

**HANA ADVISORY COMMITTEE TO THE
MAUI PLANNING COMMISSION
MEETING OF MAY 19, 2014**

** All documents, including written testimony, that was submitted for or at this meeting are filed in the minutes file and are available for public viewing at the Maui County Department of Planning, 2200 Main St., Suite 315, Wailuku, Maui, Hawai'i. ***

A. CALL TO ORDER

The meeting of the Hana Advisory Committee (Committee) was called to order by Chairperson, Clayton Carvalho, at approximately 4:12 p.m., Monday, May 19, 2014, at the Helene Hall, Hana Bay, Hana, Island of Maui.

A quorum of the Committee was present (see Record of Attendance).

Chair Clayton Carvalho: Good afternoon and aloha to -- the hearing of the Hana Advisory Committee to the Maui Planning Commission for, excuse me, May 19, 2014, this is a continuation of our meeting from May 8, 2014. I'll reintroduce everyone again. To my left, Staff Planner, Gina Flammer; on the board, Ed Cashman; to my right, Deputy Corporation Counsel, Richelle Thomson; Board Member John Blumer-Buell; Board Member Scott Crawford; and Suzette Esmeralda; and in front of us, Planning Program Administrator, Clayton Yoshida.

B. PUBLIC TESTIMONY

Chair Carvalho: We don't have any minutes available from the last meeting, so we'll move on to public testimony. If we have any right now, you can come up to mike and speak. We will have an opportunity for any of you to come up after Gina's presentation on the bed and breakfasts, that will be agenda item C.2. I'm sorry. Yeah, C.2. Yeah, on both, yes. Technically, we are on Unfinished Business, where we left off, we were still meeting on agenda item C.1. and that was in regards to the short-term rental homes, and I'll turn it over to Richelle.

C. UNFINISHED BUSINESS

- 1. Mr. William Spence, Planning Director transmitting the Planning Department's Report with comments, recommendations, and proposed amendments to the planning commissions for review and transmittal to the Council relating to Chapter 19.65 of the Maui County Code relating to Short-Term Rental Homes. (G. Flammer) (materials distributed with the May 8, 2014 agenda packet.) (Matter discussed at the May 8, 2014 meeting.)**

At its April 22, 2014 meeting the Maui Planning Commission requested that the matter be referred to the Hana Advisory Committee for comments and recommendations.

The Hana Advisory Committee may act to provide its comments and recommendations on the Report.

Ms. Richelle Thomson: So you asked me to followup on the licensing requirements for the agents for short-term rental homes, and I did make a couple of calls to the Department of Commerce and Consumer Affairs, which is the state body that regulates real estate activities. At any rate, I didn't get a definitive answer on whether or not a travel agent can rent short-term rental homes, so what I would recommend, given that I understand that kind of the spirit was that you wanted to open it up as broadly as possible and still comply with state law, so to do that, you can make a couple of changes, recommend a couple of changes to Chapter 19.65, it's section 030.D.2, and you could recommend that the restrictions be removed and that it be interpreted as broadly as possibly under state law; that would accomplish a couple of things: it would, you know, remove one of the provisions there that probably doesn't comply with state law, that temporary manager for up to 45 days, whether or not we, in Maui County, say that the person has to be a licensed real estate license holder, we're not -- they still would have to comply with state law. So, as I read it, the state law requires you to have a real estate license, or if you manage just one property, you can be under the caretaker exemption. So those are the two scenarios for a non-owner to be a manager. So that's the information I have. As far as putting it in a recommendation, like I said, I would recommend that the manager be interpreted as broadly as possible and comply with state law.

Chair Carvalho: Thank you, Richelle. Do we have any discussion regarding that? John.

Mr. John Blumer-Buell: I would like to make a motion that reiterates what Richelle just said, I got the 19.65, I didn't get the next part of it, but I'd like to make a motion that we recommend to the Maui Planning Commission that the restrictions be removed, as proposed by Richelle. We don't have a definitive legal reading at this point, but I think we should try to get one. My motion would include a written legal opinion from even the State Attorney General or -- and Maui Corp. Counsel before the planning commission looks at it.

Ms. Gina Flammer: Can I ask, John, is that for Hana the restriction be removed, or you're asking for it just to be stricken from the ...(inaudible)...

Mr. Blumer-Buell: It's just for Hana.

Ms. Flammer: Thank you.

Mr. Scott Crawford: I'll second the motion.

Chair Carvalho: Ed.

Mr. Ed Cashman: John, you can explain that again? I didn't quite understand what you're trying to do.

Mr. Blumer-Buell: Okay. So, at the last meeting, we've run into this state law that's a legal hurdle that the -- it's my understanding that the short-term rental houses that we've approved don't meet the county ordinance or the state law. Is that correct?

Ms. Thomson: I don't have any information on whether the ones that are approved whether they're being managed in accordance with state law, but that would be on a part of the applicant and the license holder to make sure that they, individually, are complying with state law.

Ms. Flammer: Perhaps I can summarize the issue. At the last meeting, I gave the report on the short-term rental homes and one of the things we found, now that we're using the law, is that Hana lacks a broker right now, and because of that, there's no realtor that can act as a short-term rental home manager by being a realtor, so this body talked about it at our last meeting and they asked our corp. counsel to come back with some kind of solution. We didn't have one, we wanted it to come from you, but then we started reading the state law on real estate, and we just didn't have anything, so she went back and did a little bit of research and that's where she came up with the suggestion that for that one restriction where it says, "The manager must be an individual with an active State of Hawaii real estate license," that that would be exempted for Hana. Now, that's the only exemption. The manager still has to live within 30 miles and have to have these other -- they have to enforce the house policies, collect the fees, and they have to be accessible to somebody at the property, including the county, within an hour or they have to have -- and they have to have a residence or an office within 30 driving miles, so they still have to do all that; it's only the realtor requirement that the suggestion is to have that be exempted for Hana.

(Committee Member Ward Mardfin entered the meeting at 4:19 p.m.)

Ms. Thomson: I'm just going to add one more thing. I think that maybe the clearest way that we could have it read would be: "The permit holder shall," and then skip down to no. 2, "serve as the manager of the short-term rental home provided that the permit holder may designate an agent in compliance with state law." And then just end it at that, and that would leave it open so that anyone who complies with state law could be an agent, which is what they would have to comply with anyway, but just remove some of those details that actually make that section a little more cumbersome and confusing than it should be.

Mr. Cashman: I have one comment. To me, the law is good because if the person doesn't have a license, there's nothing going force the person to do it. If you have a license, you don't want to lose your license, you're going to make sure you follow, but I've experienced in Hana people don't follow the law, and you can't do anything. You gotta go after somebody but there's nobody there. I think the law was put there for a reason. I think it should stay. I don't really support this.

Chair Carvalho: Scott.

Mr. Crawford: So just to clarify so I make sure I understand what the issue is here, that right now, under the county, you have to have a real estate license. If that restriction was removed by the county, then the state would allow a caretaker for one individual property only that would not be required to have a real estate license?

Ms. Thomson: Yes. That's correct.

Mr. Crawford: Okay.

Ms. Thomson: So state law allows either, you know, you can, if you're an owner, you can rent your own property out, or if it's rented by an agent, the agent can manage one property under this caretaker exemption -- exception, I should say, or you need to be a licensed real estate person.

Mr. Crawford: I can see the reason behind wanting to have a license, especially for somebody who's managing multiple properties for what Mr. Cashman is saying as far as accountability, but I can also see that a real estate license involves a lot more than -- it's kind of -- if you're just managing a single property, it's kind of more -- there's a whole lot of other things involved with a real estate license that wouldn't ever really apply to that and somebody could manage a property just fine without having to have that license. So I think especially out here where you maybe have a limited number of people who have that license, somebody shouldn't necessarily have to go get a real estate license just to manage a property particularly where if it's some situation where they've already been managing that property. So I would tend to be, you know, based on the discussion so far, in favor of the motion.

Chair Carvalho: Thank you, Scott. I'm just making a note that Board Member Ward Mardfin is here. And, John?

Mr. Blumer-Buell: I just want Richelle, our Corporation Counsel, to clarify, at the last hearing, it came up regarding being a -- having a travel agency, that that may be an exception as well, so can you clarify the travel agency distinction?

Ms. Thomson: Unfortunately, I wasn't able to get a very clear answer from the State Department of Commerce and Consumer Affairs on whether or not a travel agent can be -- can manage property on the island of Maui or in Maui County. They weren't willing to give that specific information. Under state law, travel agents can lease or offer for lease hotel rooms. So, you know, it's one of those that it's a little bit more complicated than just a completely straight answer, so that's why I was suggesting that if -- if you remove the restrictions, you know, so the owner permit holder can serve as the manager of the short-term rental home provided that the permit holder may designate another agent in compliance with state law, which, to me, that means that anyone who complies with state law, as far as the licensing requirements, whether it be a travel agent or a real estate agent or this caretaker exemption, that that would be sufficient, so that would broaden the scope of the people who could actually manager properties over what's current in the code.

Chair Carvalho: Ward.

Mr. Ward Mardfin: Richelle, I thought the problem with that, when we discussed it last time, was that under the definitions in the bill, hotel rooms explicitly exclude B&Bs and short-term rentals, and maybe the problem's with the definition. Maybe for the purposes of a travel agent as manager, they could be considered as hotel rooms.

Ms. Thomson: And that could be another recommendation that you make is to have -- is to have the -- either the Maui Planning Commission, or otherwise, look at the definition of "hotel," and for the purpose of allowing travel agents to manage such properties, look at the definition with that in mind, and there may be subtleties that they would, you know, need to look further into and other reasons that it was excluded, which I'm not privy to that.

Mr. Mardfin: Right. I can imagine quite a few reasons why you, in general, would not want them to be treated as hotel rooms, but for the purposes of managing them, it could -- they might have to explicitly put in that there's an exemption or exception. Thank you.

Chair Carvalho: Thank you, Ward. Before we vote on the motion, I would like to open up to public testimony on this matter if anyone has anything else to add before we vote on the motion. Please come up to the mike and state your name. Thank you.

Ms. Susanne Pu: Aloha. My name is Susanne Pu. I just have on thing to mention about the real estate requirement, and that is that if people in Hana are required to be real estate agents, it will take away employment, basically, to lots of people in Hana who operate the vacation rentals. There's a lot more than just us who are here that have jobs operating vacation rental. The caretaking thing at least allows one property, so that's one job per property that's allocated in Hana, and there are 48 different properties available, which seems like a lot, but I just wanted to mention that the real estate requirement would take most people out; they won't, you know, they won't be able to keep a real estate license,

you know, do the whole exam and all of that, which has really nothing to do with property management, very little to do with property management. So just, you know, I wanted to say that there's jobs for people too, and if the real estate requirement is left, those jobs will be with people who reside in Kahului because of the money part. Thank you.

Chair Carvalho: Thank you.

Mr. Mardfin: May I ask her a question?

Chair Carvalho: Sure. Yes. One question, Susie.

Mr. Mardfin: Susie, the people in Kahului wouldn't qualify 'cause you have to be within 30 miles and an hour drive, or something like that --

Ms. Pu: Right.

Mr. Mardfin: So they wouldn't -- unless they've got their own helicopter, they're not going to make it. I was thinking about this whole issue after we discussed it last time, and while it isn't good for those of you that manage two of these, it may be you'll actually create more individual employment, albeit at less amount per person, just train up a whole bunch of new people so that people that have two would just pick one and maybe work with somebody, train them up so that they can take care one of the others. I mean that would cut your income, if you have two, cut your income in half but --

Ms. Pu: But it's better than, you know, the real estate requirement, and the reason the real estate requirement, like we said, it's because it doesn't stop at the real estate agent, there has to be a broker attached to the agent, and so, you know, right now, so much of the funds that are generated from the vacation rental stay in Hana, employ Hana people and so on, but at that point, a large portion of that will go to whoever is the broker, and that's going to be a big portion, and they don't want to do it for free; it's a lot of liability and so on when it comes down into a broker type situation versus just an individual so --

Chair Carvalho: Thank you. Any other -- oh no, I'm sorry. You have another question? Okay --

Shane Sinenci: Hi. Shane Sinenci, resident. I just, as just a resident of Hana, and I think it's a great opportunity for the advisory -- the advisory board, the Hana Advisory board to make the recommendation. Again, we're - how to say it - living out in Hana, we're kind of a special case, so we don't have the big developments, multi 50, 100-unit types of things, you know. I believe we have cap right here in Hana, right? Do we have a cap for these rentals? As a resident, I'm afraid of hearing more real estate agents in a town where we do want to keep our rural zoning, and we do want to keep our -- you know, or even make

more conservation on the east side. You know, that is, I think as a community, that should be our main focus. So I like that we're addressing this issue, but let's consider our special circumstances out here on the west side where -- I mean the east side, sorry, that we don't have the big Kihei and Lahaina types of -- we want to stay rural, we want to stay -- we want to conserve more open space over here, you know. We want to do more agriculture. We want to do this kind of stuff. So when I hear real estate and brokers and, you know, gotta come over here to help us, then I think I speak for a lot of residents that we get scared when we hear that kind of language in a place where we want to stay undeveloped. We don't want to be putting more of our open spaces, you know, for sale. Thank you.

