal residence and number two being qualified for the exemption under 450, I believe. I don't think Maui County has ever used it "exclusively" to mean how it should be meant, so I think maybe either this Committee or BF should take up this portion of the Code to see whether "exclusively" still applies. Because in an instance where there's a residence and an ohana where it's being separately rented, obviously that is not using exclusively for the homeowner, so in that case we are still giving them the home exemption but that's not really how the Code reads. So I'm not sure, Chair, I would leave that discretion either to yourself or the Corporation Counsel.

CHAIR COUCH: Well I agree with you that this might be a big issue to discuss probably in Mr. White's Committee because it is a taxation issue. Any thoughts on that, Mr. White?

COUNCILMEMBER WHITE: Well I think the...to me, the issue is similar to what we've just gone through with the STR Bill. You know over the last number of years we've established the B&B classification and we've established the Commercialized Residential category for those people. We're looking at establishing the Commercial rate for the STRs. The question in my mind is whether that should legitimately be done in this Committee as you're deciding on various uses or whether the, you know, in some respects the Budget and Finance Committee deals with rates --

CHAIR COUCH: Okay.

COUNCILMEMBER WHITE: --and rate categories. But I agree that this is a road that we really need to go down, because while we are, while we've moved ahead in two easily definable categories, a B&B is a B&B is a B&B and an STR is...they're easy to define, they're easy to get your head around as far as whether they should be, you know, how they should be treated --

CHAIR COUCH: Right.

COUNCILMEMBER WHITE: --from a tax perspective. But when we get into home-based businesses, there is all sorts of different ranges of activity, of income levels, and I don't, you know, it's going to be difficult for us to...I think politically it could be really hard to assign them a higher tax category but at the same time as Mr. Hokama points out I'm not sure that it's appropriate to give them a lower tax category either. But it brings up the question of number one, the exclusive use, is the Code seems to read that if you're doing anything other than just using it for your residence you shouldn't be getting the homeowners exemption. So I think that question is probably something that we need to care of in B&F, but to establish the bill that we're working on as we did with STR and B&B --

CHAIR COUCH: Sure.

COUNCILMEMBER WHITE: --without addressing a discussion about what category they should go into and how that should be handled I think is dodging it a little bit. But...

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CHAIR COUCH: Oh no, I'd be...that's why I brought him here --

COUNCILMEMBER WHITE: Yeah.

CHAIR COUCH: --we want to address that after we talk a little bit about...essentially that's the two, No. 2 and 3 on Mr. Hokama's letter are basically we want to talk about how it's going to be taxed. So and that's why I brought him here, and then we can work on the condominium thing after that.

COUNCILMEMBER WHITE: Yeah. It's just that it brings up a really big question.

CHAIR COUCH: Yep.

COUNCILMEMBER WHITE: How do you create a level of fairness when we're creating all kinds of different uses in what has for a long time essentially been one category, and now we're letting various groups break out into different positions from a financial standpoint.

CHAIR COUCH: Right.

COUNCILMEMBER WHITE: And how do you make that fair when they're all different levels of activity and use and impact in the neighborhood and so on?

CHAIR COUCH: And keep in mind, Members, we still, we currently have home occupation which is not...I mean there are a lot of home occupations that are happening now that are legal permitted uses in homes that have homeowners exemption. So, Mr. Teruya, if this bill were to pass as it is today which doesn't, it doesn't speak to what classification of tax we should do, what would your Department do?

MR. TERUYA: Okay. As I read the bill, if you are in Residential zone whether or not you have a home exemption or not there should be no change. The bill speaks to Agricultural zone requiring a Special Use Permit. If you have a home exemption it would not affect it. If you do not have a home exemption it would affect the classification to Commercial. Is it okay to go into Mr. Hokama's point No. 1 on the condominium?

CHAIR COUCH: Yeah, we can do that, but we were going to discuss that after.

MR. TERUYA: Okay, that's fine.

CHAIR COUCH: Unless it...

MR. TERUYA: I'll end there.

CHAIR COUCH: Is it germane to this discussion at this point?

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MR. TERUYA: Well I'm wondering how...oh, well let's end it there for now.

CHAIR COUCH: Okay. So you're saying essentially that if they have the homeowners exemption and that's their principal use then --

MR. TERUYA: Yes.

CHAIR COUCH: --they still get the homeowners exemption.

MR. TERUYA: As long as you have a home exemption it shouldn't affect you.

CHAIR COUCH: Okay.

MR. TERUYA: If you're in the Residential zone and don't have one, it won't affect you because it's an allowable use. But if you are in Agriculture and you get a Special Use Permit it will affect you if you do not have a home exemption, you will be classified as Commercial.

CHAIR COUCH: Okay. But your valuation will still remain Ag?

MR. TERUYA: Valuation and classification are two different things, so valuation should not change whether or not you have agriculture, it's the classification that will change.

CHAIR COUCH: Correct. Okay. Any comments?

VICE-CHAIR VICTORINO: You know, Mr. Chair...

CHAIR COUCH: Well let me ask the Department --

VICE-CHAIR VICTORINO: Okay.

CHAIR COUCH: --what do you do right now when you look on the real property tax as Mr. White does and you see that somebody's doing a construction business or a baseyard business, do you tax them at...do you continue to tax them as, at Ag or, at the Ag rate or how does that work now?

MR. TERUYA: Wait. What is the situation? What is the current underlying zoning?

CHAIR COUCH: Ag.

MR. TERUYA: If it's Agriculture then commercial is not an approved use in Agriculture unless you have a Special Use Permit.

