

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**MINUTES**

**Council Chamber**

**October 3, 2014**

**CONVENE: 1:37 p.m.**

**PRESENT: VOTING MEMBERS:**

Councilmember Donald G. Couch, Jr., Chair  
Councilmember Michael P. Victorino, Vice-Chair (left at 2:11 p.m.)  
Councilmember Gladys C. Baisa  
Councilmember Elle Cochran  
Councilmember Stacy Crivello (arrived at 1:55 p.m.)  
Councilmember Mike White (arrived at 2:02 p.m.)

**EXCUSED:** Councilmember Don S. Guzman

**STAFF:** Chancy Hopper, Legislative Analyst  
Kim Willenbrink, Legislative Analyst  
Pauline Martins, Committee Secretary

Ella Alcon, Council Aide, Molokai Council Office (via voice conference)  
Denise Fernandez, Council Aide, 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  
William Spence, Director, Department of Planning  
John Rapacz, Zoning Planning Program Administrator, Department of Planning

**OTHERS:** Dave DeLeon, Government Affairs Director, Realtors Association of Maui  
Paul Laub

**PRESS:** *Akaku Maui Community Television, Inc.*

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**PC-33 HOME BUSINESSES (CC 12-74)**

CHAIR COUCH: ... *(gavel)* ... Will the Planning Committee of October 3, 2014, please come to order? It is now 1:37. My name is Don Couch and I am the Chairperson of the Committee. And before we get started, Members, can you please, can anybody in the Chambers please turn off their cell phones or put them in silent mode so we don't have disruptions to the meeting. Alright. I would like to welcome the Committee Vice-Chair, Michael Victorino.

VICE-CHAIR VICTORINO: Good afternoon, Chair.

CHAIR COUCH: Good afternoon. Council Chair, Gladys Baisa.

COUNCILMEMBER BAISA: Good afternoon.

CHAIR COUCH: Good afternoon, Chair. And Elle Cochran.

COUNCILMEMBER COCHRAN: Aloha. Good morning, good afternoon.

CHAIR COUCH: Good afternoon. And...

COUNCILMEMBER COCHRAN: It's afternoon already.

CHAIR COUCH: Showing up soon will be Councilmember Stacy Crivello and Councilmember White, and Councilmember Guzman is excused for the duration of the meeting. Alright, from the Administration we have Will Spence, the Planning Director. Good afternoon.

MR. SPENCE: Good afternoon, Chair.

CHAIR COUCH: And we have John Rapacz, Planning Program Administration for ZAED.

MR. RAPACZ: Good afternoon.

CHAIR COUCH: Good afternoon. Michael Hopper, Deputy Corporation Counsel.

MR. HOPPER: Good afternoon, Chair.

CHAIR COUCH: Good afternoon. Committee Staff is Legislative Analyst, Chancy Hopper.

MS. HOPPER: Good afternoon.

CHAIR COUCH: Good afternoon. And Legislative Analyst, Kim Willenbrink.

MS. WILLENBRINK: Good afternoon, Chair.

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CHAIR COUCH: Good afternoon. And Committee Secretary, Pauline Martins. Good afternoon, Pauline. On today's agenda is only one item, it's PC-33 Home Businesses and we are going to discuss that right now so we're ready to start public testimony. Will anybody willing to testify please sign up in the Chamber in the back, the eighth floor lobby just outside the Chamber door. Testimony will be limited to the item listed on the agenda today. Pursuant to the Rules of the Council, each testifier will be allowed to testify for up to three minutes per item with one minute to conclude. It looks like we don't have any. Do we have any? We do. Okay. You'll have a green light system. The light will be green for three minutes and then it will go to yellow for one minute and then it will go to red and when it goes to red, please stop. Members, without objections, I will now proceed to have testimony.

COUNCIL MEMBERS VOICED NO OBJECTIONS.

CHAIR COUCH: No objections. Okay. First and only person to testify in the Chambers is Dave DeLeon. David DeLeon.

***... BEGIN PUBLIC TESTIMONY ...***

MR. DeLEON: Good afternoon and aloha.

CHAIR COUCH: Aloha.