Chair Carvalho: Question for Shane.

Mr. Blumer-Buell Hi, Shane. Thanks for your testimony, and my motion may have sounded unclear, but my motion is to accommodate what you're talking about in your testimony and that is to find the exception to the rule though we can apply for Hana. Now, right now, it appears to me, and I would like to be corrected if it's not true, that we can have one manager per rental unit provided they don't do more than one unit. Is that correct?

Ms. Thomson: That's the state law allows caretaker -- a caretaker exemption, but, currently, the Maui County Code restricts the manager either to being the permit holder, or an immediate adult family member, real estate licensee, and then there's also a temporary manager for 45 days in a year, basically. That -- those criteria don't mean they wouldn't have to comply with state law as well, so although the county code can be more restrictive, we can't be more open, so this is actually more limiting than state law, currently. So I think that the aim might be to broaden it so that it complies with state law but not further restrict it because it's very difficult to find, you know, licensed real estate people here.

Mr. Sinenci: One more comment. I just wanted to add, you know, with the -- maybe we can put a recommendation into the law that, for us anyway, for Hana circumstances, the zoning, maybe keeping -- if you were in a commercial or a zoning that is more for commercial, then, yeah, maybe you would need more of these laws, but as far as keeping the cap into the small rural areas, then just keeping the numbers -- keeping the numbers small for us, I mean and that kind of suit our, you know, that we still can hire some of the local people. So maybe the zoning, and we keep the cap to certain types of zoning, and keep our rural areas rural. Thank you.

Chair Carvalho: John.

Mr. Blumer-Buell: Yeah, I'd like to try to take it from this angle. According -- in the state, the counties are allowed to be more restrictive than the state, and the community plan districts are allowed to be more restrictive than the county. Now, I think that allowing --

allowing individuals to manage these, even if it's just one per unit, is more restrictive, so is that -- I'd like to know if that's a possible way to address it is we -- this is more restrictive than the county and more restrictive than the state. Is that a valid idea?

Ms. Thomson: I think what I was trying to suggest is that the current Maui County Code is more restrictive than the state statute, so the state statute talking about real estate license sales people and their activities, there's a caretaker exemption to that and we don't have that caretaker exemption here, we don't have to have it; if we remove some of this language that is very restrictive and just have an agent who's not the owner comply with state law, that that probably clears up some of the unnecessary restrictions here.

Chair Carvalho: Any other testimony?

Ms. Rebecca Buckley: Yes. Hello. My name is Rebecca Buckley, and I actually have a question. Okay, the state law states that if you are managing more than one property, you have to have a real estate license, correct? But the county bill, ordinance that we have says that not only do you have to have a real estate license, but you also have to collect all the funds. Am I correct there? And so, again, that part of the county bill is more restrictive really than the state law, and that's, from my perspective, one of the sticking points because if the real estate agent has to collect all the money working under the broker, then the broker has to collect all the money, which that's where it becomes more complicated. Anyway, and I think that that's really an unnecessary restriction in the county bill that we have now.

Chair Carvalho: Scott.

Mr. Crawford: Let me just mention too, since we're a body of the county and we can make a recommendation to the planning commission as far as changing the county ordinances, but if it would be helpful to have the state law changed to be less restrictive in a way, that that's something that could be taken up with our representatives, you know, as individuals, people who are concerned about this during the next legislative session to see if you could get the state law changed to be less restrictive and more, you know, amenable to the circumstances here in Hana as well. So just something to think about.

Chair Carvalho: Ward.

Mr. Mardfin: I think Scott has a very good point, which speaks even more to having the county say -- to loosen up the county's restrictions and basically say as long as it complies -- comports with state law, it's okay with the county, and so if you can convince the county to loosen up, then -- but automatically we'd be loosened up.

Chair Carvalho: John.

Mr. Blumer-Buell: Yeah, I appreciate Ward's remark. My question is: What are we going to be unleashing on the entire state if we change the law? That's not something we need to consider today, but that popped into my head. I have a question for Gina Flammer or Richelle, and that is, just on the face of it, it looks like all the short-term rental houses that have gotten approved, that don't mean these conditions are -- are illegal or can't be approved 'cause they're not in compliance. Is that correct?

Ms. Flammer: That's a really good question. The ones that do not meet the manager criteria have not been approved yet. They've come forward to you through the SUP process, the state land use when they're on the ag. The ones that are with the department are just being held right now; I gave you the list of them; I think there were six at the last meeting. The numbers I show you of approved permits don't include those six.

Chair Carvalho: Scott.

Mr. Crawford: I wanna just clarify just one more thing about the idea of changing an ordinance just specifically for Hana, and how does that fit within -- what is the legal question regarding that? You know, what the motion is specially to recommend a change just for Hana, and I know there have been some ordinances in the past, I think the ag bill, for example, I believe had some specific language just for Hana, so I believe it's possible to do that, but I just wanted to clarify that that, you know, it would be possible for the county to make an exception to this that would apply just to Hana and not affect the rest of the island or the county.

Ms. Flammer: Yes, it would be fine to do that. We would probably put in there the Hana Community Plan region. It would just define what Hana is.

Chair Carvalho: Any other testimony?

Mr. Don Atay: Aloha. My name is Don Atay, and I'm a citizen -- member of Hana community. I own or I rent my house. I am the owner. I am a manager. But I do not have a real estate license. So in other words, I'm illegal for renting out rooms in my house? I don't provide bed and breakfast. It's not a bed and breakfast. It's just a room. I don't have a swimming pool. I don't have jacuzzis. So am I illegal? So what do you call a short-term rental or just renting out a room for a night? Is that short-term rental?

Ms. Flammer: Maybe I could respond. The state law says that anything under 180 days is considered -- is not a long-term rental. You're only allowed to do a long-term rental in any district besides the hotel. Hotel is the only place you can do a short-term rental for under 180 days. If you wanted to become legal, then you could come in for a bed and breakfast permit because you live on the property?

Mr. Atay: I live in the house.

Ms. Flammer: You live in the house.

Mr. Atay: But I don't serve breakfast.

Ms. Flammer: We can talk about that. I encourage you to give me a call and I can explain to you how we can go about getting a permit for you.

Mr. Atay: Thank you.

Ms. Flammer: Sure.

Chair Carvalho: Ward.

Mr. Mardfin: And getting a little ahead of ourselves, we're going to be commenting on the bed and breakfast ordinance, and one of the suggestions by the county, I think, was to do a way with the requirement for the breakfast. Hasn't been done yet. We'll have to deal with it today.

Chair Carvalho: Okay. Any other testimony now? No. Before we vote on the motion, I wanted the motion to be presented again, just to be restated, just for clarity sake, and it was already seconded by Scott, but just present it again.

Mr. Blumer-Buell: Gina, can you present the motion as I --

Ms. Flammer: Yes. I'd be happy to.

Mr. Blumer-Buell: As I scrambled ...(inaudible)...

Ms. Flammer: It's part of my job. So what was suggested by corp. counsel was that when we go to Section 19.65.030, which is restrictions and standards, we go to D., and 2., it says, "Serves a manager of the short-term rental home provided that the permit holder may designate," and the language that you would be inserting there would be, "an agent in compliance with state law." We'd actually have to put, "except in Hana, where an agent may be designed that is in compliance with state law?"

Chair Carvalho: John.

Mr. Blumer-Buell: Yeah, I'd appreciate it if you could read that one more time, and I would be happy to accept friendly amendments from anybody that's on the Advisory Committee.

Ms. Flammer: Okay, so where we have it right now, and John's saying it could be moved around I think, but where we have it right now is Section 19.65.030, restrictions and standards, D., it states, "The permit holder shall," and then under no. 2., it says, "Serves as a manager of a short-term rental home provided that the permit holder may designate," and the new language that you are suggesting would be, "except in the Hana Community Plan region where an agent, in compliance with state law, may be designated." And I think, from what I understand, now I'm asking you for clarification, are you recommending that the other three things be taken out then?

Ms. Thomson: You know, what I'm thinking is if you want that to apply only, this change, only to be referencing Hana or the Hana region, is leave 2. alone and say that you want to add a new section that, "In Hana, the permit holder shall serve as manager of the short-term rental home provided that the permit holder may designate an agent in compliance with state law." So if you just want that to apply to Hana, you would probably need to add a new section, and then the language, as is, would serve for the rest of the county.

Ms. Flammer: Okay, I can work with Richelle. I understand exactly what you guys are wanting to put in there. I can work with her on the details of where it goes and all of that, if you'd like.

Chair Carvalho: Ward.

Mr. Mardfin: Yeah, I think I agree with this. We're on page 18 of the short-term rental, am I in the right place?

Ms. Flammer: You know, I made it a little confusing. Actually, I put in the current bill in the beginning, which I regret now. If you go to the very end of the packet, it's the proposed bill, it does go in both places, but what we're -- page 5, at the very end in the proposed bill are all the changes, that's where I would be tweaking it for the or showing the Maui Planning Commission what your recommendation is. But, yes, it does, in the current ordinance, it does fall on that page 18, but if you wanted -- it's the last exhibit of the short-term rental home report, it's Exhibit 33, that's the proposed bill. In that proposed bill, on page 5, is where you get 19.65.030, the restrictions and standards.

Mr. Mardfin: I see it. Page 5 of the revision bill. Right. And so either you'd add a new section or add a "d" or something that would state, as I understand it, that for the Hana community region, you're essentially putting an exemption to 2.b., where it says, "An individual with an active State of Hawaii real estate license," and under that you would be having the exemption that it could be anybody selected by the owner of the property?

Ms. Flammer: That's kinda where I saw it would fit in. I think Richelle is thinking more that a., b., and c. are -- it would be nice to replace them just with the state law?

Ms. Thomson: If you're restricting this recommendation just to the Hana region, I think you might have to create a new section, but I think we're all on the same page as far as what ...(inaudible)...

Mr. Mardfin: Yeah, the exact wording --

Ms. Thomson: Yeah.

Mr. Mardfin: We're not attorneys; the exact wording is or placement is fine for the attorneys to figure out; it's the concept that we're trying to get across.

Ms. Thomson: Right. So as far as I understand it, the concept is that as long as the agent, who's not the owner, complies with state law, that's okay in the Hana region.

Mr. Mardfin: It's not an agent. It's serve as manager. Is that -- so they don't use the term "agent." They use the term "manager." Yeah, but we're stuck with this I think. Okay, I think I understand the motion. So the motion is to allow for the Hana region exemption -- exception.

Chair Carvalho: Essentially.

Mr. Mardfin: Thank you.

Ms. Flammer: I would also be curious, did you want to see these applications? The way it's written now, it would be administrative approval if they didn't meet any of the other triggers coming before you.

Ms. Thomson: Was that one of their original recommended amendments from the session two weeks ago that they wanted to see every --

Ms. Flammer: They wanted to see all.

Ms. Thomson: Yeah, all -- all applications.

Ms. Flammer: All of them. Yeah, it would fall under that. I just wanted to see if you had to -- the commission's gotta pick and choose and that one doesn't go forward, are you comfortable with it being an administrative approval?

Chair Carvalho: John.

Mr. Blumer-Buell: Gina, I think you said, "legislative approval." You're talking about administrative approval?

Ms. Flammer: I'm sorry, administrative means the department approves it versus the planning commission.

Mr. Blumer-Buell: Yeah, I think at our last meeting that we made it clear that we'd like all applications for B&Bs and STRH applications to come before this Committee so that we can look at the big picture in the community instead of -- instead of them being separate. I mean we're getting a very scattered non-comprehensive approach to all this and I think it's worth seeing everything at least the first time it comes through.

Mr. Mardfin: Mr. Chairman?

Chair Carvalho: Ward.

Mr. Mardfin: John, I think Gina just addressed that. She -- yes, we did express we want to see them all, but she also said that our recommendations aren't necessarily the ones that'll be adopted by the planning commission or the County Council. She said they may not send us all, and she wants -- I thought she wanted to know if we didn't get sent them all, would this be a trigger that if you're having a caretaker other than an individual with an active State of Hawaii real estate license, if that should have to come before this body, or whether you'd say, well, if that's the only thing, that's not going to be a trigger in and of itself, that the department could approve it because they're the ones that are going to find out who the -- it's part of the application process, you have to say who's going to manage it, I'm assuming.

Chair Carvalho: Any other discussion on the motion? Okay, we shall put the motion to a vote.

There being no further discussion, the motion was put to a vote.

It has been moved by Committee Member Blumer-Buell, seconded by Committee Member Crawford, then unanimously

VOTED: that under 19.65.030, restrictions and standards, D., a section is added with language that: In Hana, the permit holder shall serve as manager of the short-term rental home provided that the permit holder may designate an agent in compliance with state law (exact language to be determined by the Planner and Corporation Counsel as discussed).

Chair Carvalho: Motion is unanimous; motion passes. John.