CHAIR COUCH: Right. And as Mr. White said he's gone through the RPT pictometry and whatnot and sees all these vehicles parked and it's obvious that it's construction equipment or a baseyard of some sort. If they don't have a Special Use Permit and you don't happen to know about 'em

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then obviously they're going to be Ag, but if you happen to see it somehow...how would they go from Ag rate to whatever rate you would propose?

MR. TERUYA: It would be a paperwork from the Planning Commission approving a Special Use Permit.

CHAIR COUCH: Okay. But I'm talking about something that doesn't have a Special Use Permit and somebody happens to see, if your Department is doing your pictometry and you see all these vehicles.

MR. TERUYA: That's an illegal use, that's not something that would change classification.

CHAIR COUCH: So illegal uses don't change classification? I'm just saying.

MR. TERUYA: It's a planning issue, it's not a taxation issue.

CHAIR COUCH: But the use of the area is obviously a commercial use. So would you then tax them at a Commercial rate?

MR. TERUYA: No.

CHAIR COUCH: Okay. Members, any questions or comments? So essentially the special use is going to trigger a different tax rate whether it's in Ag or Residential. Is that right?

MR. TERUYA: Yes.

CHAIR COUCH: Okay. And if it's Residential, if for instance Ms. Baisa is renting a place and decides to do her bookkeeping business out of the, out of her place and wants more than two customers at a time or whatever the limits are and gets a Special Use Permit, she'll then be...it won't be her, it'll be her landlord will be taxed at the Commercial rate versus the Residential rate. Is that right?

MR. TERUYA: What is the underlying zoning?

CHAIR COUCH: Residential.

MR. TERUYA: And you get a Special Use Permit?

CHAIR COUCH: Correct.

MR. TERUYA: Then it'll be Commercial.

CHAIR COUCH: Okay.

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COUNCILMEMBER BAISA: Okay, okay.

CHAIR COUCH: So does anybody else have any more questions on how it's going to be taxed? And that's if we haven't, if we don't address the taxation in the bill. Okay, Mr. Hopper.

MR. HOPPER: I just wanted to point out there's a criteria in 19.67.030 E that applies to all home businesses including those that get a Special Use Permit, and it says "The home business shall be clearly incidental and secondary to the use of the dwelling unit as a residence". That means whether you get a Special Use Permit or it's regularly permitted, you're not talking about converting the whole business into or the whole home into a business, and --

CHAIR COUCH: Right.

MR. HOPPER: --I think that needs to be pointed out for all purposes. The Planning Commission would need to still abide by that. I mean you cannot have by definition, it's essentially in the character of an accessory type use where you have the home and there's certain things you can do with a special permit or not. But I just want it to be clear for the Planning Commission when they approve uses it still has to be accessory to the primary use of the business...the primary use of the residence. And whether or not that affects tax classification is up to the Real Property Tax. But just so we're clear, it's not a case of residential homes being converted to essentially businesses, and that's I think a caution for continued approval of these through either the Special Use Permit provisions or they talk about for example, there's actually a floor area that can be used in 040. And then I guess...and there's some restrictions on the special permits, there's a little bit less, but still the restrictions in 030 have to apply throughout. So I just wanted to note that. And how the Planning Commission actually goes about in, you know, deciding that on a case-by-case basis. Oh you've got a 40 percent floor area restriction also on the special permit, so I mean on both of 'em. So that I think should be noted as far as going forward with approvals of these uses.

CHAIR COUCH: And thank you, Mr. Hopper, that's a really great point. So, Mr. Teruya, that kind of bolsters your argument that you wouldn't change the tax classification except for on a Special Use Permit. Is that...

MR. TERUYA: Yes, Chairman. And I would like to make another point and the reason why we do, we classify the way we do classify regardless of it being an illegal use is in our County Code it states that land classification is based on the general uses, allowable uses, not illegal uses. So highest and best use determines based on legal use, not it's illegal use, so that's how classification is done for parcels that are subdivided, except to condominiums which the County Code is very clear, 305 C, when condominiumized units are subdivided...wait, when property is subdivided into condominium units then it's based on actual use. So that is different from subdivided units, and that is the reason why we classify as such.

CHAIR COUCH: Okay, that's interesting. Mr. White.

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COUNCILMEMBER WHITE: I think that may be why we have some of the challenges we have --

CHAIR COUCH: Yeah, I agree.

COUNCILMEMBER WHITE: --with, you know, with the illegal STRs and getting them pulled under the right, you know, the right tax category and the licensing. If we can't tax illegal use when we find it, if we can't tax it appropriately then kind of poho. So...

CHAIR COUCH: Yeah, I agree. And that sounds like something we need to --

COUNCILMEMBER WHITE: It sounds like we need to --

CHAIR COUCH: --address as well.

COUNCILMEMBER WHITE: --at least address changing the language in other areas to --

CHAIR COUCH: Right.

COUNCILMEMBER WHITE: --mirror that of the condominium.

CHAIR COUCH: Would you mind if we sent you a letter? Would it be...you think it would be in your Committee or potentially PIA? Or even I mean...

COUNCILMEMBER WHITE: It would probably be Budget and Finance.

CHAIR COUCH: Okay.

COUNCILMEMBER BAISA: Yeah.