MR. DeLEON: My batting average is so good, I think, I took another swing at it. Yeah, I just wanted to very briefly say that the Realtors Association of Maui, this is Dave DeLeon representing the Realtors Association of Maui and that we are in support of the bill as written. We believe that this topic has been around in Maui County government as long as I've been around Maui County government, which is like about 35 years. So it is never gonna get perfected, perfected. It's gonna always be like something the gentleman that you had here as a speaker on this topic said you get 80 percent and then you perfect it down to 90 percent. I think you are at 85 – 90 now with this bill. So I'd like to encourage this bill to come out and a lot of those people who aren't having any impact on our neighbors to be legally allowed to do their small businesses in their community. Mahalo.

CHAIR COUCH: Alright. Thank you. Members, any questions to the testifier? Seeing none, thank you. And anybody else in the Chambers willing to testify? Doesn't look like any. We'll go out to the District Offices now. Let's see, Hana District Office?

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

CHAIR COUCH: Thank you. Molokai District Office?

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MS. ALCON: Good afternoon, Chair. This Ella Alcon on Molokai and there is no one here waiting to testify.

CHAIR COUCH: Thank you. Lanai District Office?

MS. FERNANDEZ: Good afternoon, Chair. This is Denise Fernandez on Lanai and there is no one waiting to testify.

CHAIR COUCH: Okay. Thank you, ladies. Members, seeing that no one's in the Chambers or at the District offices to testify, without objections, we'll close public testimony.

COUNCIL MEMBERS VOICED NO OBJECTIONS.

CHAIR COUCH: Great. Public testimony is closed. Thank you, ladies.

**... END OF PUBLIC TESTIMONY ...**

CHAIR COUCH: Alright. Let's see, Members, PC-33 is Home Businesses. We've been discussing it for several meetings now. Just for your information, County Communication 12-74, from the Planning Director, transmitted a response to Resolution 11-97, a summary of the Lanai, Maui, and Molokai Planning Commissions' comments on a proposed bill relating to home businesses. Also in a correspondence dated September 23, 2014, from me, transmitting a revised proposed bill entitled A Bill for an Ordinance Amending Title 19, Maui County Code, Relating to Home Businesses. For those of you who are tuning in for the first time, the purpose of the revised proposed bill are to establish standards and restrictions for regulations of home businesses; home businesses that is permitted use in the Residential, Rural and Apartment Zoning Districts, subject to qualifying standards and restrictions; home businesses as a special use in the Residential and Rural zoning districts, where permitted use standards and restrictions are not met and the home business qualifies under special use standards and restrictions and obtains a County Special Use Permit; home businesses as a special use in the Agricultural Zoning District. You know, before we open the floor for discussion, I would like to thank everyone that has been involved in this process. It's taken several years, even prior to some of these Council terms. So we just were able to kind of herd the cats and get it closer to fruition here. As you can see, we have a large screen in the Chamber and we are going to show the bill on the screen today. Can you see it, Ms. Cochran? You're the furthest away.

COUNCILMEMBER COCHRAN: Yes.

CHAIR COUCH: Okay. We'll just kinda go through it. We'll walk through the changes and if you have any comments, we'll just go on. But before we do that, Corporation Counsel, do you have any questions, comments?

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MR. HOPPER: Mr. Chair again, we are still going to have to review this bill --

CHAIR COUCH: Sure.

MR. HOPPER: --fully and particularly if there's more changes, which it sounds like it there may be so.  
We would reserve our --

CHAIR COUCH: Comments.

MR. HOPPER: --final review until the next meeting.

CHAIR COUCH: Okay. Have you been able to take a look at it right now? There has been a concern.  
The way it is written, can there be more than one home business on a property?

MR. HOPPER: Mr. Chair, I don't know if the Planning Department has a comment on this. Is there a  
particular section that there was a question on?

CHAIR COUCH: Well, we had some written testimony that said, hey, this doesn't seem to allow or  
deny more than one business on a property. There's been some internal discussion and just was  
curious if either you or the Department have any comments on that.

MR. HOPPER: There's a square footage limitation I believe.

CHAIR COUCH: Right.

MR. HOPPER: And there is a limit of employees, there's a limit of cars. So if there's going to, if you  
wanna say one per home, then you can certainly say that in the bill. I would not leave that  
ambiguous in any way. Say it either way if there's ambiguity there.

CHAIR COUCH: Okay.

MR. HOPPER: Depending on what, with the Committee and the Department would like to actually see  
on these properties.