Mr. Blumer-Buell: Yeah, just for the benefit of the community members here, and I know many of you already know this, but we're an advisory committee. Our recommendation goes to the planning commission. We hope the planning commission adopts our recommendation. In this case, which is new legislation, the County Council's going to have the final word. So it's going from us to the planning commission to the County Council, so hang in there is all I can say. And, you know, normally, a lot of these permits they've been getting approved administratively, which means no public hearing in Hana, which really concerns me, and then our recommendations, when they have come before us, are then decided by the planning commission, not the County Council. Is that correct, Gina?

Ms. Flammer: It's correct for the short-term and the bed and breakfast. Your recommendations that are for permits that require council approval, and then it goes all the way, the council decides. I will let you know, the council does read your minutes and they do look at your recommendations even when it comes through the planning committee too, so they hear you just as much as the planning commission does.

Chair Carvalho: John.

Mr. Blumer-Buell: I will -- thanks. I think I'll withhold that comment. I was wondering how much -- well, I'm going to say it. How much do they really listen to us? This Committee made a very clear recommendation regarding the special use permit in Koali, I'll refrain from naming the project, but they didn't listen to us. In fact, the County Council made it from a very short permit are now recommending it become ten years. That's not listening to us.

Chair Carvalho: Thank you, John.

Mr. Mardfin: Mr. Chairman?

Chair Carvalho: Ward.

Mr. Mardfin: Listening to us and doing what we want, are two very different things. They can listen and say no, unfortunately.

Chair Carvalho: Alright, with that, we'll move on to agenda item C.2. and -- sorry.

Unidentified Speaker: ...(inaudible)...

Chair Carvalho: It was unanimous. We did that. Yeah.

Ms. Flammer: Before you move on, Chair, do you mind, I was asked to just ask -- clarify one more thing on the short-term rental home.

Chair Carvalho: Absolutely. Absolutely.

Ms. Flammer: Okay, I just want to make sure with the caps that you're not making any recommendations on the existing caps as they are in the bill.

Chair Carvalho: John.

Mr. Blumer-Buell: At the last meeting, I made two motions, which neither of which passed, one of them is regarding a moratorium and setting a cap; the other had to do with reserving some of the B&B and STRH permits for the native Hawaiian community. Now, I'll be brief, the -- there may be legal objections to the carving out an exception for the native Hawaiian community. I would like to make a motion that before the planning commission, not today, that they -- the Corporation Counsel make a legal determination on whether it is legal to reserve B&B and short-term rental houses for native Hawaiians, so that's -- that's a motion. I'm just asking them to look into it and put it before them.

Ms. Thomson: If I could suggest, you might want to make that motion as a direct motion. You can recommend, you know, any changes that you want. During the process of the planning commission and then council reviewing the changes to the ordinance, they would look at the recommendations and, you know, and also gauge the legality and compliance with state law and things like that, so if you wanted to make that a motion, you're free to do so.

Chair Carvalho: Ward.

Mr. Mardfin: I thought we passed that motion at the last meeting. We passed -- oh, no, we didn't because it was three-one.

Mr. Blumer-Buell: We were one vote short.

Ms. Flammer: It was three to one for that one, and because you only had a bare quorum before, you needed all four.

Mr. Mardfin: Richelle, under parliamentary procedure, the person that voted against it isn't here tonight, can we move for reconsideration, or make the motion all over again, or what would be a legal way to deal with this?

Ms. Thomson: It sounds like it would be a new motion because the motion that was made last time was really to adopt the entire handout, which included a lot of different components, so if there's a new motion --

Mr. Mardfin: I'm talking about his two-page -- and my understanding of parliamentary procedure is if a motion fails, it can't -- somebody on the losing side has to move for reconsideration, but I'm wondering if, informally, we can just have John make the motion again, and with a different composition, we might get a different result.

Ms. Thomson: That's true. As far as a motion to -- you're looking at a motion to rescind, so a motion to reconsider would need to be done at the same session, under *Robert's Rules*, so if it were a continued -- we didn't continue last hearing, this is a new meeting, so it would actually be a motion to rescind. However, it gets a little more complicated. You would need to offer your intent to offer the motion to rescind at the next meeting so that it's properly noticed, so kind of to avoid the complications, it may be better to put forth a new motion.

Mr. Mardfin: What would he have to change in this, if anything, to make it legal, to make a motion to approve this two-page document?

Ms. Thomson: Perhaps it's not the entire two-page document, but the intent to set aside a percentage, whether you want to name a percentage or not, but the intent to set aside a percentage of the B&B or short-term rental home permits strictly reserved for those of native Hawaiian descent.

Mr. Blumer-Buell: That is exactly my intent is to raise the legal question that you just posed and, you know, with the same motion but with a different intent. The last time it was simply to pass or fail; this time the intent of the motion is to have Corporation Counsel give a legal reading on the entire idea of being able to reserve B&B and short-term rental housing for native Hawaiians, and that would be my motion.

Mr. Mardfin: Mr. Chairman?

Chair Carvalho: Ward.

Mr. Mardfin: I think if John were -- the motion last -- when we last met was to allow special consideration, the title wouldn't have to change, 1 and 2 wouldn't have to change, 3 could be made to -- in 3, you say 10 B&B and 10 STRH permits shall be reserved exclusively for, and I think it would be a different motion, therefore, legally could be introduced today, if you said some B&B and some STRH permits shall be reserved exclusively, without specifying the exact number; that makes it a different motion, and I think you could legally move it today, and it could be legally passed today.

Mr. Blumer-Buell: Could you make that as a friendly amendment? That's fine.

Mr. Mardfin: You can't do it as a friendly amendment because you can't start from this bill. This got defeated.

Mr. Blumer-Buell: Right.

Mr. Mardfin: You have to introduce a new motion. The new motion can be this with the exception of item 3, and you're changing it significantly by saying "some" instead of "10."

Mr. Blumer-Buell: Right. Okay. That would be my, rather than restate that, that's my intent. So it's --

Mr. Mardfin: Is that not your intent? Are you making a motion that you adopt this with the -- with item 3 being some B&B and some STRH permits shall be reserved exclusively for native Hawaiians?

Mr. Blumer-Buell: Yes.

Mr. Mardfin: Is that your motion?

Mr. Blumer-Buell: Yes.

Mr. Mardfin: I second the motion.

Chair Carvalho: Okay, just to reiterate, for those who weren't here, the motion that was defeated last meeting, I'll read the motion again, it was a motion to allow special consideration to native Hawaiian, kanaka maoli, residents of the Hana Community Plan district regarding bed and breakfast homes and short-term rental homes. This special consideration shall be incorporated within the Maui County Code regarding B&B and STRH. And in that proposed draft, no. 3 said, "Ten B&B and ten STRH permits shall be reserved exclusively for native Hawaiian, kanaka maoli, residents of the Hana Community Plan district." And I believe the reason it was defeated last time was because of the arbitrary number, there was an arbitrary number, like the 48 and 48, and this was similar to that, so if we go with some -- instead of, you know, basically, it would still would be presented as -- well, this motion that was defeated would still had been presented as public testimony, right, before the planning commission, as you stated last time?

Ms. Flammer: Yes. That still would go forward to them as an informational item. Today though, if you go ahead and pass it, I just need to write down exactly what the motion is.

Chair Carvalho: So are we presenting the same motion but with a change in that language?

Mr. Mardfin: Please don't say it's the same motion. That gets us into trouble. We're getting a new motion, which is exactly this but in two places in item C.3. it says -- will read "some" instead of "ten." It's an entirely different motion.

Chair Carvalho: That's true.

Ms. Flammer: Are you adopting the entire document with the two changes?

Chair Carvalho: Yes.

Ms. Flammer: Just so I understand is the --

Chair Carvalho: That's kind of what I was asking.

Ms. Flammer: Okay, from what I understand, the motion that, right, instead of "ten" it says "some." I think in terms of enforcing, the department, it would be better to have a number. Did you want to give a percentage of the cap in lieu of ten? Did you want 20% of the cap?

Chair Carvalho: We also haven't discussed the cap itself. I mean we kind of glossed over that last time.

Mr. Mardfin: I know we didn't, and that's exactly what Gina asked us to deal with, but John got into his motion so I didn't want to interrupt the flow, and I agree -- let's see, how could we do this? If supposing the cap stayed at 48, if we said 25% of that be set aside for native Hawaiians, that would be 12, that makes it different from the -- what failed last time.

Chair Carvalho: And it doesn't affect our discussion on the cap.

Mr. Mardfin: No. We'll just have to deal with the cap later on.

Chair Carvalho: Yeah.

Mr. Mardfin: If you lower the cap, the number of reservations will be proportioned or -- so I will -- with the consent of the maker, as a friendly -- this can you do as a friendly amendment, change "some" to "25%."

Mr. Blumer-Buell: I'm agreeable to the friendly amendment made by Member Mardfin.

Mr. Mardfin: And as the seconder of the motion, I will accept that as a friendly amendment. So now we vote on -- we vote on the motion, which is the first roughly half-a-page with that one change, so instead of mentioning the number ten, it mentions 25%, and that makes it an entirely new motion, which got made and seconded.

Chair Carvalho: Which includes the considerations?

Mr. Mardfin: It does not include the considerations. It stops with item 3, 25% of the B&Bs and 25% of the STRH permits shall be reserved exclusively for native Hawaiian, kanaka maoli, residents of the Hana Community Plan district.

Ms. Flammer: From what I understand, the considerations are your reasons behind what your motion is?

Mr. Mardfin: It's an argument, but it's not part of the motion.

Ms. Flammer: But would it be these are things I will cite when I'm presenting it the planning commission as reasons behind this, is that what you're comfortable with? Did you want to add any --

Mr. Mardfin: I don't care whether you do or not. I'm not looking at them when I'm deciding on -- I'm going to vote in the affirmative on this, and I'm not looking at those considerations. I'm taking it as a stand alone proposal.

Ms. Flammer: It would be useful to have a couple reasons behind it just to explain to them the importance of it during the deliberations.

Mr. Mardfin: I don't want to pick and choose between his arguments and other arguments. I'm going to be voting for it because I think this is a community with about 70% part -- let's go higher, in the 2010 census, about 70% of the people in the Hana District are of Hawaiian, part-Hawaiian descent. It seems to me that putting aside 25% for people that are there to help them with supporting their families, providing them with income, is not an irrational thing to do, and so that's why I'm voting for it.

Ms. Flammer: Okay, so just so we understand too in the department, if this does become law, we're going to be using the same criteria as the census does for what's Hawaiian or native Hawaiian? Or is there some standard definition that we can --

Mr. Mardfin: I wouldn't be using blood quantum, but I think, in the county, we define native Hawaiian somewhere.

Chair Carvalho: We must.

Ms. Flammer: Okay. We'll find something.

Chair Carvalho: So in this new motion presented, that does include draft language no. 1 and no. 2 and no. 3, and not including those considerations. Okay. Do we have any other discussion on that motion? Scott.

Mr. Crawford: I definitely support the intent behind this motion, and I'm willing to support the motion to send it so the question of the legality of it can be addressed, but I feel confident in saying that this would not be considered legal, from my perspective. There's things that you can do to distinguish within Hawaiian versus non-Hawaiian in certain situations where you're dealing with assets of the state, but in a situation like this, I think that that would just be considered discrimination under state and federal law. But I'd like to suggest that maybe we also somehow ask the question of how we could accomplish this same goal with a legal means if this is not legal, so for example, length of residency, something like that, you know, that might run into the same kind of issues, but is there a way, if saying "native Hawaiian" isn't legal, is there a way that we can get to the same purpose that we're trying to get to that is legal, so that's, you know, that's what I'd like to say. We can send the motion forward, I don't think it's going to go anywhere, personally, but it's at least a way to raise the question and I think that what I would like to communicate from the Committee to the planning commission or to the council though is the intent behind it, you know, not -- you know, how do we reach this goal legally, so whether it's this way or some other way, I definitely support the intent behind it.

Chair Crawford: Thank you, Scott. And, Ward?

Mr. Mardfin: Yeah, I actually agree with Scott that this probably is not legal quite the way we're doing it, but it's a way to get the thing going. It also has the effect of maybe reducing the cap from 48 to 36, in effect, unless people take this up. I raised the issue last time that I think it's a wonderful thing if kanaka maoli participate in the short-term rental and bed and breakfast sectors of the economy, but I've -- all the people I've suggested it to said no, no, no. We don't want to do that. And so if they don't do it, then you, basically, lowered the cap by 25%; if you do do it, so much the better. But the reluctance hasn't been -- look, if the cap's 48, and we have, what, a dozen maybe or less, there's plenty of room for Hawaiians to come in and do this if they choose to do it.

Ms. Flammer: We have one already, permit that's issued to somebody that would meet this description.

Mr. Mardfin: Okay.

Ms. Flammer: At least one that I can think of.

Chair Carvalho: Yeah, before we put the motion to a vote, we would welcome again any testimony on this new motion if anyone has anything to add. Please state your name again.