CHAIR COUCH: So, Staff, I wonder if we should send a letter requesting that issue be looked into. Okay. All right. Now the last thing that Mr. Hokama talked or the first thing he talked about but the last thing we're going to discuss on his is the clarify the reason that a condominium is not given the same opportunity to do a home business. We discussed that a little bit I believe on the floor, but the idea is if you're going to have customers you're going to have to have parking and typically...it's totally up to you guys if we want to add those in there. If you've got a three-bedroom condo and you want to make one bedroom a place where you cut your hair, if you've got the adequate parking you should be fine, I don't know. It's, what do you think, Members? Any comments on that? Chair Baisa. Oh, whoa, hold on. Mister...

VICE-CHAIR VICTORINO: Hopper has something to add.

COUNCILMEMBER BAISA: Let him go first.

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MR. HOPPER: Just a comment, Mr. Chair. I'm not sure where the assumption that this isn't allowed in condominiums is. It's allowed in the districts that are listed. Now I mean most condominiums are in Apartment and we don't allow this --

CHAIR COUCH: Correct.

MR. HOPPER: --in Apartment. That's the main issue. But I mean if somebody had a structure that was condominiumized or something within a Residential district, I wouldn't see a reason if they met the criteria why they wouldn't be allowed to do this.

CHAIR COUCH: Right. And his statement says clarify the reason that a condominium is not given the same opportunity to do a home business. Now --

MR. HOPPER: I mean they would be...

CHAIR COUCH: --you know he's not doing lawyer-type speak. I think he's talking about a condominium unit in an apartment or a condominium complex as opposed to a condominiumized house.

MR. HOPPER: I mean like places like Puamana for example are Residentially --

CHAIR COUCH: Correct.

MR. HOPPER: --zoned, you know, that's a Residential area, it's not an Apartment-zoned district. So I mean it depends on the, it depends on the structures that are permitted in the Residential district. So it's by district, just to clarify, not necessarily --

CHAIR COUCH: Right.

MR. HOPPER: --by condominium type. If he meant Apartment district then yeah, the Council can consider allowing something like this in an Apartment district, but I just wanted to clarify that.

CHAIR COUCH: Okay. And I'm assuming he meant Apartment district but we can certainly ask him for that. Mr. Teruya.

MR. TERUYA: Thank you, Chair. And in the South Kihei area probably along the water there is Apartment zone, it could be condominiumized, and the main structures are single-family residences.

CHAIR COUCH: It's Apartment zoned...

MR. TERUYA: You can have a half acre Apartment zoned condominiumized into two units and have two single-family residences on it and that would be single-family houses. It looks exactly like Residential.

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CHAIR COUCH: But it wouldn't be allowed, they wouldn't be allowed to have a business because we don't specify --

MR. TERUYA: You haven't specified Apartment districts.

CHAIR COUCH: --Apartments. Do we want to specify Apartments, Members? Chair Baisa.

COUNCILMEMBER BAISA: I was going to ask the question and please forgive me, I'm a little ignorant about condominiums 'cause this is not my world. We have, just brought up and live in a world of single-family residences. But would the CC&Rs of a condo conflict? What if they said we prohibit home business?

CHAIR COUCH: That we talk about in 19.67.030 A, "Home businesses shall conform to the character of the existing neighborhood in which they are situated. For purposes of this chapter the character of the existing neighborhood shall include but not be limited to any homeowner or condominium association's conditions, covenants, and restrictions".

COUNCILMEMBER BAISA: So we'd have a conflict then.

CHAIR COUCH: No, it's...

COUNCILMEMBER BAISA: We could have a conflict.

CHAIR COUCH: No.

COUNCILMEMBER BAISA: If we allow it and they don't allow it.

CHAIR COUCH: We don't allow it, that's right in here in 19.67.030 does not allow it if they don't allow it.

COUNCILMEMBER BAISA: But we're being asked why not and if we were to allow it.

MR. TERUYA: Chair?

CHAIR COUCH: Mr. Teruya.

MR. TERUYA: In that situation the CC&Rs would prevail if it says that it's not allowed.

CHAIR COUCH: Right.

MR. TERUYA: But in this situation where I feel like a lot of these small two-unit condominiums, I don't think there will be CC&Rs that would be very restrictive, most of the time it's very

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unrestrictive. The CC&Rs would probably be more into a larger community like Maui Lani or something that is much larger that probably would have those restrictions.

COUNCILMEMBER BAISA: Okay. So if they had them in their CC&Rs, no matter what we put in here it would rule, I mean it would override it? Okay, thank you.

CHAIR COUCH: Well Mr. Hopper has to weigh in on this one.

COUNCILMEMBER BAISA: Uh-oh. Okay.

MR. HOPPER: Yeah, clarification. Again, as I've advised multiple times, CC&Rs should not...and this is in the bill, CC&Rs are really not the County's enforcement --

COUNCILMEMBER BAISA: Right.

MR. HOPPER: --responsibility --

COUNCILMEMBER BAISA: Right.

MR. HOPPER: --and so it's...in 19.67.030 A it says "The character of the neighborhood shall include homeowner or condominium association conditions, covenants, and restrictions". And to the extent this would be construed to require the County to review CC&Rs prior to deciding if a home-based business is in compliance, I would recommend, again, that this be taken out of the bill. But yeah, CC&Rs would prevail but they're private contracts. It would prevail in the sense that the County would have no responsibility for them and the County would not be enforcing them, and the County could allow a permit even if the CC&Rs don't allow it. But the private restrictions on that person would still apply, they'd just be enforced by the condominium association against that person rather than against the County. So I think Mr. Teruya's correct that they would prevail, but they'd prevail in the sense that the CC&R enforcement body would be able to enforce against the person rather than the County. The County does not have any enforcement authority over those CC&Rs, and they wouldn't restrict the County's ability to allow or disallow something. So just to clarify that. And again, getting my pitch in for deleting that part of 19.67.030 A just because determining compliance with someone else's CC&Rs is very difficult and the County has no legal authority to really do that. And so that's what I'm concerned about. And I think Mr. Rapacz can speak to that if he'd like as far as an enforcement body because it would fall into his Division's lap to look at that issue.