CHAIR COUCH: Okay and Members, that is the question that has come up with some testimony, and  
my concern is there are some instances where you may want more than one that doesn't bring in  
a lot of customers in, more of a home occupation and possibly a home business. It's my thought  
that the parking restrictions and the customer restrictions would limit a lot of that. So, you know,  
we'll go through it and see if there's any issues that come up or any thoughts from the  
Department. Department, I see Mr. Rapacz is here and I know he's kinda coming in at the last  
minute. You're the guy who has to enforce it and I know you have some concerns. We'll take a  
look and as one of the testifiers said and as our expert said, you know, we're going for 80 percent

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and it looks like we may be 85 or 90 right now. So I'll ask you to just comment as we go through potential, you know, say if it is a quick change, let's, we can add that. If it's something that requires some deep discussion, let's discuss it a little bit and say, see if it needs to go to the review when it comes back. Because you may have some issues with enforcement or you may not. And so if you don't have issues with enforcement then we can leave it as is. Okay.

UNIDENTIFIED SPEAKER: Very good.

CHAIR COUCH: Alright. First, Members, we'll just go right through from Section 1. As per your comments at the last meeting, we revised the purpose statement to add the Apartment District as one of the districts where home businesses are permitted. And that we discussed potential issues there. If there's parking enough in an Apartment District and there's room enough in the home then that's fine. If it's not, then that's, it's kind of self-restricting in itself, so we didn't want to exclude the Apartment Districts. Any thoughts or comments on that, Members?

COUNCILMEMBER BAISA: Nope.

CHAIR COUCH: And you can see, it is up on the board if you need to take a look. It's highlighted. Alright. Down to Section 5 on Page 3, we added in a new Section 5 to add Apartment Districts to the districts where home businesses will be permitted uses. Now if you take a look down in "G", we added "H", but that was within the Apartment Districts. You know when it says "A" any use permitted in the Residential and Duplex Districts, its Staff's thought and I kind of agree them that we can remove actually "G" and "H" because those are all permitted in Residential Districts. Any comments on that, Members? Any objections to just removing "G" and "H"?

COUNCILMEMBER BAISA: No objections.

CHAIR COUCH: Okay. Thank you. We can do that. See how you do it right on the fly right there? As soon as she hits enter, it will go away or something like that anyway. Alright. So we are going to remove "G" and "H", Staff. And from our last meeting, now we are going down to Page 7 and under the purpose. The purpose of this chapter is to establish procedures for the regulation of home businesses, and then we've moved the character of the neighborhood statement that was in 19.67.030 General standards and restrictions, now having it in the purpose statement. We did this because Planning indicated enforcement of character is difficult. So the purpose of the bill is to try to and preserve the character existing, of the existing neighborhood. The Department we can leave it up to the Department when we talk about nuisance and whatnot and some of the restrictions that they can, they have an easier time, I think, of enforcing it as opposed to dealing with character because we couldn't put in CC&Rs. Yes, Mr. Victorino.

VICE-CHAIR VICTORINO: Yeah. Chair. And I, this is one of the times I know we don't agree on many things, but this is one of the times I do agree. 'Cause, how do you legislate character?

CHAIR COUCH: Correct.

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VICE-CHAIR VICTORINO: What is character?

CHAIR COUCH: Without being able to look at CC&Rs.

VICE-CHAIR VICTORINO: And even CC&Rs, we are not able to.

CHAIR COUCH: Exactly.

VICE-CHAIR VICTORINO: So let's not get into that. Now we are going to open Pandora's Box. So yeah, I agree, it should be removed.

CHAIR COUCH: Okay. Thank you.

VICE-CHAIR VICTORINO: I mean, I just must speak for myself.

CHAIR COUCH: Any comments? And Department, if you have comments in this section, these sections that we are talking about, please feel free to chime in. So when I ask the Members for comments, I am also asking you. 'Cause you are essentially members of this Committee too, almost. Any comments?

VICE-CHAIR VICTORINO: Making your life easier

COUNCILMEMBER COCHRAN: They're conferring.

CHAIR COUCH: Yeah, they are. We just, essentially for your benefit, Mr. Rapacz, we had discussed looking at CC&Rs to determine the character of the neighborhood as we do in short term rentals but in the short term rental bill, we also require a letter and all kinds of other things which we don't require in here, so it kind of makes the point moot that we can't really do CC&Rs at this point. So that's why we made that change. Okay. Still on Page 7 and onto Page 8, last meeting we talked about no on-street parking of vehicles associated with the home business shall be permitted and it is right down here. Oh, and we have... are you going back to the other?

MR. RAPACZ: To Page 7.

CHAIR COUCH: Seven? Okay. Mr. Rapacz.