Mr. Sinenci: Shane Sinenci, Hana resident. I just wanted to add, yeah, again our special situation here in Hana. We do -- a lot of our residents are low economic status but we are landowners, so a lot of the times, residents with large tracks of land cannot pay the land taxes, so a lot of these, they gotta fundraise just to pay their annual land tax, so something like this could help them to pay the yearly land tax that, you know, especially those families with large tracks of land. On another note, I think you guys should be looking at every applicant that comes in only because we don't want certain areas in our community become, you know, Lahaina Front Street where all rentals, especially if they're all in our ag lots, so I think as my recommendation to the board is that you look at every individual case and, again, consider those that are in the areas where it can support the rental, the tourist business, and not in our outlying areas where it should be ag zoned. Thank you.

Chair Carvalho: Any questions for the testimony? Anyone else wants to testify?

Ms. Pu: Aloha, my name is Susie Pu. I just wanted to say that with the native Hawaiian part, if you were to reduce the cap, which I think should be reduced because 96 total for Hana, it seems to be a lot, I don't know how many houses are in the subdivision, but it seems like there might be only a 100 houses in the subdivision, but I was going to say about the native Hawaiian, would it be possible to exempt them from the cap? Like if the cap is met, and a native Hawaiian comes to, you know, to have a permit, could that, you know, could they be exempted from the cap, so to speak? Just a thought.

Chair Carvalho: Ward.

Mr. Mardfin: Underlying all this, while I support the intent of it, I agree with Scott. I think this is going nowhere in terms of being able to be legally implemented. So whether you exempt -- if you change the wording so they're exempted from the cap, you have the same issue, so I don't think it's worth spending an awful lot of time with it right now. And as I say, right with the current cap, there's plenty room for any native Hawaiians who want to start these things up - go for it.

Ms. Pu: Right.

Mr. Mardfin: The one thing Shane mentioned was people of large tracks of land. One of the things in this short-term rental bill is you can't build a house now intending it to go to short-term rental. It has to have been built at some point in the past. So that's one of the -- a potential block for Hawaiians who want to do this, the place has to have been built and then wait some considerable period of time where before it could be used in this fashion.

That doesn't say, by the way, that you couldn't take an old structure and fix it up. I think that would meet the legal requirements. If it's built, it's built.

Ms. Flammer: Remodeling is fine.

Mr. Mardfin: Now if you can improve it, that's probably not illegal.

Ms. Flammer: You're correct, Ward. Remodeling is fine. It's new construction that the law applies to.

Chair Carvalho: Anyone else would like to testify? Okay, I guess we can vote on the motion.

There being no further discussion, the motion was put to a vote.

It has been moved by Committee Member Blumer-Buell, seconded by Committee Member Mardfin, then unanimously

VOTED: that Corporation Counsel make a legal determination on allowing special consideration to native Hawaiian, kanaka maoli, residents of the Hana Community Plan district regarding bed and breakfast homes and short-term rental homes. The special consideration shall be incorporated within the Maui County Code regarding B&B and STRH with the following proposed (draft) language:

- 1) Object to the granting of a B&B and STRH permit located in culturally and environmentally sensitive areas of the Hana Community Plan District. One objection shall be enough to trigger no. 2.***
- 2) Objections shall be reviewed by the Office of Hawaiian Affairs, the Maui Cultural Resources Commission, the Aha Kiole Advisory Committee and the Aha Moku Advisory Committee for East-Maui before being heard before the Hana Advisory Committee to the Maui Planning Commission, the Maui Planning Commission, and the Maui County Council.***
- 3) Twenty-five percent of the B&B permit cap and twenty-five percent of the STRH permit cap shall be reserved exclusively for native Hawaiian, kanaka maoli, residents of the Hana Community Plan District.***

Chair Carvalho: And that's motion passes unanimously. Before we move on, I'd like to have a discussion on the actual cap, and if anyone would like to begin that.

Ms. Dawn Lono: Can I testify on that?

Chair Carvalho: Sure. We can have testify before.

Ms. Lono: Aloha. My name is Dawn Lono. I'm concerned about the cap. I believe the cap on the short-term rental housing is 48, and I think it is very high. One of the concerns that I see, being a former real estate agent and property manager in Hana, is that many of our affordable homes are being taken out of the rental pool and are becoming short-term rental homes, and we even have people buying homes in our subdivision, our residential subdivision and turning them into short-term rentals. And I think it's important to reconsider that cap, and reduce it. And also the other thing, it says you can't -- that a home has to be built already for five years before you can -- before it can be considered for a short-term rental house, but I think you also need to say that it needs be owned for at least five years by the applicant so people aren't just coming in and buying a home and turning it into a short-term rental, which is what is happening currently. So it's something that you might want to consider thinking about because this is seriously impacting the affordable housing in our community and I can't stress it enough, and it's of great great concern. Thank you.

Chair Carvalho: Questions? John.

Mr. Blumer-Buell: Thanks for your testimony, Dawn. I agree with your thoughts that the STRH cap is too high, and, secondly, that your idea of a person owning it for fives years is reasonable and helps to keep people potentially in affordable homes. Now, this Committee, for those that may not know it, at every hearing that we've heard these, Ward asked the same question: Have you thought about putting this in a rental? So do you -- and so I'm just saying that this Committee has expressed that concern as does the Hana Community Plan. Do you have a suggestion for the cap for the short-term rental houses?

Ms. Lono: I haven't really done a calculation or, you know, mathematically strategically thought it out, but I would think that with the two sides you have 48 short-term rental houses and 48 bed and breakfast allowed, which together makes 96, which is a lot, so I would think that something more along the lines of 30 each would make 60, you know, and in addition to that we have the already permitted and grand-fathered in short-term rentals, we have the hotel, we have Hana Kai, you know, there are a lot of other available resources in the community. And as to the question to someone who's coming in for a short-term rental permit, I mean if I had the option of saying, you know, I want to do a short-term rental house, and make X-amount of dollars, or do a long-term rental that makes X-amount of dollars, of course I'm going to say that I am not considering putting it into a long-term rental. I mean that's kind of the logical answer if you're trying to get a

short-term rental permit, so, you know, if you just think about -- I mean I'm not going to name names or anything, but if I just do -- I can, both hands, I can tell you rentals that have been taken out of the long-term pool for short-term rentals, they may not yet be permitted, but it's happening all around, and then if compliance doesn't come into play, people are going to say, well, I've been doing this for five years so how can you stop me now, you know, that kinda thing. I mean we're in a serious problem and I'm sure, you know, people who live here who've been trying to find or their family members are trying to find a place to live, good luck. It doesn't come easy.

Chair Carvalho: Scott.

Mr. Crawford: I guess the question of there's the cap, there's the question of the time period, I like your suggestion that not only the house be built for five years, but it be owned by the same resident for five years, something like that. That seems like that would be an effective way to prevent someone from just coming in and buying a house specifically to convert it into a short-term rental. As John said, this is a question that every, since I've been on the Committee, every applicant that has come before us, we have asked them this question, and, of course, everybody has their own good answer, and when you look at it, each individual case, you say, well, it's reasonable that this person needs to make it into a short-term rental in order to make it viable for them, and especially when it's people who are long-term residents and they're saying, you know, this is the only way that we can make it work, then it's like, on one hand, you want to support that, but then you look at the big picture and you see the cumulative effect of that and it does end up affecting the long-term market for sure. But I think that, like you said, some of those who are operating that have taken units out of the long-term market are not yet approved, and if they came before us, we could certainly recommend to them not being approved based on that if we had that knowledge that a unit was -- had specifically been converted from long-term rental to short-term rental and then they were applying for the application; that's something that we can certainly consider in our recommendation. But I think that if we wanted to make a recommendation as far as the length of ownership of the house, how would we go about doing that, Gina?

Ms. Flammer: It would go into the restrictions and criteria, it would go under the section -- perhaps you could add it to where the five-year owning it is.

Mr. Mardfin: That's on page 7, item O, halfway down the page. There's no underlining so it's not changing it. Page 7, zero --

Ms. Flammer: Oh, there you go. Oh, so it's --

Mr. Mardfin: So short-term rental home shall be limited to a single-family -- to single-family structures existing and constructed at least five years prior to the date of application for the

short-term rental permit, and you could add, and I will move to add "and owned by the applicant for at least five years prior to the date of application."

Mr. Crawford: I'll second that motion.

Chair Carvalho: Any other discussion on that motion? Ward.

Mr. Mardfin: Well, I made the motion and I agree with a lot of the testimony here, in part, it won't get around Dawn's issue of people are doing it illegally, so they do it illegally for five years and then they come in and ask for it to be legal. And if it comes before this body, I would be, you know, if they did it right now, I wouldn't have a problem with it 'cause it's been -- this is the first time this has been able to be used. Five years from now, if people came in, they didn't make it legal, they just rented it illegally for five years, in five years, if you've been doing it illegally, and I was still on it, I would vote no.

Mr. Crawford: Going to the enforcement issue as well, this is something that we also bring up every hearing that we -- that none of this matters at all if there's no enforcement, so things -- those who are not in compliance, there has to be some enforcement measures in somewhere else or we're just kinda wasting our time.

Ms. Flammer: I convey that at every planning commission meeting that I present your applications. I did give, at the last meeting, an update on enforcement, and it is buried in this report also, so just for the people that weren't there, we have finally been able to hire our two enforcement officers; it just happened last month; it might have even happened in the month of May. I also reported that we had a temporary staff person that was in that was going on and doing enforcement on the web and we now are -- we have the bodies to followup on that, so the program is just taking off I think. But I'll continue to report back to you at each meeting about that.

Chair Carvalho: John.

Mr. Blumer-Buell: I support the motion on the floor, and I think it's good that we keep this motion separate from the cap. So I'm ready to vote.

Chair Carvalho: Ed.

Mr. Cashman: I have one comment about the enforcement. You know, the bill been in operation for two years. If we're going to enforce, to me, when I read the papers you gave us, they were sending out the applications for that people who didn't apply, to me, we gave you two years to apply, it's time to enforce, it's not time to tell you that you can apply. I mean this thing's been in every paper, in the news. People know that they gotta apply, you know. If we don't start enforcing it, it's not going to work; that's why we get, I would say in

Hana, we get three times or four times more illegal than legal. Where I live, there's one legal, the rest is all illegal, and I can name them all. I actually turned some in. They shut them down. They're right back up again. I mean it's -- we're just like going in circles. I mean we're going through all this, we're trying to do it right, I can see everybody's suggestions coming in, but there's no enforcement, yeah. And what happens, our nature is we don't want to complain. We don't want to turn my neighbor in. What happened to me is when you complain, they start coming after you - I mean physically. So when I sit here, it's not as, you know -- even I see people come apply. I mean they've been operating for ten years, and to me, if you applying, you've been operating, you gotta stop till you go through this process. We cannot tell you okay, keep going, and it takes you one -- if you've been operating ten years, one year, just like you don't have a driver's license, the police not going tell you, oh, you can keep driving till you get your license. You gotta stop and go through the process. You gotta be legal. That is exactly -- because there's no enforcement, I would bet we get 70, 80 short-term rentals. You just look at the internet. And I've looked at it. I mean if they catch the people what they do, they go to a different website and, boom, they're back up. So I, as a complainer, I gotta go complain again, but I'm putting myself and my family in jeopardy, so I'm not going to say anything; just like I sit here, I see people come apply, I know like what you're telling me is not the truth, but I'm not going to bring that out in public because they target me. To me, you gotta have enforcement, otherwise, if you're not going to enforce the law, don't make one law. Oh, I'm wearing the glasses because I have -- under doctor's care. He told me to wear a hat and my glasses. I have a -- from the sun, yeah. I'm not trying to be rude, yeah. Thank you.

Chair Carvalho: Thank you, Uncle. John.

Mr. Blumer-Buell: Yeah, since we are hoping the planning commission and County Council will -- and the Planning Department and County Council will pay attention to our minutes, I would suggest that the RFS way of doing business, which is you can file a complaint with the county, file a request for service for enforcement, that that does not work. You know, it discourages people from complaining that are really rightfully upset and concerned, so I would just like to say that the request for service system doesn't work. They should consider a law to make it -- the ability to make it anonymous with penalties for false -- there has to be a code to actually record the person but not make it public, and penalties for falsifying complaints, but I would like to see that change. Now, the last time I heard this discussed at the County Council, part of the rationale for doing away with the request for service anonymity was because vacation rental owners were reporting each other, so they were saying that what the County Planning Department was saying, oh, we're having lots of complaints, but they're coming from other vacation rental owners, so, you know, that's -- right. They're illegal and so I'd like to see them consider taking a new look at the request for service procedure and I know this -- I'm speaking to this because of Ed's speaking about enforcement that has -- you know, I'm ready to vote.

Chair Carvalho: One last note, on page 7 of that same article, it says in R-2, Kihei-Makena have 100, but they also have language and conditions in there, it says, "Provided that there are no more than five permitted short-term rental homes in the subdivision commonly known as "Maui Meadows." So that's the first I've read of that on any article, and I don't know, like it has been stated already, I don't know if we can present any of these conditions and is there going to be enough scrutiny to even like -- like something like this, like R-2, is there, like I said, is there a control, is there --

Ms. Flammer: Oh, Maui Meadow's cap is the five. The sub-cap has been filled. We don't accept applications that are from that subdivision.

Chair Carvalho: Okay.