CHAIR COUCH: Thank you, Mr. Hopper. And this language came I don't think directly but came out of the Short-Term Rental Bill. But the Short-Term Rental Bill, we use this language to help determine the character of a neighborhood and that the Department can determine the character of a neighborhood by...but we also included in there saying that, you know, the applicant for this permit has to get a letter from the AOA or the homeowners association. This case, this a permitted, outright permitted use provided it's okay with the CC&Rs. So it's one of those situations where, again, it would be the complaint driven and then, you know, if the complainant

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says hey, it's against our CC&Rs then can you enforce on, it's a business that doesn't fit the character of the neighborhood?

MR. HOPPER: Mr. Chair?

CHAIR COUCH: Yes.

MR. HOPPER: As I did with the Short-Term Rental Home Bill I had raised concerns with that language as well. I mean I would still strongly urge to not put that into the County's enforcement lap to become a CC&R enforcement body.

CHAIR COUCH: Right.

MR. HOPPER: It gets exceedingly difficult.

CHAIR COUCH: Right.

MR. HOPPER: And could...and it's...and I think, again, Mr. Rapacz can explain it because it's going to be in his lap. But that's my concern is what you raised was there's a complaint and someone says it's not, inconsistent with the character of the neighborhood and that there are CC&Rs against it. And if there's CC&Rs, those are created by a homeowners association and it is that association's responsibility to either enforce them or amend them. Just like you wouldn't want necessarily a homeowners association enforcing the County's, the County Council's zoning laws, we also wouldn't be the, have the appropriate authority as the zoning enforcement body to enforce somebody else's CC&Rs. They're generally kept separate.

CHAIR COUCH: Okay. Mr. Rapacz.

MR. RAPACZ: Thank you, Mr. Chair. And I would just echo Mr. Hopper's plea to delete that language. In this case, in the case of the short-term rental homes, in that context it's something that the Commission or Director would consider in granting a permit or not.

CHAIR COUCH: Right.

MR. RAPACZ: Now we're talking about whether you're violating the law.

CHAIR COUCH: Gotcha. Understood.

MR. RAPACZ: This is a violation, not just a criteria for considering a permit.

CHAIR COUCH: For considering a permit. Understood that. Totally understand that.

MR. RAPACZ: Thank you.

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CHAIR COUCH: Question I have for you is we want to determine the character of the neighborhood again like we did at short-term rental, the question would be if we remove those lines how are you going to help determine the character of the neighborhood?

MR. RAPACZ: That goes to a general concern that I would have from an enforcement standpoint about how the ordinance is proposed to work. Character of the neighborhood is almost impossible to enforce.

CHAIR COUCH: Understood. And that's why we threw in CC&R 'cause it defines the character of the neighborhood.

MR. RAPACZ: Right. And then in that case as Mr. Hopper pointed out then we would be asked to enforce or fine violations based on violations of the CC&Rs. So the more specific you can be about particular activities like number of employees, number of customers, number of parking stalls, where the stalls are located, all of those things are more objective and can be enforced more easily. When you refer to things like character of the neighborhood or creating a nuisance that's where it becomes very difficult to enforce. Even when you define nuisance it's still very difficult to enforce.

CHAIR COUCH: Yes. So the thought here would be if we're going to do this maybe in the purpose we can talk about we were trying to keep, conform to the character of the neighborhood but not make it a --

MR. RAPACZ: Not a requirement --

CHAIR COUCH: --requirement.

MR. RAPACZ: --upon which a violation can be based.

CHAIR COUCH: Because that's...and unfortunately you weren't here for that presentation. We had a big, long presentation about...I mean this is a nationwide issue, and part of it is the whole idea was to say basically we don't want to affect the character of the neighborhood by having all these different things in here.

MR. RAPACZ: Right.

CHAIR COUCH: But we want to state that somewhere in there. Maybe in the purpose then?

MR. RAPACZ: Sure. Sure, I think that...

CHAIR COUCH: Moving that to the purpose.

MR. RAPACZ: I think that would make sense. And just one more comment in that same realm of thought. Different things will be allowed in different neighborhoods is what --

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CHAIR COUCH: Yes.

MR. RAPACZ: --it will boil down to.

CHAIR COUCH: Yes.

MR. RAPACZ: And it sounds to me as though it will be based on neighbors' complaints.

CHAIR COUCH: Yes.

MR. RAPACZ: And I don't know and I would defer to Mr. Hopper on this, the extent to which the rights of a property owner to conduct an activity can be determined or limited by someone else's complaints or acceptance of that activity. If it's a number of cars and when they exceed the number of cars clearly there's a violation. If someone says it's too loud, is that a legal basis to restrict my activity on my property? And that's where you get into the vague aspect of nuisance in particular --

CHAIR COUCH: Right.

MR. RAPACZ: --and character of the neighborhood. So in some neighborhoods you could have a very loud welding shop, and that very same welding shop might not be allowed in another neighborhood. Or even two of them in the same neighborhood who happen to have different neighbors --

CHAIR COUCH: Agreed.

MR. RAPACZ: --immediately adjacent to them.