MR. RAPACZ: Thank you, Mr. Chair, you were moving a little too quickly for me there to catch item 67.030D repair, manufacture, processing, or alteration of goods, materials, or objects that results in a detrimental effect or nuisance. As we discussed at the last meeting, it's good that nuisance is defined, that will be helpful in enforcing, but to add the term detrimental effect, it's extremely broad, it's extremely subjective and it seems like virtually anything could be considered a

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detrimental effect by some neighbor. So I think for enforcement purposes, it would be sufficient to refer the nuisance only and delete the term detrimental effect.

CHAIR COUCH: Okay. Members? Any comments? Are you okay with removing that?

COUNCILMEMBER BAISA: Yes.

VICE-CHAIR VICTORINO: I think so. Yeah.

CHAIR COUCH: Okay.

VICE-CHAIR VICTORINO: I think it'd be easier for enforcement purposes. Yeah.

CHAIR COUCH: And because of quorum issues, I have a couple Members that haven't shown up that said they were going to, so I'm going to take a three-minute recess for personal needs so the meeting is in recess. . . . (*gavel*) . . .

**RECESS: 1:52 p.m.**

**RECONVENE: 1:54 p.m.**

CHAIR COUCH: . . . (*gavel*) . . . Will the Planning Committee meeting of October 3, 2014 please come back to order. Okay, Members, we left off in "D", Mr. Rapacz wanted to get rid of detrimental effect, so we did that. Because nuisance is well defined and detrimental effect can kind of fall under nuisance if necessary. And the reason why we are being a little bit more open in this is that so that if it's just one neighbor who is upset with another neighbor just because. We want to be able to have the Department say, you know, you guys are fighting amongst yourselves, everybody else is fine with it. You know that kind of thing. Mr. Rapacz, correct me if I am wrong, you guys run into that all the time, is just one neighbor complaining about another?

MR. RAPACZ: That's right and if there's no standard to judge whether the effect really is a problem to a reasonable person then --

CHAIR COUCH: Right.

MR. RAPACZ: --there's not much we can do.

CHAIR COUCH: Okay. And I want to welcome, acknowledge the presence of Ms. Crivello. Thank you, Ms. Crivello. I understand you had some issues that you had to take care of, so thank you. Okay. Yes, sir, Mr. Rapacz.

MR. RAPACZ: Sorry. One more item on --



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CHAIR COUCH: That's okay.

MR. RAPACZ: --Page 7. It's a quick one. Item E, the home business shall accommodate maximum of four parking spaces. Could we say, shall provide pursuant to the requirements of 19.36A. In other words, they have to be the right size.

CHAIR COUCH: No.

MR. RAPACZ: No?

CHAIR COUCH: No we don't.

MR. RAPACZ: Can we? Okay. If we don't...

CHAIR COUCH: We discussed that couple days ago or maybe last meeting that we don't want pavement, we don't want any of that. They just have to be able to provide some parking spaces.

MR. RAPACZ: Okay, then if it could just be re-worded to say provide rather than accommodate.

CHAIR COUCH: Provide?

MR. RAPACZ: Rather than accommodate.

CHAIR COUCH: Okay.

MR. RAPACZ: Okay.

CHAIR COUCH: That's fine. Members, any comments on that?

VICE-CHAIR VICTORINO: If that's, if Mr. Rapacz thinks that that's more enforceable then --

CHAIR COUCH: Yup.

VICE-CHAIR VICTORINO: --okay, that's fine.

CHAIR COUCH: Okay.

COUNCILMEMBER BAISA: We do want something enforceable.

CHAIR COUCH: Yes. Yes we do, as we heard today. Okay. And now we are down to no on-street parking of vehicles associated with the home business shall be permitted. That's what we discussed last meeting. Any comments on that? Okay. Good. The next one is "F", except for

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one ground sign or wall sign as defined in Section of 19.3, 13, 16.13.030 of this Code. We updated this to be consistent with the signage definitions elsewhere in the Code. And we changed the four square feet to two square feet per our discussion and our wonderful signs. Thank you, Mrs. Zulueta for coming up with those nice graphics. Then we go further down into the last sentence of "F" where it says wall signs may be affixed to a fence at the entrance of the property on lots of two acres or more. This last sentence was also updated to be consistent with the signage definition elsewhere in this code, so. Mr. Rapacz.

MR. RAPACZ: And one again. Just one small item there, if we could say, may be affixed to a fence or wall.

CHAIR COUCH: Okay.