Mr. Crawford: So that raises an interesting question about potentially having a sub-cap for regions in Hana that we could look at for our own subdivision if we wanted to say that's one place where we don't really want short-term rentals, we want long-term rentals in there; we could put a sub-cap; we could put a cap of zero.

Ms. Flammer: Yeah, I would recommend if you would like that to do it today so that you're -- the opportunity is now. I would recommend doing that at today's meeting if you're going to do something like that.

Mr. Crawford: Yeah, it's a separate motion so we can raise that after this motion.

Mr. Mardfin: Mr. Chairman, there's a motion on the floor to deal with Section O or to create a new section P.

Chair Carvalho: So can you please reiterate that motion again, the motion that's on the floor right now, Gina?

Ms. Flammer: Sure. I'd be happy to. The motion is to add a clause in Section 19.65.030.O, and that is the applicant must also have owned the property for five years.

Chair Carvalho: And that was seconded, so let's put that motion to a vote.

There being no further discussion, the motion was put to a vote.

It has been moved by Committee Member Mardfin, seconded by Committee Member Crawford, then unanimously

VOTED: to add a clause in Section 19.65.030.O: That the applicant must also have owned the property for five years.

Chair Carvalho: Unanimously approved. Motion passes.

Mr. Mardfin: Mr. Chairman, I think you're back to Section R.1. where it puts the cap for short-term rentals at Hana, 48.

Chair Carvalho: Correct. Any other discussion on that cap? John.

Mr. Blumer-Buell: I'd like to make a motion to put this discussion on the floor, I would like to make a motion that for the short-term rental housing permits that we reduce the number by 18. I think -- so that the cap is at 30 for the short-term rental housing. I, personally, would like to see it go lower because the short-term rental housing is where we're seeing the impacts on our local families and the ability for people to rent homes. So I would be willing to accept a friendly amendment to lower the cap lower than that, but I want to just introduce a motion to start the discussion. Thank you.

Chair Carvalho: Ward.

Mr. Mardfin: John, it's not a friendly amendment. Are you making a motion to lower it to 30?

Mr. Blumer-Buell: Yes.

Mr. Cashman: I second the motion.

Chair Carvalho: Ed will second. Before we have any other discussion, I'd just like to ask Gina, you made a mention about wanting to resolve the cap number by today when we --

Ms. Flammer: It would be a good idea. I don't know that we're going to have another opportunity to revisit it.

Chair Carvalho: Thank you. Ward.

Mr. Mardfin: Mr. Chairman, I'm not sure how I'm actually going to vote on this. I understand, I think it is -- 48 is probably too high, but I don't actually know how many are operating, and if -- if there are 32 operating, 30 eventually come in for applications, and then the guys that miss it, no. 31 and 32 are going to be told no, sorry, we've reached our cap - maybe it works; maybe it doesn't. Where I really think this ought to be dealt with, including sub-areas where you'd limit it, is in the -- when we redo the Hana Community Plan. I think that's when we'd collect a lot of data. I think we'd start to analyze where things are. I think actually that's the proper time to do this. And I know that's further down the road then want it, we wanted this sooner and we're going to get it later, but we're going to look pretty silly, although I'm never afraid of being looked at as being silly, if we ask for

it today to be 30 and then when we look at the community plan, we want to lifted to 40, so I don't know where I'm going to vote on this to be quite honest.

Chair Carvalho: Thanks, Ward. That was the discussion that last meeting. We essentially wanted to revisit the community plan to revisit the cap number and we didn't have any -- we didn't get an traction on that whether it meant we could -- would have to form a new committee. John?

Mr. Blumer-Buell: So we have a second for my motion, is that correct?

Chair Carvalho: Ward will second, yes.

Mr. Blumer-Buell: Okay.

Chair Carvalho: Oh, I'm sorry. Ed seconded it. Ed --

Mr. Blumer-Buell: Okay, thank you, Ed. I think the 30 is not too restrictive at all. The -- this issue was -- should have been dealt with as a result of our 1994 Hana Community Plan, there's specific language that ask the Planning Department to do studies on nonconforming uses, particularly vacation rentals or impact upon affordable housing, real estate prices, and so forth. So this is relatively new legislation from the County Council. There's -- it's not dealt with in our Hana Community Plan except the request for the studies, so, you know, having followed this for a long time, I think 30 is very reasonable. I think it's important to let the County Council know that there's a very deep concern from the community about this. And the last point is just that the County Council expects to review these cap numbers, you know, occasionally review them, and so we -- the 48 was -- that was set was not really a scientifically based number, that's something that was just literally pulled out of a hat, and so I think it's a good idea to restrict it, it's possible that you may get more people in compliance because they see they're not going to be under the cap. Thank you.

Chair Carvalho: Gina.

Ms. Flammer: I just wanted to let you all know that at the end of this Section R, it starts actually on the top of page 8, the council shall review the community plan restriction number when it exceeds 90%, so when you hit 90% of the 48, or whatever number that you come up with today, it does go back to council to be reviewed.

Chair Carvalho: Scott.

Mr. Crawford: Gina, would you be able to give us the current status of how many are approved, how many are in the application process, and how many, if you have any estimate, are operating illegally?

Ms. Flammer: Yeah, oh, okay, I can give you some of that. There are 7 that are currently approved. There are 6 that are waiting to be approved but cannot be because of the manager requirement. There are 2 in the application process; one is having trouble with building permits, the other is waiting on the farm plan. And there's been nobody new that has come in for many, many months, so there's nothing waiting to get on your docket. I don't know what the number of illegal rentals are. I have looked on the RBO. There are a lot with more than 4 bedrooms. It's interesting. I don't know why. We really try to encourage people to come in, go through the process. I think when they hear "Hana Advisory Committee," they just, even though you've, you know, been very supportive, I think they choose not to come in. The original number was based on a study done a number of years ago of vacation rentals, it was done by the Kauaian Institute, whether those numbers are still relevant, I don't know, so they weren't pulled so much out of the air as they were -- the department tried to based them upon something. And I know when we did -- when we looked at the bill originally two years ago, and we looked at -- it's very hard to tell if it's a B&B or a short-term rental when you're looking at the advertisements, I don't think your number was more than what's currently operating. I do think that there are less than what the cap is. We did other areas, we were concerned there were more, we drilled down a little deeper, Paia-Haiku, but this area I remember feeling -- in fact, we didn't have -- the cap wasn't less than what's currently operating. That's about as much information as I can give you.

Chair Carvalho: Scott.

Mr. Crawford: So, in effect, that means that like everybody who's illegally operating now could come in, get approved, and we still would be under the cap?

Ms. Flammer: You know, it's really hard, from looking at the internet, to see what's --

Mr. Crawford: Yeah, I know you can't say definitively but --

Ms. Flammer: Definitively, but I have looked periodically, just out of curiosity, to see why aren't these people coming in, do I recognize something, can I encourage them to come in, is there a way to reach out to them, but I haven't seen a huge number.

Mr. Crawford: And I understand the thought behind the cap in a sense of trying to, you know, provide some kind of limit on this, but I think it is also really -- it seems really arbitrary in a way, and it is, you know, if you set the cap at 30, like -- and then you have somebody come in who has a perfectly good application that we would want to approve otherwise and

then we wouldn't be able to because of the cap, you know, once we reach that point, but then it also seems like the cap is -- we're a long way off from even getting close to the cap at this point, so it's kind of a nonissue because, you know, if we have basically 7 approved and maybe 8 in process, so that's 15, and then nobody else has even in the process of applying right now, it's like we're a long way off from running into the cap, and so I don't know. It just -- I see the point of it, but it's just kind of a -- it's a big clumsy way to get at what the real issue is, you know.

Chair Carvalho: John.

Mr. Blumer-Buell: Yeah, thank you, Scott. You know, the -- I think we've heard testimony today regarding the numbers of illegal STRH homes, and they are having impact on the affordable housing for our community, so, you know, there's a couple things here. You know, we've heard about the enforcement, and until the enforcement -- unless the Planning Department does enforcement, we're basically talking about an irrelevant cap because there's no enforcement. You know, if there was enforcement, you might have an accurate idea of what the impacts really are, and we've been trying to find out at meeting after meeting so -- a couple of other comments on the cap. I heard, I was at or watched on Akaku one council meeting where one of our council members, in regards to the cap, said, well, if we hit the cap, we can just raise them, you know, as if the caps are just in place until we need to increase them, so, you know, I don't agree with that idea at all. The caps are supposed to put a limit on this activity and that's my intent. It seems to me that in terms of the impact between B&Bs and, correct me if you don't agree, but the potential impact on the rental housing is much greater with the short-term rentals, legal or illegal, than it is from the B&Bs. Theoretically, the B&Bs are for people that live in this community that want to invite guests into their homes, so that's a different -- that's -- the B&Bs aren't doing away with any affordable housing, to some extent, I know a number of cases where they have, but on the whole, the B&Bs supposed to involve the community; the short-term rental housing really doesn't. So, you know, I support the -- my motion which is to set the cap at 30, which has some support from our audience, and the council will be reviewing this from time to time, and the -- but the Hana Community Plan could be years away from being reviewed, it probably is years away from being reviewed, so I'd like to see this -- we've already seen the impacts from this, I'd like to try to address them with a lower cap and I think a lot more sensible. Thank you.

Chair Carvalho: We still don't have a second on the motion before we proceed. You did second the second time?

Mr. Cashman: The first time.

Chair Carvalho: Yeah, you seconded that motion and --

Mr. Cashman: ...(inaudible)...

Chair Carvalho: No, because that's the first motion and that was approved. We didn't have a second for the cap of 30. We have --

Mr. Mardfin: I thought --

Chair Carvalho: No, Ed --

Mr. Cashman: No, I think the one for 30 ...(inaudible)...

Chair Carvalho: Oh, he did? No, no, I'm sorry. So he seconded both motions?

Mr. Cashman: The one for the cap of 30.

Chair Carvalho: And as well as the -- okay, yeah, okay. Okay. Thank you. Ward.

Mr. Mardfin: As I said earlier, I'm really torn on this one. I -- this really should be dealt with by the Hana Community Plan revision. I don't know that 30 is anymore justifiable than 48. I'm glad to hear from -- Gina's comment that she thinks the actual number operating is a likely to be less than the current cap is suggesting ...(inaudible)... I totally agree with Dawn that part of the problem with this is it does take long-term housing out. When I bought my house in 1996, before I moved back here, I put my house into long-term housing. I'm a believer in long-term housing. That's why I ask it at every meeting. But we get good reasons. I mean, you know, my family's going to come in. I can't have long-term housing if I'm going to bring my family in once a year for Christmas. So I kinda get it. You know, I wish people did more long-term housing. But, I said this last time but I'm going to repeat myself, let's get to the bottom of why do we want short-term rentals, and it applies for B&Bs. It's an economic opportunity for local folks to raise their income, both the owner and if it's short-term rental, the people in Hana that are hired to maintain it. It supports alternatives for tourism options. I have -- when I was on the Hana Cultural Center, I was very disturbed by -- we get a lot of tourists here, but they're day tourists. They come through, they buy a lunch and a t-shirt at Hasegawa's, and they're gone. They're clogging the roads. They're doing all kind of things. And there's very little economic impact on Hana, positive economic impact on Hana. If they stay overnight, they're more likely to go to the cultural center, or to the heiau, or, you know, to the restaurant for dinner. And quite honestly, I'm proud of this community. I'm not unhappy when somebody from Iowa comes through and gets to spend a night in Hana and see what it's really like if you get back to the old Hawaiian ways, enjoy the rural ambiance we have here. I'm proud of this place. It's nice to have people appreciate what we have. I do want them to go after two days. But I don't want to see 10,000 people in Hana the way we used to have. We're -- another purpose of this is to legalize defacto illegal operations and to improve the operations so

that they don't offend the neighbors, and by having to get legal, and they'll need renewals, and so the process will reduce the impact on local -- on their neighbors and make things enforceable. There -- by having farm plans, we're not lessening the -- I think we're not lessening the incentives for agriculture. We will be lessening the incentives for long-term housing. By having these, we're providing grounds for enforcement. There's an economic, a positive economic impact on the county and the state. They're paying real property taxes to the county at a higher rate, and they lose their homeowners exemption - well, the short-term rental doesn't have that to begin with, but the bed and breakfast lose their homeowner exemption. They're providing transient accommodation tax and GET tax to the state to help pay for our school teachers. We're trying -- trying, and I'm not sure this is as well done as I'd like, to ensure that the assessments on the property that has it does not spill over and affect the assessment values of the properties that don't have it 'cause we don't want people, local people that are not engaging in this to be priced out of the -- taxed out, through assessment, their homes. There does -- the negative is it reduces long-term rentals. And I think another advantage of this is it, I'm hoping, it will control development and urban sprawl, urban in the Hana context, urban sprawl. So I mean I think there are good reasons to have short-term rentals and B&Bs. Getting back to the 30, I don't know what I'm going to vote. I'm going to wait till the motion comes up and I'll decide then. Sorry.

Chair Carvalho: Thank you, Ward. John.