CHAIR COUCH: Agreed. Yeah. No, I agree, and that's exactly the issue we're having is do we say nobody can do anything at their house other than sleep and eat and have a party or do we try to allow things that fit into the neighborhood? Because that's why we have zoning laws is we are telling them what they can do in their neighborhood as opposed to, you know, what they can and can't do in the neighborhood.

MR. RAPACZ: And just to the extent those things can be made objective rather than --

CHAIR COUCH: Correct.

MR. RAPACZ: --subjective the more likely it is that we'll be able to actually enforce the ordinance and make it work.

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CHAIR COUCH: And again we're going to hit only that little small percentage of people who are not considerate of their neighborhood, are not, you know, the people who are considerate of the neighborhoods this isn't going to affect one bit.

COUNCILMEMBER BAISA: Only takes one.

CHAIR COUCH: Yeah. And as Chair Baisa says it only takes one and that is correct.

VICE-CHAIR VICTORINO: Mr. Chair? Mr. Chair?

COUNCILMEMBER BAISA: One bad person.

VICE-CHAIR VICTORINO: Mr. Chair?

CHAIR COUCH: Yes, Mr. Victorino.

VICE-CHAIR VICTORINO: I think the more we try to narrow this the more it seems to expand.

CHAIR COUCH: Right.

VICE-CHAIR VICTORINO: You know and I'm getting really scared now 'cause, you know, at one point I felt like we were getting somewhere, and all of a sudden now I'm feeling like I'm moving out to left field and maybe even thrown right out of the park at this point. CC&Rs is one issue and, you know, I can...this is what I foresee, I can foresee somebody complaining, driving a complaint against a neighbor based upon a CC&R which will have nothing to do with that home-based business but based on a CC&R. And put these guys in a real precarious situation when they have to say go back to your homeowners association.

CHAIR COUCH: Right.

VICE-CHAIR VICTORINO: Yeah. So again there is that one issue. The other issue is the fact that how do we define how these home-based businesses beyond parking spaces and all that, you know, that's easily defined, but what we need to do is really, how do we tell these people that this business can exist and it's not a nuisance and you get to a point where it's okay with everybody? If it's okay with the neighborhood then I think it's been okay all this time. You know and you're trying to legalize it.

CHAIR COUCH: That's the complaint-based portion.

VICE-CHAIR VICTORINO: Yeah. I don't know. But when you start setting guidelines, rules, and all that, people now can look at 'em and say oh, now maybe I can complain about this, maybe I can complain about that. I don't know. I'm just getting afraid because all it takes is one like Ms. Baisa said.

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CHAIR COUCH: See and this is, where this came out, a lot of this came out with people who were, again, this is right at the end of the economic downturn and they had pulled their haircutting business to where it was just them cutting hair in their garage. Got complaints, it's not legal. Planning Department had to go out and shut them down, and so and the Planning Department didn't like doing that because they don't like shutting businesses down that are not disruptive. And there were other situations where things got moved back, and we started this whole discussion however many years ago about the businesses that have started, incubated in garages -

COUNCILMEMBER BAISA: Yes.

CHAIR COUCH: --you know Hewlett Packard, Apple, Atari, all of those guys.

VICE-CHAIR VICTORINO: Yeah.

CHAIR COUCH: So are we...we have to have enough will to say look, we want to allow some of that stuff but we just have to figure out where the line is to draw, and if it's a big wide line sometimes then we have to do it on a case-by-case basis. But at least we want to be able to allow some of those things to happen or not. I mean that's the will of this Committee and the body is to determine whether or not we want to allow that. So far it's been everybody says yeah, it's a good idea, you know, you can start your business at the home and then move it to a commercial area when it gets big enough, and that's what everybody wants to do. When it comes down to the details it is a little sketchy so we have to figure out, like I said try to...and as the expert who came in and gave us this presentation said, you know, if you can hit 80 percent you're in good shape, and then have the people who are working on it let you know well, this doesn't quite work here or we need this over there and then you go to 90 and 95 percent effectiveness of the bill.

VICE-CHAIR VICTORINO: And I agree with what you've said. The...and he also said and something I've not heard you say much of, each area and each district and each neighborhood is very different.

CHAIR COUCH: Very different, yes.

VICE-CHAIR VICTORINO: You know what I have right out here is very different than what Mr. White has in his area or even Ms. Baisa --

CHAIR COUCH: That is correct.

VICE-CHAIR VICTORINO: --and maybe even Ms. Cochran. Even though she may have dense areas they are also more vacation --

CHAIR COUCH: Yeah.

VICE-CHAIR VICTORINO: --or resort-type accommodations, you know.

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CHAIR COUCH: Agreed.

VICE-CHAIR VICTORINO: So it's so different that we're trying to put one size fits all and the more we try the more we seem to get separated.

COUNCILMEMBER BAISA: Chair?

VICE-CHAIR VICTORINO: So I'm willing to keep trying, I'm not lying here but.

CHAIR COUCH: Well, the thing that started this conversation from Ms. Baisa's comment was the whole No. A, 19.67.030 A.

COUNCILMEMBER BAISA: That's correct. Right.

CHAIR COUCH: We can remove that, it already is in the purpose of the bill if you look on Page 1 and Section 1, "The purpose of this ordinance is to establish regulations for home-based businesses that will allow an important small business the opportunity in the County, subject to restrictions to ensure the character of a neighborhood is maintained." So that is this expressed purpose of this bill is to make sure we're not disrupting the neighborhood, you know, overly disrupting I guess. Ms....Chair Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair. I appreciate all of that attention to it. I just wanted to make sure we're not creating another lawyer-employment law, 'cause I think they have enough work to keep them busy until they all retire and leave. But I am very much in support of passing a home business ordinance, I think we need one.