MR. RAPACZ: So it's clear.

CHAIR COUCH: I believe a wall sign in 16.13.030 says you can put it on a wall, but if it makes it clearer for you we can throw that in there.

MR. RAPACZ: Yes, thank you.

CHAIR COUCH: Okay. Members, okay with that?

VICE-CHAIR VICTORINO: Yup.

CHAIR COUCH: Okay. And please Members, we'll just go through this and if you have an objection or want to discuss it, please stop me, feel free to stop me, 'cause otherwise we'll just --

COUNCILMEMBER BAISA: Yeah.

CHAIR COUCH: --get through this. Alright. 19.67.040 Permitted use standards and restrictions. Number A. Only one person, other than those residing on the property, may be employed at this home business site at any given time. That's the revision we talked about, so if you wanted to hire two part-time people or two different people, one on one day and one on another, that's fine. We don't care how many employees you have. Just only one on the residence at any given time. Does that help you, Mr. Rapacz? I know you had some concerns about that.

MR. RAPACZ: I think that clears it up.

CHAIR COUCH: Okay. Then Number E on that same section. Materials, equipment, or more than two vehicles associated with the home business, excluding customer or employees vehicles, shall not be stored or parked outside a structure on the property. As we discussed last time, we wanted to make sure. I just wanted to let you know that's there. Are you okay with that, Mr. Rapacz?

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MR. RAPACZ: Yes.

CHAIR COUCH: Okay. Now we go into the special use, 19.67.050. Same Page 8. The title has been changed to Special use standards and restrictions, and then we added semi-colon real property tax classification. That is what we discussed at the last meeting. So we'll get into what we discussed as far as the real property tax classification. Okay. Number 1, only two persons, other than those residing on the property, may be employed at the home business site at any given time. That's similar to the one on the permitted use. Comments, Mr. Rapacz? No, we're good. Go to Page 9. Everything is fine from our standpoint down to part B. Mr. Rapacz, before we get to part B, do you have some concerns?

MR. RAPACZ: Yes. Thank you. Again, just a clarification, items five and six, under 050 --

CHAIR COUCH: Uh-huh. Okay, 5, item 5 [sic] says vehicles, trailers, and other equipment associated--and it's right there on the screen, that's why we have the big screen--shall be located behind the footprint of the dwelling unit and shall be screened so that it is nearly invisible from any right-of-way. So, Members, I mean, Mr. Rapacz, what's your concern there?

MR. RAPACZ: Thank you. The question is whether, in item 6, when we refer to exterior storage, does that include the storage of vehicles, trailers and other equipment listed in item 5? Item 5 says vehicles, trailers and equipment shall be stored in an organized manner and then item 6 says all exterior storage shall be located. So does that exterior storage include those vehicles, trailers, and other equipment associated with the home business?

CHAIR COUCH: Okay. Members, any thoughts on that? That brings up a good question. I'd like to acknowledge the presence of Mr. White. Thank you, Mr. White.

COUNCILMEMBER WHITE: Thank you, Chair.

CHAIR COUCH: You look spiffy in your tie as well. Mr. Victorino.

VICE-CHAIR VICTORINO: Some of us no more time to go home and change.

CHAIR COUCH: Okay.

COUNCILMEMBER BAISA: Chair?

CHAIR COUCH: Yes, Ms. Baisa?

COUNCILMEMBER BAISA: I think we're going get into trouble with inconspicuous.

CHAIR COUCH: Yeah, we've had that. Yeah, we've had that in there for a little bit. Mr. Rapacz, any concerns with that?

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MR. RAPACZ: Yeah. I, thank you, that's, I do have a concern with the term. I understand I'm coming in late and you've been through this already so I'm trying not to nitpick here but inconspicuous is a difficult thing to enforce. That's in item 5 and then in item 6 it uses the term nearly invisible. And again, that's just a judgment call whether something is nearly invisible or not.

CHAIR COUCH: And some of this may be a judgment call and if the homeowner wants to appeal it then that's doable. If it gets to the point where you guys are having really a lot of issues with that, I think, there's only a few areas that may have that issue. And so, we're trying to give some leeway --

MR. RAPACZ: Sure.

CHAIR COUCH: - you know, if again if it's a neighborhood that is really concerned about the looks and you guys can say, yeah, it's fairly invisible, nearly invisible. I mean, if they want to get nitpicky about it, then we can first have you guys deal with them and if they need to go to the Board of Variances and Appeals that might be something that if they're willing to go that far. Any concerns with that, Members? I know we discussed that for a while. It goes along with the whole 80 percent and the whole, you know, what is a nuisance? What is detrimental to the character of the neighborhoods? Yes, Ms. Baisa?