Mr. Blumer-Buell: Yeah, I appreciate Ward's comments. You know, we've had people that have come before this Committee that we've approved that basically say, well, we've been operating illegally for 15 years and, you know, the idea that some people and organizations have that paying your transient accommodation tax makes everything fine - it just isn't so. The tax rate on B&Bs and short-term rentals is commercial residential, and it's a slightly higher tax rate. This is where the county should be reaping a hundred percent of the rates for those. We are not getting the full amount of transient accommodation tax that we're paying to the state. Anyone that's been following the latest county budget knows that we're not getting nearly what we're putting into it, so I wanted to make a point that the, you know, that the tax revenue, property tax revenue isn't coming in from all these illegal vacation rentals plus -- and, you know, whether they're paying -- if you're paying a transient accommodation tax, it doesn't make it legal. If you have a legal operation, you should be paying commercial residential on that operation period. And I will say that there's no chance because, and I've studied this for more than 20 years, I've been part of the committee for more equitable taxation for more than 20 years, that a vacation rental, B&B, short-term rental house is not going to raise the property taxes next year. That's not going to happen. It hasn't been happening. And the only problem with the system right now is that the property tax division is not prepared to start assessing the higher value on the very day that somebody gets a permit, so that's the real problem. Mr. Teruya went, of Real Property, went through this, goes through this every single year during the budget review

process. So I'm not concerned about any spillover in residential neighborhoods. This is a different subject, but frankly, the whole tax system needs to be reformed. I have a question for Gina, and that is: Ward raises a good point about, you know, just the numbers and, you know, maybe being afraid to hit the cap, and he didn't put it that way, but what is a reasonable expectation for these permits expiring? They're not an entitlement, they're a permit, and so what do you anticipate with the cap or, you know, you don't know for sure, but what is the Planning Department thinking, when we hit 48, we just to have to have more? Or, you know, to me, if we have a cap at 30, then somebody can get in line and as soon as somebody drops out, somebody's available, but these are -- one will be available, but these certainly are not permanent entitlements for any piece of property, and that's a real important distinction. I'm just afraid that if they, you know, if somebody gets a perineal permit for 15 or 20 years, then they're going to be arguing for rezoning; that's not the intent of the B&B and short-term rental housing permits. That's all they are. They're not creating entitlements for anybody. So that's the -- thanks for listening to those comments. Thank you.

Chair Carvalho: Ward.

Mr. Mardfin: John's last comments I want to add a little to. John's absolutely right. These are not entitlements that run with the property. They're offerings to people that own or live in them, and it's explicitly in there, I think, that they're not transferrable automatically. With what we've just passed saying that you have to own it for five years, it basically means if you want to buy one, you buy one, and then you wait five years before you can apply for a permit. So I think that will actually act to keep the prices of housing down. If they think, well, it was permitted before with the other guys there, so they'll give me a permit, and if we not -- we've just passed a suggestion that you have to own it for five years, that knocks all the props out from under that one, and so I think that'll do a lot to help avoid the escalating prices of housing here. It doesn't help the long-term rental situation, however.

Chair Carvalho: Any other discussion on the motion? Alright, so we can put that motion to a vote.

Ms. Flammer: So the motion on the table is to lower the cap to 30.

Chair Carvalho: Scott.

Mr. Crawford: I understand where John is coming from when he says that we shouldn't -- the council shouldn't just think that it's something that the cap is there like what do you call it? The debt ceiling, that when you run into it, you just raise it. That works that way for a specific reason. But we don't want that situation. But at the same time, I don't think that you should say, once we pass it, it can never be changed either. I mean we're changing it right now from what it was before. So, you know, if we pass it as 30, and also you're

saying we might look silly. Well, I don't care about looking silly. If we come back, if we come, you know, if we pass it as 30 right now, and then we come back and we hit the cap of 30 and whoever's on the advisory committee at that time says we think it's reasonable to expand the cap and allow some more to come in, then we could do that at that time. So, you know, I think -- but what that does is it forces it to go through a process and to have some discussion around it if you are going to change the cap, I don't think you should say it's fixed and it can never be changed and it's wrong to change it, but it's also by putting it -- by, you know, putting it in place, if you are going to change it, you have to go through a process, you have to have public testimony and look at the situation at that time. So I just wanted to say that for the context of, you know, if we think -- if we're afraid maybe that 30 is a little bit low, you know, or might be too restrictive, then, you know, it would be possible to come back and look at raising it again later on.

Chair Carvalho: Thank you, Scott. John.

Mr. Blumer-Buell: I agree that it is possible to raise it if the community wants it in the future. I think that lowering the cap to 30 helps to send a message to this county that Hana's a special place. We're being more restrictive and more protective right now. In the future, we might want to raise that. And this is a good time to inject this, Scott and Ward both talked about the idea of area specific restrictions to the vacation rentals. When this whole thing came up before the Maui County Council, the folks from Maui Meadows were up in arms, they had their community out there, and they largely didn't want vacation rentals of any kind in Maui Meadows, so Gina described how it really is restricted in Maui Meadows. I'd like to see the same thing happen in the -- our subdivision, in different geological areas so we get the feedback from the kama`aina residents what do they actually want. So we certainly can revisit this, and certainly, based upon community input, there's the chance to both further restrict it in areas or to expand it. That's up to the community in the future. So I'm just hoping to help send a signal that this community's very concerned, I think we're sending a strong message that there's not enforcement to make it work, and in my judgement, this is the best thing to do today. Last thing is that, on the motion, this is only to do with the short-term -- the short-term rental housing, not the B&B. That's a different cap. We're not making a motion for both of them. This is only for short-term rental housing. Thank you.

Chair Carvalho: Thank you, John. Scott.

Mr. Crawford: I was actually -- well, if we want to look at a sub-cap for a specific area, would it be better to look at that as a separate motion, or to actually amend this motion to include that within this cap, procedurally-wise?

Ms. Thomson: I think you might want to dispose of this motion and then make a new motion for like a sub-cap because it would really depend on the numbers are

interdependent, so if you have 48, you know, but you're really trying to exclude a neighborhood, you might want to handle that separately. I think it'd be cleaner.

Chair Carvalho: Ward.

Mr. Mardfin: Scott convinced me. I've always known that these were variable anyway, and if the motion stays the way it is to reduce the cap to 30 for short-term rental housing, I can go along with it. If they start to put in stuff about sub-caps, I'm going to absolutely vote against it 'cause I don't think that's anything we ought to be dealing with until we get around to the community plan. It's too complex, too -- we really need a lot more information before I'd be willing to consider anything like that now. As I said when I did it -- I don't mind looking foolish particularly. I used to be a college professor, they always look foolish sometimes. But -- and the numbers Gina gave us mean that we're at about 15 currently, so that's 50 percent of the proposed cap, I can live with that, and I think it'll be a few years before we get to the community plan, but not 10 years, so that we have time deal with this, and lowering it to 30 for now, I think is probably a useful thing to do. So thank you, Scott, for convincing me.

Chair Cravalho: Thank you, Ward. Scott.

Mr. Crawford: Well, I see what you mean about the sub-cap potentially being complex and needing further discussion and maybe we don't -- we shouldn't combine the two, but I think that that's a really important issue. I'm glad that you brought it up, Dawn, or that you brought up the issue with the subdivision and then whoever it was that pointed out the sub-cap in there because I think that that is probably an appropriate thing to really look at. You know, I don't know if we have enough information to look at it now and maybe if there's anybody -- I'd invite testimony from those who have an opinion on this as far as what the -- you know, I'm just not aware of what the situation is really in the subdivision to be able to have a sense of, you know, what makes sense so, you know, I'm relying on other people who know more about it than I do to be able to give testimony and try to come up with something that makes sense, but I think the idea of putting a cap on specific areas is something that definitely could be a tool that would allow us to fine tune this a little bit more than just a general overall cap and it could be useful to look at. So I don't know if we can look at it now or not, but I think it's a good idea.

Ms. Thomson: I just wanted to add as a caveat to the sub-cap topic, effectively, if you have a lot of neighbor protest, which you would assume would be neighbors within a subdivision, that's something that, you know, you or the Planning Director, if they're administratively approved, would be considering, so while it's not a number cap, there are neighbor controls already built into the ordinance.

Chair Carvalho: Alright, I'd just like to add that this motion is just a recommendation and, for me, there's just so much missing information. I'm not sure -- I'm not clear on -- I don't even have figures on how many homes, residences we actually have in Hana. We could have, I don't know, a few hundred. I'm not -- I'm more clear on how many residences -- residents we have, but not residences. Like you said, we could have 20 short-term rental homes operating right now. We could have a 100 right now operating illegally. I'm not sure. But it would be nice that since this recommendation's being made, whether it passes or fails, at least it goes into the minutes, and it's going to be reviewed, and, hopefully, that leads to more scrutiny and review, and that's the best thing we can ask for right now until the community plan goes forward, and, you know, there's going to be new members on this advisory committee and I'm sure they might have different opinions. So with that, I'd like to put the motion to a vote.

There being no further discussion, the motion was put to a vote.

It has been moved by Committee Member Blumer-Buell, seconded by Committee Member Cashman, then unanimously

VOTED: to reduce the short-term rental home cap to 30.

Chair Carvalho: So the motion passes unanimously. Thank you. Alright, moving on to Gina. We're on agenda item C.2.

- 2. Mr. William Spence, Planning Director transmitting the Planning Department's Report with comments, recommendations, and proposed amendments to the planning commissions for review and transmittal to the Council relating to Chapter 19.64 of the Maui County Code relating to Bed and Breakfast Homes. (G. Flammer) (materials distributed with the May 8, 2014 agenda packet.)**

At its April 22, 2014 meeting the Maui Planning Commission requested that the matter be referred to the Hana Advisory Committee for comments and recommendations.

The Hana Advisory Committee may act to provide its comments and recommendations on the Report.

Ms. Flammer: This is the B&B report? Okay, thank you. Okay, I just want to let you know I passed out -- we had another letter of testimony, and then I also passed out another copy of the report, not to confuse you, I know you probably made comments on your old one; what I did is in the bill itself, I put the table reference number for the changes so that as we go through and look at them, it's much easier to find. After our last meeting, I realized we

need a little better tool to go back and forth between the bill and comment section, so that's why I put the new one in front of you today. I cleaned up, there was a couple typos too, I cleaned that up. I also want to let you know that what you have today is going to go on the website so that the public can find it right there on the www.mauicounty.gov, under the Planning Department, probably right on that page, and it'll stay up there through the council discussions.

And just so everybody knows the process, I think John started to talk about it, this Committee is going to make a recommendation to the Maui Planning Commission. The commissions, Maui, Lanai, and Molokai, will all take a look at both the short-term rental bill that we talked about last time, I think ten days ago, and this B&B, and then they're going to make a recommendation to council. It'll go to the Council Planning Committee where it'll be discussed, and that's where the final decisions will be made. I don't know who followed the short-term rental home discussion closely but there were a lot of things that came out of the council during those deliberations, so if this is a bill you're interested in, if this is something that affects you, I would say keep in touch with me, but also keep in touch with your council member, and also, Don Couch is currently the Chair of the Planning Committee until this election cycle is over, which is at the end of the year, so he's the one that will be in control of that agenda. He's hoping to have it done by the end of the year, but we'll see, there's a lot on that committee's agenda.

So the B&B report, a little different than what we went over ten days ago. The purpose of this report is to show what is necessary to provide consistency between the short-term rental and the bed and breakfast requirements. As you can remember, the short-term rental bill was taken from the bed and breakfast ordinance, but we tried to improve on it. We'd had a lot of experience with B&Bs so there's stronger neighbor notification requirements, and there's a couple other things in there that we'd like to have the B&B -- in the B&B requirements as well.

So the B&B bill was passed in 2008, it became effective in 2009, that's not to say we didn't have B&Bs before we did, but it just opened the door and made them much easier to comply. Since then, we've had 75 of those permits approved; 10 of them are currently in Hana. We've had about 116 applications come through the department; 15 were withdrawn and 12 were closed by the department. A lot of that were from the early days of the B&B. Applicants had a really hard time. They'd come in with an application that maybe wasn't complete, we'd take it, we'd send it to Public Works, Fire, Water, and they'd go through and they'd find improper building permits, lack of building permits, so we changed the process so that people know right up front; that's one of the reasons we haven't had as many withdrawn or closures. We also encourage people to talk to their neighbors. A lot of times when people withdraw, it's after they find out that there's a lot of neighbor opposition, so we tell people right away one of the first things you want to do is go out and get to know your community, if you don't already, and let them know what you're

doing. People want to hear it from you directly; they don't want to just receive a legal notice in the mail. We've also, right now, we're processing about 14 applications the last time I checked. And there are no, still no applications for Lanai or Molokai. We do have short-term rentals on both those islands, but not the bed and breakfast permits.

So what I'd like to do is go through, like we did last time with the short-term rental home report, is just go through this table and we can go through each one. There's a --

Mr. Mardfin: Mr. Chairman?

Chair Carvalho: Ward.

Mr. Mardfin: I think going through the table is great, but I think we ought to have an enabling motion first.

Ms. Flammer: Yeah. I like what you did last time.

Mr. Mardfin: And so I will move that we recommend approval of the proposed bills -- the bill with such ever amendments as we decide to make as we go through it. That's the same way I made it last time I believe.