CHAIR COUCH: Yes.

COUNCILMEMBER BAISA: I believe in it because I think that it is, supplements people's income, it helps people to work at home, it helps new businesses to get started that cannot afford, you know, all the things that are necessary for a large business. And so I think it's a really good thing. The part I like most about it is being able to work at home, because at that point a lot of young parents could do childcare and a lot of older people can do care of elder relatives and just being in the home.

CHAIR COUCH: Right.

COUNCILMEMBER BAISA: But of course, you know, what we're trying to do here and we've spent hours and hours and hours trying to think about it is that we don't want to impact the other neighborhoods. So this is not my first rodeo with this kind of an ordinance.

CHAIR COUCH: Oh yeah.

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COUNCILMEMBER BAISA: You know when we did the B&B we went through the same thing, we went through STRs, we went through the same thing. So maybe we gotta chance 'em and pass the best thought-out ordinance that we can, but I think what is critical is that when we pass that that we pay close attention to implementation and see what impact this thing has and pay attention. And I think we should require regular reports of, you know, RFSs or numbers or stuff that's going on. And if it looks like this is more a problem than it's worth then we ought to fix it, but I think we gotta do something. 'Cause otherwise we could sit here for the next two years --

CHAIR COUCH: Yes.

COUNCILMEMBER BAISA: --and we will never do anything 'cause always a new question and a new scenario and a new what if will come up. If we sit here long enough we're very creative. So I'm at the point where, you know, I'm feeling pretty comfortable about this, Chair. So I'm generally in support.

CHAIR COUCH: Okay.

VICE-CHAIR VICTORINO: Chair?

CHAIR COUCH: Mr. Victorino.

VICE-CHAIR VICTORINO: And I agree with Ms. Baisa to a point, but I'll make another point on both elderly care and childcare, the State regulates that. To do both of 'em you need State permission to do that.

COUNCILMEMBER BAISA: Chair?

CHAIR COUCH: Go ahead.

COUNCILMEMBER BAISA: I'm talking about taking care of your own child and your own mother.

VICE-CHAIR VICTORINO: Well okay, because you just, well you just said...

COUNCILMEMBER BAISA: That's what...I'm not talking about commercial childcare or elderly.

VICE-CHAIR VICTORINO: Okay. Well we're talking commercial now so that's why --

COUNCILMEMBER BAISA: No.

VICE-CHAIR VICTORINO: --I thought you meant that --

COUNCILMEMBER BAISA: No. No. No.

VICE-CHAIR VICTORINO: --Madam Chair. Okay, I apologize. But, you know --

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CHAIR COUCH: No.

VICE-CHAIR VICTORINO: --I just wanna make sure that we don't give people the idea that you can do something.

CHAIR COUCH: Right. To clear up the, what the Chair --

COUNCILMEMBER BAISA: No, it's taking care of their family.

CHAIR COUCH: --was saying is that if I'm at home taking care of my mother --

VICE-CHAIR VICTORINO: That's...

CHAIR COUCH: --I can do my business outside of the house...from the house.

COUNCILMEMBER BAISA: From the house.

CHAIR COUCH: Yeah.

VICE-CHAIR VICTORINO: Okay, okay.

CHAIR COUCH: That's what that was about. So, Members, without objection, can we take out 19.57.030 A?

COUNCIL MEMBERS: No objections.

CHAIR COUCH: No concern? I mean that's what the Corp. Counsel and Mr. Rapacz both requested. That isn't going to affect anything, especially with the purpose? You're okay with that, gentlemen?

MR. HOPPER: You're going to move it to the purpose section?

CHAIR COUCH: It already is in the purpose section.

MR. HOPPER: Oh, so it's just going to be deleted in there.

CHAIR COUCH: Yes.

MR. HOPPER: I would certainly prefer that I think, and...I mean having CC&Rs as a basis for enforcement is a slippery slope to say the least.

CHAIR COUCH: I totally agree with you on that. Okay. Members...Ms....Chair Baisa. Oh, okay, no.

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COUNCILMEMBER BAISA: Done.

CHAIR COUCH: Any other comments on this? And what we'll do is, you know, I was hoping to see if we could pass it out today, but what we can do is add what we, the little tweaks we made again and give you the latest clean version unless anybody has any other comments. Yes, Mr. Rapacz.

MR. RAPACZ: Thank you, Mr. Chair. Just a couple other things that again may help to clarify and therefore better the inform the public and make it easier to enforce. The reference to signs in 67.030 G.

CHAIR COUCH: Yes.

MR. RAPACZ: Ground signs, informational, and wall signs, those terms have definitions in Title 16 in the Sign Ordinance, so if you, if your intent is to be referring to those same types of signs then a reference to Title 16 would be helpful. Otherwise we don't want to have to redefine these for Title 19.

CHAIR COUCH: If you're okay...I mean I can do that, I just don't want to have to...I think these are not in complete compliance with Title 19 or Title 16.

MR. RAPACZ: I just mean in terms of the type of sign. For example a ground sign, that has a particular meaning in Title 16.

CHAIR COUCH: Is it information sign or informational?

MR. RAPACZ: Information sign.

CHAIR COUCH: Information sign.

MR. RAPACZ: Right. And wall sign is also defined in Title 16.

CHAIR COUCH: Okay. Yeah, I think we can add, so long as we don't restrict what we want here.

MR. RAPACZ: Sure.