COUNCILMEMBER BAISA: I think it varies a lot on where this is.

CHAIR COUCH: Yes.

COUNCILMEMBER BAISA: You know, in some places, big trucks with lots of signs on 'em, parked in the front yard; nobody cares because, it's not, it is a rural neighborhood. Neighbors are used to it and they just, nobody cares. Now, in other neighborhoods that may be more upscale that may be a real issue. So...

CHAIR COUCH: And that goes with the whole...why we talked about the character of the neighborhood.

COUNCILMEMBER BAISA: Yeah, I know.

CHAIR COUCH: Yeah.

COUNCILMEMBER BAISA: But again that character is hard to define.

CHAIR COUCH: Right.

COUNCILMEMBER BAISA: But --

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CHAIR COUCH: That's why it's in the purpose as opposed to...

COUNCILMEMBER BAISA: --I can live with the inconspicuous. I think maybe like you say, we got to try it.

CHAIR COUCH: Uh-huh.

COUNCILMEMBER BAISA: Because if we keep on trying to find perfect words, we're probably never gonna pass anything.

CHAIR COUCH: Exactly. That's my concern.

COUNCILMEMBER BAISA: Yeah.

CHAIR COUCH: So.

COUNCILMEMBER BAISA: I guess after we get hauled in a few times on what's conspicuous and what's not inconspicuous, we'll figure it out.

CHAIR COUCH: And Mr. Spence?

MR. SPENCE: Yes. Yeah I, Mr. Chairman, I think we can live with, it's, I can see many discussions coming up on what is inconspicuous or nearly invisible but, you know, we will do our best to be very plain about it when do accommodate.

CHAIR COUCH: And I understand. My concern, my thought is, you know what, how many people are actually going to complain about those two items? I think.

MR. SPENCE: Oh, you would be surprised.

CHAIR COUCH: Oh, really?

MR. SPENCE: Yes.

CHAIR COUCH: Okay. Well then that's, that is something to discuss a little bit further then. Can you give some kind of examples that might be popping into your head, Mr. Rapacz, from your experience?

MR. RAPACZ: There are cases in which, and I believe it's in the Light Industrial District not in Residential where there is a requirement that junk vehicles, those types of things that are going to be stored on a lot. In some cases, they have to be inside of buildings, and in other cases, they have to be screened by a fence at least six feet high. So there is this concern about things piling up.

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CHAIR COUCH: Correct.

MR. RAPACZ: And so, if in item 5, there can be vehicles, trailers, and other equipment. Other equipment can be bulldozers and backhoes and those kinds of things.

CHAIR COUCH: And we're now in special use so that can a lot, that can be taken care of in, when they get the Special Use Permit the conditions can be put on there.

MR. RAPACZ: That's a good point and we can leave it to the commission to make the judgment.

CHAIR COUCH: Right. And that's why it's a little bit more ambiguous there. Because they have to go through the Planning Commission.

MR. SPENCE: Chairman?

CHAIR COUCH: Mr. Spence?

MR. SPENCE: Just for and in Number 5, and if we're talking about vehicles and trailers and other equipment, are we talking about motorized equipment or just equipment in general?

CHAIR COUCH: It could be any other equipment, what, if it is a bunch of scaffolding and things like that.

MR. SPENCE: Okay. Because I'm trying to distinguish between Number 5 and 6. All exterior storage, you know, that could be scaffolding, that could be any other things that could be done in 5 and so you try to choose which one something fits under.

CHAIR COUCH: Uh-huh.

MR. SPENCE: If...

CHAIR COUCH: The concern I would have and I'm fine with whichever way you want to go, but this would, would this not give the Planning Commission a little bit more leeway to determine which, how they wanted to do their conditions? Or is that gonna confuse them more?

MR. SPENCE: It's...when questions come up in the Planning Commission, they ask the Director what about this, what about that, and this is the kind of thing they would ask. What's, so what is equipment, and what is exterior storage? Or, you know, I can't give them that kind of guidance. I can give them my opinion based on the particular circumstance. But I can't give them, just looking at that, I couldn't give them a definitive answer.

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CHAIR COUCH: I'm thinking more that exterior storage is a for instance, inventory, stacks of lumber. I'm not sure that that's equipment but it certainly is --

MR. SPENCE: Materials.