Mr. Blumer-Buell: If that needs a second, I'll second that so we can get moving.

Chair Carvalho: I believe, yeah, that needed a second, but no vote, so we didn't have to vote on that.

Ms. Flammer: ...(inaudible)...

Chair Carvalho: Yeah, yeah. Okay.

Ms. Flammer: Okay, so I like how we did it last time where I'm just going to briefly explain and if you have no comments on it, which means you're fine with it, we can just go by consensus and I'll see some nodding heads and we can move on.

Mr. Blumer-Buell: Yeah, short question. We will come back to the B&B cap issue after we go through it all?

Ms. Flammer: Yeah. I think that would be --

Mr. Blumer-Buell: I mean it's the first chart.

Ms. Flammer: It is the first chart. You could start with that if you wanted since you just had a discussion about it. That would be fine.

Mr. Blumer-Buell: Yeah, I'd like to do that if possible.

Ms. Flammer: Okay, so --

Chair Carvalho: Before we proceed, I just wanted to put the suggestion out that perhaps we should take testimony on this -- on this agenda item right now, before the -- I mean --

Ms. Flammer: You could do it before or after, either, both, either way.

Chair Carvalho: Because we run into the same issue last time, we were voting on amendments and we, you know, was kinda just breezing through them. I don't know if that's -- any other suggestions? Yeah, John?

Mr. Blumer-Buell: I'd like to get public testimony now so we can consider it as we go through the different categories.

Chair Carvalho: Okay. If anyone wants to testify now, if they have to leave soon or anything? Shane.

Mr. Sinenci: Shane Sinenci. Maybe Gina can just give us a brief number counts, how many has applied, who's already acting on the B&B?

Chair Carvalho: Go ahead, Gina.

Ms. Flammer: I can do that. Okay, so we -- sure, we have 75 current permits; we've had 116 applications come in; I think 12 were withdrawn by the applicants; 14 -- 12 were closed by the department; 14 were withdrawn by the applicants; and we currently have about 14 that the department is processing right now. So 75 approved island-wide; 10 are located in the Hana Community Plan region. Yeah, so it's only 75 and the cap is 400, so you're going to continue to see these.

Chair Carvalho: You have to come up to the mike. You can ask your question.

Craig Leaver: ...(inaudible)...

Chair Carvalho: Please --

Mr. Leaver: Oh, I'm sorry.

Chair Carvalho: Please state your name. Sorry.

Mr. Leaver: Craig Leaver, and I live on Hana Highway over here.

Chair Carvalho: Thank you.

Mr. Leaver: I'm trying to help. How many exactly for Hana? That's -- how many exactly for Hana?

Ms. Flammer: There's been 10. Yes, that's a good question. There's been 10 applications that have been approved for Hana. I currently am not holding any. They've all -- they've all come to you, I think at this point, and I don't think I'm processing any of them right now. We haven't gotten any new ones for quite a while. I have gotten a couple people that are working on them but I haven't received anything.

Chair Carvalho: Ward.

Mr. Mardfin: I think we're going to get one from Donnie Atay in a couple months. Don will probably be working with you to get his room so he can do it as a B&B.

Mr. Sinenci: And then the other question was the difference is the owner is in the house and they serve meals?

Ms. Flammer: There's a couple differences. It's a good question. It's one of the first questions I get when people call me when they're interested in doing one or the other. For the bed and breakfast, you're required to live on the property, not necessarily in the dwelling unit itself, so you could live in the main house and rent out your ohana unit, or you could do it the other way, or you could live in the main house and rent out your rooms, one or more rooms on the property. You do lose your homeowners exemption when you apply for the -- when you receive the bed and breakfast permit. Your tax rate goes to commercialized residential, which was just changed, I'm not sure exactly what it is right now, somewhere around maybe 5.2%. I think it's per thousand dollars. You can also rent out individual rooms with the bed and breakfast whereas a short-term rental home you're required to rent out the entire dwelling unit. Those are basically the -- maybe we have another distinction.

Mr. Mardfin: You also lose your homeowners exemption for real property, and that's a heavy cost 'cause what is it about \$200,000?

Ms. Flammer: It is. Yes.

Mr. Mardfin: So that can be a real discouraging issue.

Ms. Flammer: Especially for people that only rent out one room too. The real small operations. I think it's one of the impediments to coming in. They find out the economic cost to getting the permit and they just choose, you know, if they have a choice, not to apply. Okay, so did you -- any other --

Chair Carvalho: Any other questions?

Ms. Flammer: Testimony? Questions?

Mr. Sinenci: Well just as a recommendation to the board that again, as a reminder, we do want to keep the Hana small town fishing village identity, and again, I recommend that when we -- you do revisit the Hana Community Plan, that again those areas where we want to support in town along where it is zoned commercial or where infrastructure can support these types of things, and look at the rural areas and maybe do that cap that you guys were talking about in the rural areas so we continue our ag zoning. Thank you.

Chair Carvalho: John.

Mr. Blumer-Buell: Yeah, I have a question for Shane. I just want to get your feeling or opinion, if you have one, on the suggested cap for just the B&Bs. We had one suggestion from the audience for 30, which I think is sensible, but how do you feel about the cap just for the B&Bs?

Mr. Sinenci: Just for the B&Bs. Again, I would support more B&Bs in the areas where our community is doing economic, you know, in town, in areas where we can support commercial, or the hotel, or the restaurants, or anything that we can support our economic growth versus if we're going to be starting a small little town outside with restaurants and stores and more tourist activity outside the commercial area, then I don't think we should support, you know, that kind of things where we're starting another town, Nahiku, or out by the airport, or, you know, that kind of thing. I think we should keep those areas agriculture, support the activities in town, market place, economic building, so maybe -- and not necessarily way out but, you know, near these areas, and maybe again you guys can look at those caps when we come to the community plan and specific zoning areas. That's my feeling. Thank you.

Mr. Mardfin: Mr. Chairman?

Chair Carvalho: Ward.

Mr. Mardfin: Sort of in response to Shane, I don't know if he's gotten a copy of the report, but in the report, there's a listing of where the B&Bs currently are and let me --

Mr. Sinenci: ...(inaudible)... we don't want it to be all clustered in one area.

Mr. Mardfin: Let me finish. I'm going to tell you where they are and you can decide whether they're already clustered outside. Hale Hamoa Beach, the Simeone property; Bamboo Inn, John Romain; Guest Houses by Leokane; Papalani, who you told me was Sybil, I believe; Ala`aina Ocean Vista, which is in Kipahulu with Samadhi Butterfly; Hana Bay B&B, Mark Collins' place; Hana Gardenland, Francis Kennedy; Hana Tradewind Cottage, Brianna Evert, these are all outside of the areas that would be considered urban Hana; Entabeni Cottages, which is Michael and Teri Christiansen; and Kalo Ohana, which is Andrew Rainer. Those are the ten that are already listed. And I know you're concerned, Shane, I know you're concerned about the spreading out to agricultural places, but the people that have come before us have said they need to have a B&B in order to continue in agriculture 'cause they don't have the financial base from agriculture alone.

Mr. Sinenci: I agree. That's fine. I just don't want 20 or 30 within a half-mile radius of where it starts to question the ag zoning of these areas. That's fine if we have a couple scattered here and there; it's just, again, maybe the cap can keep it at a -- where it's not just concentrated in certain areas. This is fine where already, you know, we don't want, you know, if Uncle down Hamoa, we don't want just all Hamoa and kinda lose that Hamoa feeling. We don't want a lot of them down Maka`alae for several reasons, one, there's a lot of local residents there. I mean, yeah, a lot of them are popping up where the beaches or the tourist attractions are, but then it's going to start to become, you know, everybody's going to be going down to Venus Ponds, or walking through the pasture land down there, and they're already doing that. So again, when is it going to start to become a liability for these tourists to be going on these certain areas? So I'm just -- as a board, we can kinda control the tourist traffic and where they're walking or going in East Maui. That's all.

Chair Carvalho: Thank you. If you'd like to continue. Oh, I'm sorry. Sorry. Go ahead. Please state your name again.

Ms. Lono: Dawn Lono. I heard mentioned earlier that the requirement to serve breakfast in bed and breakfast should be reconsidered and I think it should be. I don't think it's necessary for a bed and breakfast to have to serve a breakfast, it doesn't really change anything about it being a short-term rental of any sort, so I don't think that should be necessary. I'm just looking in here at no. 5, it says, "Removes the restriction" -- oh, I'm sorry. Wrong one. Cancel. Actually no. 13, "Removes one square-foot sign to Hana, Lanai, and Molokai," so are they recommending or is it being recommended that Hana's one square-foot sign be the four-foot square sign now?

Ms. Flammer: No. That's a good question. The signage requirements are confusing. The one square-foot sign is for once you receive your permit, and it's only these three communities that are required to put up a one square-foot sign. We are recommending

later that the 16 square-foot sign be reduced to the 4 square-foot, like the short-term rental home sign. So the big one's going to get shorter; that's when you put your application in; that's the notice sign.

Ms. Lono: Okay, so restrictions and standards, removes one square-foot sign to Hana, Lanai, and Molokai. This makes entire county consistent. So what is that saying?

Ms. Flammer: Oh, so how the law currently reads is if you have a -- you're approved for a bed and breakfast in Hana, on Lanai or Molokai, you're required to put up a one square-foot sign for the public, for your guests to see.

Ms. Lono: And what does everybody else have to do?

Ms. Flammer: Nothing.

Ms. Lono: Oh, I see. Okay. Okay. Okay. And then just on the cap issue, you know, I struggle with this one quite a bit too for one of the same reasons, a lot of the farm homes and then the second dwellings, the second dwellings were built as farm dwellings, supposed to be for, you know, workers for the farm and so on and so forth, and many of those people who have those in long-term rental, you know, are now changing them to short-term rentals because they can, and again, you know, it's always the -- the story is I can't make it in ag without doing something supplemental, which is very true. I mean I do ag, and we do supplemental, but we have to go out and work to do it. You know, if -- you know, it's a choice. But it really is kind of deceiving to say that I'm building a farm dwelling and then you're turning it into a B&B. So that kind of is something that's always gone in the back of my mind, and again, I'm an advocate, you know, for our community and for housing, and I just can't express to you enough the impact that this has had on our community and that it's going to continue to have on our community as this moves forward and grinds forward. So it's something to really think about in the context of these caps and that maybe it is reasonable to lower the cap, and it is clearly stated that it will be revisited at 90%, so that's already in there. So as soon as it gets to 90%, then it can be revisited again if -- so if -- so be it. You know, the community decides they want to raise it at that point or the council decides, then they can. So that's already built into the legislation. So something to think about. And I again, I'm in that 30 range, you know, and considering what we have already, and there aren't that many applications in or maybe even no additional applications in, it seems pretty reasonable to me. So mahalo.

And I don't know if this is the last time I'm going to be able to speak, but there's a lot in this that you guys are going to go through and there may be a point where I might want to say something, would that be appropriate, or do I have to go through this whole thing right now? Kinda like the way we've been doing it, you know.

Chair Carvalho: Well, we kinda refrained from that last time. I mean we allowed it last time because we didn't officially close public testimony last time so --

Ms. Lono: Right.

Chair Carvalho: This time we would be closing public testimony I guess after this unless we come to a new agenda item or come to a motion, a newer motion, we're not going to -- John.

Mr. Blumer-Buell: Normally, the County Council allows three minutes with a minute to followup. We've been very loose with the testimony. I think it's good that we heard from the operators and so forth. I would just like to make a motion that if somebody has something to say on one item we're going through, that they get 30 seconds. That's it. Somebody can come up and make a 30-second comment and then -- and then pau, you know.

Mr. Mardfin: There's a motion on the floor, so your motion shouldn't -- Clayton should view your motion out of order 'cause it isn't germane to that. It's not an amendment to the bill. But if you're making that as suggestion to the Chairman, I wouldn't have any objection.

Mr. Blumer-Buell: Okay, I'm happy to leave it at Clayton's discretion. I do have one question for the testifier, Dawn, and that is you previously suggested a cap of 30 for short-term rental housing and 30 for B&Bs, is that -- are you comfortable with that?

Ms. Lono: Yes.

Mr. Blumer-Buell: Okay. And the other thing that concerns me is that, you know, when the building of the farm dwelling came up, you know, when that issue's been coming up, those people were supposed to be committed to a farm dwelling, not a bed and breakfast, so I don't have in mind how we can address that, but I think that building -- that the Planning Department should be looking at buildings that pull permits as farm dwellings, that they're made to stay in compliance with what they represented to the Planning Department to begin with. Does that make sense?

Ms. Lono: Yeah.

Mr. Blumer-Buell: Okay.

Ms. Lono: And also consider that other one that we did about having to own the property for five years that that perhaps could apply to B&Bs as well. Mahalo.

Chair Carvalho: Well, I have two ways we can go about this. We can have second round of testimony during the amendments and we can revisit an amendment that we maybe perhaps did not have a comment on but the public did, or we can also open up each amendment to a short, really brief testimony, but, you know, with that comes the back and forth in discussion and questions and we may want to avoid that. Or if we can just reduce the discussion to a minimum, then -- any other discussion from the Committee?