CHAIR COUCH: Okay, Staff, are you okay with that? Okay. Any other comments? Yes, Ms. Hopper.

MS. HOPPER: Mr. Chair, could we please just clarify, you've removed A, the purpose in 19.67.030, but you'd like to place it in the chapter's purpose?

CHAIR COUCH: Well it kind of already is in the chapter's purpose. We don't want CC&Rs.

MS. HOPPER: The purpose we were referring to before is the introduction to the bill --

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CHAIR COUCH: Yes.

MS. HOPPER: --so that actually won't be codified, so you'd want it in the ____ section?

CHAIR COUCH: Oh in the chapter's...yes.

MS. HOPPER: Okay.

CHAIR COUCH: I'm sorry, yes. Thank you for...

MS. HOPPER: Thank you.

CHAIR COUCH: Thank you for pointing that out. Okay. So we want to move that to the chapter's purpose. Move the fact that we don't want to, you know, the same purpose in the bill's purpose down to the chapter's purpose. Anything else, Members? Okay. 'Cause...yes, Mr. White.

COUNCILMEMBER WHITE: I don't know that this is necessary but I don't know whether we want to point out that so that when somebody looks up the law they understand the way that Mr. Teruya intends to separate the treatment. So if it, if you go through the process of getting a Special Use Permit or a Conditional Use Permit then you will move to Commercial. That's, if that's what I understood Mr. Teruya to say. I'm just wondering whether that should be...

CHAIR COUCH: Codified.

COUNCILMEMBER WHITE: Because when somebody looks to see what they can do in a home business, I think it would be helpful and there's going to be a change in the tax treatment --

CHAIR COUCH: That they know about it in advance.

COUNCILMEMBER WHITE: --they know about it ahead of time.

CHAIR COUCH: Okay. Mr. Teruya.

MR. TERUYA: What section is that?

CHAIR COUCH: Well there is no real section.

MR. TERUYA: Okay. Whatever section you're going to refer it to, I would, rather than saying Commercial it should refer back to the classification of land and 3.48.305.

CHAIR COUCH: 3.48.305.

COUNCILMEMBER WHITE: But we're...

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MR. TERUYA: That is the section of classification of land. I'll defer to Corporation Counsel if that's correct, but I believe rather than saying what it's going to be, it should refer back to how we classify land.

COUNCILMEMBER WHITE: Is that going to be clear enough if somebody's wanting to start a home business and requires that Conditional Use Permit?

CHAIR COUCH: The Special Use Permit I think we can maybe...I don't know if we would have to put it in the bill or instruct the Department to say look, if you're going to get a Special Use Permit it's going to change your classification. Mr. Rapacz or Mr. Alueta, I know you're back there, but is that something that we would need to put in the ordinance or is that just part of the application process for the Special Use Permit, saying keep in mind that if you do this your tax classification is going to go? Mr. White.

COUNCILMEMBER WHITE: But I think the purpose that I'm trying to solve is that if somebody's looking at this to see what they can do as a home business, I think it would be helpful for them to know at what point there's going to be a change in their taxation.

CHAIR COUCH: Can we say something as if you obtain a Special Use Permit your tax classification may change --

COUNCILMEMBER WHITE: May change or...*(inaudible)*...

CHAIR COUCH: --per --

COUNCILMEMBER WHITE: And then --

CHAIR COUCH: --3.48.305.

COUNCILMEMBER WHITE: --refer it to whatever section he's talking about.

MR. HOPPER: Mr. Chair, I think, I mean the Council would set the classification I think, and so if you wanted to revise the classification to make clear if included in it would be the Special Use Permit home businesses then I think that would be a good idea. I think that would be better easily defended by the Finance Department if someone challenged that tax classification rather than say it's a departmental policy to codify that. And not necessarily in this bill but perhaps in the actual Department of Finance section that goes over the classifications to make that clarification. Now the exact language I'm not sure of that, but I mean the Council, as long as I think you're, you know, treating that similarly across the classification then I think that that'd be okay. But to specify that similar to when the Bed and Breakfast Bill said you lose your homeowner exemption if you do a bed and breakfast, we could have something like that. But I think ideally that would be in the taxation portion of the Code rather than the land use portion of the Code.

CHAIR COUCH: Mr. Teruya.

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MR. TERUYA: I can agree with Mr. Hopper's opinion as to saying exactly what it would be classified as. My only hesitant to that is if in the event that that classification no longer exists then what happens then? So that's the only reason why I said if you refer to 305 then it always identifies how we classify land, and that's the reason why I said that. But if it's to specify what it would be, definitely I would say on behalf of Finance, yeah, it would be easier to administer it, then it's very clear. But again, that's the only reason why I said referring to 305 would be just, I would think would be there for its entirety.

CHAIR COUCH: Mr. White.

COUNCILMEMBER WHITE: Yeah, I think that's fine. My main intent is just to make sure that if somebody's looking at this chapter we need to at least give them a heads-up that something may change.

CHAIR COUCH: Yeah.

COUNCILMEMBER WHITE: So if we can just insert language that accomplishes that and refers it to 305 --

CHAIR COUCH: 305, okay.

COUNCILMEMBER WHITE: --then I'm, you know, I think we've solved it.