CHAIR COUCH: --materials. Right.

MR. SPENCE: If you want to say materials storage that would be, I think that would be helpful.

CHAIR COUCH: Well this, this section is saying all exterior storage. Whether it's pertaining to number 5 or anything else.

MR. SPENCE: Well then, Number 5 says just stored or parked in an organized manner in an inconspicuous...it doesn't say behind the footprint of the dwelling unit.

CHAIR COUCH: Okay.

VICE-CHAIR VICTORINO: Mr. Chair.

CHAIR COUCH: Understood. Yes, Mr. Victorino

VICE-CHAIR VICTORINO: And if you are talking material, material that is germane to the business.

CHAIR COUCH: Yes.

VICE-CHAIR VICTORINO: I think that is going to be important because I mean I might put something out in my backyard and I don't have a business but it's there. I know, and maybe, what I'm trying to say is if somebody puts something outside and it's not germane to their business, you know, you don't want to drive by and say oh, that's, you know.

CHAIR COUCH: Right. If it is...

VICE-CHAIR VICTORINO: Whatever it might be.

CHAIR COUCH: Right.

VICE-CHAIR VICTORINO: I just thinking that --

CHAIR COUCH: Uh-huh.

VICE-CHAIR VICTORINO: --we're trying to make it germane to the business, right. It has to have some correlation to the business that we're, that that person is conducting.

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CHAIR COUCH: Associated with the business.

VICE-CHAIR VICTORINO: Yeah.

CHAIR COUCH: Yeah. As in, that's right. Six should probably say all exterior storage associated with the business shall be located.

VICE-CHAIR VICTORINO: Germane, associated whatever word you want to use. It doesn't make a difference, yeah.

CHAIR COUCH: Does that help or not, Mr. Rapacz?

MR. SPENCE: Mr. Chairman, I don't think that helps the...I mean, I understand; I think that helps determine what storage they're talking about.

CHAIR COUCH: Uh-huh.

MR. SPENCE: It doesn't help the Department in terms of...

CHAIR COUCH: And this isn't in storage buildings. This is, if they store the stuff outside, it's got to be out of the way and behind the building.

MR. SPENCE: Oh okay and do you want to --

MR. RAPACZ: Sure.

MR. SPENCE: --give that example?

MR. RAPACZ: Sure Mr. Chair an example would be storage of portable high intensity light switch end posts.

CHAIR COUCH: Oh yeah, yeah, sure.

MR. RAPACZ: Does that fall under Number 5 or Number 6?

CHAIR COUCH: Oh because it could be considered equipment as opposed to.

MR. RAPACZ: Could be equipment. It could be exterior storage associated with the business. Everything in Number 5 could be considered exterior storage associated with the business. So we're just trying to distinguish which ones you want to fall --

CHAIR COUCH: Gotcha.



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MR. RAPACZ: --in which category.

CHAIR COUCH: So if I say, if we come up with all exterior storage of materials associated with the business or inventory or...

MR. SPENCE: I think the question is do you want all the vehicles, trailers, and other equipment to be behind the dwelling unit or do you just want them...

CHAIR COUCH: No. Not necessarily because what if you are on a two-acre lot and in a nice row out in the back, it's inconspicuous, it's not right up on the street, that kind of thing. I'm pretty sure that's what the intent was when we talked about it three or four meetings ago.

MS. WILLENBRINK: Chair.

CHAIR COUCH: Ms. Willenbrink.

MS. WILLENBRINK: If I may, I think you're on the right track there. What if Number 5 said something like vehicles and trailers associated with the home business? And then Number 6 said all other exterior --

MR. SPENCE: Right.

MS. WILLENBRINK: --exterior storage of equipment and materials?

CHAIR COUCH: Okay. Alright Members, any comments on that? You okay with that?

COUNCIL MEMBERS: Okay.

CHAIR COUCH: Alright. And again, it is one of those situations where if it gets hairy or if people have some concerns, then we can tweak it. So vehicles and trailers associated with the home business shall be stored or parked in an organized manner and in an inconspicuous location on the lot. All other exterior storage associated, of the associated, of equipment associated with the. Okay.

UNIDENTIFIED SPEAKER: E-equipment.

CHAIR COUCH: E-equipment. That's right. Okay.

MR. SPENCE: Thank you. Mr. Chairman that is exactly what I was reaching for.

CHAIR COUCH: Okay. Perfect. Thank you Ms. Willenbrink. Alright. Members, are you okay with that as it is on the beautiful, shiny new screen?

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COUNCILMEMBER BAISA: You like it, huh?

CHAIR COUCH: Yeah.

COUNCILMEMBER CRIVELLO: Good job.

CHAIR COUCH: Hopefully *Akaku* can see it. I heard there's some issues maybe with *Akaku*. But eventually they'll get a computer feed and be able to get it straight into the computer. But right now, no. Okay. Then we go down to B. Granting of a special use permit pursuant to this chapter may result in a change of the real property tax classification for the property pursuant to Section 3.48.305 of this Code. That's where we had the discussion with Mr. Teruya and how they would change the tax status. If it's, they still get their homeowner's exemption, they're good to go. Everything else, he'll deal with it as it comes along. So and he requested some language along those lines. Any concerns with that, Members? We added that. That's something we did add. No concerns? I see members of the gallery putting on their glasses to read now. Alright. Further down under 19.67.080 Review. The Council shall review this chapter beginning May 1, 2016 and every two years thereafter. We decided to go the first review will be 18 months and then every two years after that. Members, any concerns, comments? That's it.

COUNCILMEMBER BAISA: That's good.

CHAIR COUCH: That's good. Any further discussion from the Department? Is there a couple other little tweaks that aren't going to take us forever to discuss or are you good?

MR. SPENCE: I think we're good, Mr. Chairman.

CHAIR COUCH: Okay. Then of course, Members, subject to Corp. Counsel's reading and interpretation...Ms. Willenbrink? Yes? Oh okay. Any further discussion on this? Wow. Okay. Well in that case, if there is no further discussion, I will entertain a motion to recommend the passage on first reading of the revised proposed bill entitled A Bill for an Ordinance Amending Title 19, Maui County Code, Relating to Home Businesses; and to allow Staff to make nonsubstantive revisions; and the filing of County Communication 12-74.

MS. WILLENBRINK: Chair. You may just want to clarify revised proposed bill as revised. Because we did make revisions today.

CHAIR COUCH: Okay. As revised, that's clarified.

COUNCILMEMBER BAISA: Mr. Chair?

CHAIR COUCH: Yes.

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COUNCILMEMBER BAISA: With great pleasure, I move that this, that your recommendation be adopted.

CHAIR COUCH: Thank you.

COUNCILMEMBER WHITE: Second.

CHAIR COUCH: We have a motion from Chair Baisa and seconded by Mr. White to pass on first reading of the revised proposed bill entitled A Revised Bill for an Ordinance Amending Title 19, Maui County Code, Relating to Home Businesses; and to allow Staff to make nonsubstantive revisions; and the filing of County Communication 12-74. Any comments? I want to say thank you, folks, very, very much. You know, sometimes planning stuff is little monotonous but at least we get through it and this, I think will help with all the budding Apples and HPs and Ergo babies in this community. Hopefully this will allow some folks to start their businesses and be able to care for their neighborhood and get some income at the same time. Without any further comments, all those in favor, please say "aye".

COUNCIL MEMBERS VOICED AYE.

CHAIR COUCH: All those opposed? Let the record show five ayes, zero noes, and two Members excused, Mr. Guzman and Mr. Victorino, Vice-Chair Victorino.

**VOTE: AYES: Chair Couch, Councilmembers Baisa, Cochran, Crivello, and White.**

**NOES: None.**

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: Vice-Chair Victorino and Councilmember Guzman.**

**MOTION CARRIED.**

**ACTION: FIRST READING OF REVISED BILL AND FILING OF COMMUNICATION.**

CHAIR COUCH: Members, that is it. Thank you very much for your hard work and I really appreciate it. And with that, Department hopefully will get, will be able to handle this. We're gonna revisit it in 18 months or sooner if you have some issues. So with that, the meeting is adjourned. Thank you very much. . . . (*gavel*) . . .

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**ADJOURN: 2:17 p.m.**

APPROVED BY:



Donald G. Couch, Jr., Chair  
Planning Committee

pc:min:141003

Transcribed by: Bernadette Haupu

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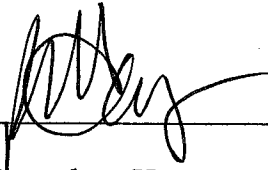
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CERTIFICATE

I, Bernadette Haupu, 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 27th day of October, 2014, in Haliimaile, Hawaii

  
\_\_\_\_\_  
Bernadette Haupu