CHAIR COUCH: And then potentially we can come up with a bill to fix, to add this specific classification saying a home business shall be classified as Commercial if they get a special permit or something. Whatever Mr. Teruya feels is the proper language he needs to...if he needs to have that kind of language. Is that what you're saying, Mr. Teruya? Okay. All right, Members, one of the things that I just want to clarify with you, did...we talked a little bit about condominiums in the Apartment zone, zoning district. Are we okay with adding that in there? Because all of the other restrictions will dictate whether or not somebody can have a business in a, you know, a small kine apartment or anything like that, they just won't be able to. But in a situation where Mr. Teruya spoke, of which he spoke, it would be allowed. Any concerns with adding Apartment to the districts in here?

VICE-CHAIR VICTORINO: Why don't you ask the Department?

CHAIR COUCH: Department.

VICE-CHAIR VICTORINO: Please. I'd like to hear what they have to say.

MR. TERUYA: For myself it's, I'm not speaking on behalf of Planning, I'm just saying that I know of situations where a single-family residence do occur on Apartment land, and they could be

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condominiumized and therefore that, I would say on that part. As far as whether or not they would allow it in the Apartment District I'll defer to Mr. Rapacz.

CHAIR COUCH: Okay. Mr. Rapacz.

VICE-CHAIR VICTORINO: He didn't want to answer that one.

MR. RAPACZ: I think that's entirely a policy call for the Council, whether they wish to allow these types of businesses in Apartment zoning.

CHAIR COUCH: Okay. Mr. White.

COUNCILMEMBER WHITE: There are condos that are as I stated free-standing single-family residences.

CHAIR COUCH: Right. That's what he was talking.

COUNCILMEMBER WHITE: They're in Ag, they're in Residential, they're in Apartment, they're all over the place.

CHAIR COUCH: Correct.

COUNCILMEMBER WHITE: Maybe instead of doing it by land classification we should just say if a single-family residence is condominiumized then they're allowed to do, because they get taxed based on the use.

CHAIR COUCH: But are we limiting it to single-family residence or, you know, what if you have a duplex, what if you do have a condo, a three-bedroom condo that you want to make one of 'em as and you have the proper parking?

COUNCILMEMBER WHITE: Yeah, but you're generally not dealing with a kind of business in a condo that we're talking about here where it's, you know, you're parking your vehicles there, you're operating out of your garage. I just don't see a great need to allow somebody in the condo next door to you to set up a noisy, you know, furniture business or something of that sort.

CHAIR COUCH: Well what about a haircutting business or a massage?

COUNCILMEMBER WHITE: Yeah.

CHAIR COUCH: Well some massages might be . . . *(inaudible)* . . . right, Mr. Victorino?

COUNCILMEMBER WHITE: But those are, I mean to me those are not, they're not bothering anybody and they're not gonna . . . *(inaudible)* . . .

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CHAIR COUCH: Right, but they would be illegal.

COUNCILMEMBER WHITE: But those are home businesses aren't they?

CHAIR COUCH: No. If you have customers...

COUNCILMEMBER WHITE: Oh, that's right, yeah.

CHAIR COUCH: Right, they're not home occupations then if you have customers. That's the issue.

COUNCILMEMBER WHITE: I give up.

CHAIR COUCH: I give up, too.

VICE-CHAIR VICTORINO: I gave up three hours ago but that's another story. You guys, I mean we go, again, every time we...*(inaudible)*...

CHAIR COUCH: Yeah, yeah, every time it just keeps running.

VICE-CHAIR VICTORINO: It balloons.

CHAIR COUCH: I think all the other restrictions would prohibit a small apartment from doing it. So I'll send you the revised draft the next meeting we have and then we'll go from there. We should be...I think we beat this thing to death. We've got the tax --

COUNCILMEMBER BAISA: Yes, the horse died.

CHAIR COUCH: --implications taken care of. Any other...yes, Mr. Victorino.

VICE-CHAIR VICTORINO: And going back to the parking, we never finished that one. I think, you know, after, you know, and not getting a second on my motion I'm not going to even worry about it. But I think I'll leave it at no minimum for now and let's see how that works out. Maybe...*(inaudible)*...

CHAIR COUCH: Yeah. And if things --

VICE-CHAIR VICTORINO: Yeah.

CHAIR COUCH: --start getting crazy then we can always add.

VICE-CHAIR VICTORINO: Yeah, yeah. So...

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CHAIR COUCH: Any other comments, Members? All right, so we, without objection, we'll defer this and we'll get you a good, the latest revisions and hopefully we'll pass this out next meeting. No objections?

COUNCIL MEMBERS: No objections.

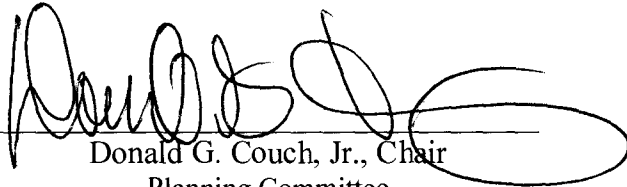
COUNCIL MEMBERS VOICED NO OBJECTIONS

ACTION: DEFER.

CHAIR COUCH: All right, I want to thank the departments. Thank you for the healthy discussion on taxes and enforcement and law. And thank you for the Staff for being here. Thank you for the testifier to show up. And, Members, thank you for taking your Friday afternoon and helping us out. This meeting is adjourned. . . .(gavel). . .

ADJOURN: 3:32 p.m.

APPROVED BY:



Donald G. Couch, Jr., Chair
Planning Committee

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Transcribed by: Daniel Schoenbeck

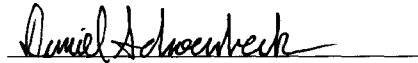
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CERTIFICATE

I, Daniel Schoenbeck, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 1st day of October, 2014, in Kula, Hawaii



Daniel Schoenbeck