Mr. Crawford: I think it is most useful to have testimony on the point that we're talking about rather than have to wait till somebody -- to the very end and then go back and address something that we were talking about earlier, so I think if we can just keep it to, you know, keep the comments concise that my preference would be to go ahead and allow, you know, and I think the public input is real valuable and sometimes people don't know what they're going to say until they hear us talking about it and it brings up an issue that they may want to respond to. So my preference would be for you to use your discretion to allow testimony on an item-by-item basis.

Chair Carvalho: Thank you, Scott. Any other discussion or thoughts? With that, we can go along with that suggestion. Before we move to each amendment, Gina will let us know and if you have any --

Mr. Mardfin: Mr. Chairman, I thought Donnie wanted to say -- sorry. He changed his mind.

Chair Carvalho: Okay. Well, we didn't close testimony officially yet, yeah. Scott.

Mr. Crawford: I just had a question that is, I'm not sure how it -- well, if it fits in with any of these items but it's just kind of a general question, how do -- there's this question of WWOOFing and units that are made available for people to stay in for work exchange, for work trade, so they're not renting it out as a bed and breakfast but they are providing an exchange of compensation for somebody to be able to come into the community as a short-term member or, you know, short-term resident, and I'm just wondering how that fits in with this whole picture. Are those totally unregulated? Is there some way that they can be regulated under bed and breakfast even though there's no monetary exchange? You know, because I hear from community members that this is a concern and that there are a lot of, you know, there are a lot of people who come into the community under these kind of arrangements and end up, you know, staying or end up, you know, causing problems in the neighborhood, and it just seems like it's a completely unregulated sort of loophole in the middle of this whole thing. So I just wondered if you could address that maybe before we get into the discussion about the specific bed and breakfast issues. 'Cause it seems like it's kind of like a bed and breakfast situation; it's just that you're trading work instead of money for the accommodations.

Ms. Flammer: You know, I'm surprised I haven't had this question before, but I haven't, and because I haven't, I haven't really done any research on it. I don't know if our -- if Richelle has any information about work exchange.

Ms. Thomson: Generally, whether you're exchanging, you know, work in exchange for lodging, that is taxable on the recipients and so if you're receiving labor versus, you know, paying rent, that is a taxable situation. But you're right. It's one of those situations that's very difficult unless the people are, you know, complying with the tax law, and that'd be state tax law. As far as whether you want to either build in, you know, some kind of provision, you know, maybe just raising the issue that this is going on in the Hana community, and that you might recommend that the planning commission or council take a look at, you know, some provisions that kind of gives them some guidance and a framework, a regulatory framework for the activity that is happening but is not being regulated, so maybe it can be a general comment.

Mr. Crawford: Well, in that case, then I would like to make the general comment that this is an issue in the Hana community, it's something that I have heard of from multiple different community members, and the affect of it is I think that people who tend to come for a vacation -- for a bed and breakfast will stay a day or two or three, people who come for these agricultural work trade tend to stay for a longer period, so they're kind of in-between. They're actually transients and they're here for a longer period, you know. They may come for a few months or something like that. But in theory, you know, it's a good idea I think to be able to provide this and have, you know, have the opportunity for people to come work. You know, you're trying to promote an agricultural subdivision, it's a good idea to be able -- people come in and actually work on the agriculture, you're not just staying in the house, you're working, so it's a good idea on a certain level, but I think that there's a lot of unintended consequences to it of people who end up coming into the community and, you know, it's changing the nature of the Hana community and changing the population of the Hana community by people who are coming in through these arrangements, completely unregulated, you know, with really no recourse to be able to put any kind of a, you know, guidelines on it or anything. So it definitely is an issue that I think the planning commission and the County Council should look at.

Chair Carvalho: Ward.

Mr. Mardfin: I'm not familiar enough with the law to know, but this is basically ag tourism to some extent, and there might be some legislation on ag tourism that would be relevant to it. I just don't know enough about it to know. But I think Scott's right. We do have a fair amount of it here. And it helps if the people that are -- the farmers are really benefitting from being able not to have to pay rent -- pay wages, and it's maybe exploiting the workers. I'm not sure who gets the worse part of the deal here. But I would prefer that we not deal with that today, that we just go through the B&B as we're going to be doing, I hope.

Chair Carvalho: John.

Mr. Blumer-Buell: Yeah, I support Scott's concerns and comments. I'd like to say, as you're researching this, this is a worldwide phenomenon. Countries, like New Zealand, ask people to come. You know, this is part of a regular cycle of harvesting fruit and so forth, so there's a lot more to it. I agree though with Scott's concerns and comments, but this is a worldwide phenomenon at this point.

Mr. Crawford: And I'll just say, you know, when I was young, I traveled as a WWOOFer in New Zealand and Australia, and I had a great experience, and so I think there is a real benefit for it, but I think in some other countries it's been more established for much longer and there are regulations that govern it and here it's just kind of a free for all, and so it's not that I'm opposed to it, but I think that there should be some kind of framework for it.

Chair Carvalho: Okay. Thank you, Scott. If no one else has anything to add, we'll close public testimony, and if you have any -- an issue with the amendments we'll go over, please raise your hand and we will address those before we move on to the next amendment. Okay, you can go ahead. Thank you, Gina.

Ms. Flammer: Okay, did you want to start with the caps, with the table that's on the second page? Okay, so the cap for Hana is currently 48, and we have 10 existing permits.

Chair Carvalho: John.

Mr. Blumer-Buell: I'd like to see the cap reduced to 30, and I'd like to see the ownership of the property being at 5 years, same as we did for the short-term rental housing.

Chair Carvalho: Yeah, we would have to present those as two different motions.

Mr. Blumer-Buell: Okay, I'd like to just make a motion that we reduce the cap to 30.

Mr. Crawford: I'll second that motion.

Chair Carvalho: Any discussion on that motion?

Mr. Crawford: Basically, most of the discussion that we had on the short-term rental applies to this discussion, they're slightly different circumstances, but they still have an affect on long-term housing, the same concerns apply, and we're still looking at, right now, we have, if we change the cap to 30, we would have, one, we'd be at 30%, we'd still be, you know, there's still 20 more that people could apply for, which is plenty of room given the fact that there's no applications outstanding, and when it got to 27, there would be an automatic review, so I'd -- so I support the motion.

Chair Carvalho: Let's put that to a vote.

There being no further discussion, the motion was put to a vote.

It has been moved by Committee Member Blumer-Buell, seconded by Committee Member Crawford, then unanimously

VOTED: to reduce the bed and breakfast cap to 30.

Chair Carvalho: None oppose, so motion unanimously passes.

Ms. Flammer: Okay.

Mr. Crawford: Yeah, so, oh, can I make a motion to -- Chair, may I?

Chair Carvalho: Go ahead, Scott. Sorry.

Mr. Crawford: So I make a motion that we recommend the requirement of five year continuous ownership of the property as a requirement for a bed and breakfast permit.

Ms. Flammer: I just wanna let you know that the provision to have it built within five years is not currently in the B&B code.

Mr. Crawford: Oh, okay.

Ms. Flammer: I didn't know if -- we're going to get to that in the table. I didn't know if you wanted to --

Mr. Crawford: We're kinda jumping the gun here.

Ms. Flammer: No, no. Not at all. I just didn't know if you knew that, first of all.

Mr. Crawford: So the five-year --

Ms. Flammer: Of construction is only in the B&B -- I mean it's only in the short-term rental. It's not currently in the B&B.

Mr. Crawford: So we could actually recommend both five-year construction and five-year ownership for a bed and breakfast as well?

Ms. Flammer: If you wanted to. Yes.

Mr. Crawford: Well, I'll amend my motion to reflect that that both five-year construction and ownership limitation on bed and breakfast.

Chair Carvalho: Do we have a second?

Mr. Mardfin: This is a motion to amend. The main motion is to adopt this --

Mr. Crawford: My motion was never seconded.

Mr. Mardfin: I did.

Mr. Crawford: Oh, you did?

Mr. Mardfin: Yes.

Chair Carvalho: Oh, you seconded it?

Mr. Mardfin: I seconded it. Procedurally, we have a motion on the floor to approve the recommendations of the department subject to whatever amendments we make. This is a motion to amend by inserting a section dealing with five-year ownership of the property and that it had been constructed more than five years prior to the application, and five-year prior to the application for construction, and five-year prior to the application for ownership, as we did it for the short-term rental, and that was your motion to amend, and I seconded the motion to amend.

Chair Carvalho: I don't feel we need to have anymore discussion, so it's a motion to amend and discussion? John.

Mr. Blumer-Buell: I have a question for our staff. Is this what we actually did was it's the five-year building and five years of ownership? Isn't that an amendment too. I mean right now, what is the cut off date for when you built the house?

Ms. Flammer: There are no provisions in the bed and breakfast home law about when it's constructed.

Mr. Blumer-Buell: Okay. And that answers my question. Thank you.

Chair Carvalho: No other discussion, let's put the motion to amend to a vote.

There being further discussion, the motion was put to a vote.

It has been moved by Committee Member Crawford, seconded by Committee Member Mardfin, then unanimously

VOTED: to amend to include the five-year ownership of the property prior to the application and that the home had been constructed five years prior the application as a requirement for bed and breakfast permit.

Chair Carvalho: None opposed. Motion to amend unanimously passes.

Ms. Flammer: Okay. Now we'll kinda get into the nitty-gritty. It's going to be a lot like the short-term rental. There's just a lot of small things, and you probably discussed most of these already. So the first one, when the short-term rental home ordinance was adopted, the term "short-term rental" was taken out of the code and turned into "short-term rental home," so all we've done with the bill is replace "short-term rental" with "bed and breakfast home" in the bill. It's just a technical amendment, if you will. You want me to give you an example?

Mr. Mardfin: I don't -- similar to what we did last time, if we have no problem with it, we're not going to -- because the main motion is to approve the recommendations, if we have no problem with it, we just go on. If we have a problem with it, we make a motion to amend.

Chair Carvalho: Right. And I'll be looking to the public if they have any concerns.

Mr. Mardfin: By the way, this strikes me as just a housekeeping --

Ms. Flammer: Thank you for that word. That's exactly it. It's a housekeeping item.

Mr. Mardfin: Kind of amendment. It doesn't have much substance.

Ms. Flammer: No. Okay, the second one, we dive right into -- oh, this is a Molokai one. Currently, the bill doesn't allow bed and breakfast permits on agriculturally zoned properties on Molokai. I remember with the short-term rental, you deferred any issues for other islands to that specific planning commission.

Mr. Mardfin: Mr. Chairman? And like last time --

Chair Carvalho: Ward.

Mr. Mardfin: And like last time, I make a motion that all of these that deal with specifically with Molokai and/or Lanai, we -- our position is that we leave it up to those communities to decide. I am not comfortable telling Molokai or Lanai what to do, and sorry to the Planning Department, but I don't really care about being consistent among all different locations. I think Hana's a special place and needs special things, and I think the same for Molokai and Lanai. So I think we ought to take the position of not -- I have in my notes, make it only if Molokai agrees or only if Lanai agrees. In other words, we ought to be totally deferring to them on it, and not inserting ourselves.

Ms. Flammer: Excuse me. I can use the same language that you had previously.

Mr. Blumer-Buell: That's a motion?

Mr. Crawford: Motion to amend.

Mr. Blumer-Buell: I'll second the motion.

Chair Carvalho: And we don't need to vote on that. We'll just go amendment by amendment. No. We can just -- as we will just eliminate it from --

Ms. Flammer: That's a comment. That's fine. I'll put that in as the comments.

Mr. Mardfin: I thought that was a motion that we're not going -- that we're going to defer to Molokai and -- my intent of my motion was that we defer to Molokai and Lanai on these things and we don't insert ourselves into the --

Ms. Flammer: Well, you have a current motion on the floor.

Mr. Crawford: He's making a motion to amend that current motion --

Ms. Flammer: Oh, I see what you're saying. Thank you.

Mr. Crawford: To say that on the items dealing with Molokai and Lanai, our position is not to support it as it is. Our position is to support it conditional on the support of Lanai and Molokai.

Ms. Flammer: Oh no. I understand that. I understand you're amending the current motion. That makes sense to me. Okay, that's fine. They don't need to vote now.

Chair Carvalho: I thought we were just going to eliminate them as they go, but we can just vote on that now. Let's vote on that now.

Mr. Mardfin: And that this apply to all the situations which are specific to Molokai and Lanai.

Chair Carvalho: Okay.

Mr. Crawford: Do all those one time instead of having each individual item to go through that.

Chair Carvalho: Okay.

Ms. Flammer: Okay. I figured it out. Thank you. Okay --

Chair Carvalho: We can --

Ms. Flammer: Keep going. That's fine.

Chair Carvalho: I think we should put that to a vote since we'll eliminate those amendments, I mean as they go. Yes, so it was proposed by Ward, and seconded by John, the motion.

There being no further discussion, the motion was put to a vote.

It has been moved by Committee Member Mardfin, seconded by Committee Member Blumer-Buell, then unanimously

VOTED: that all recommended amendments that deal specifically with Molokai and/or Lanai that the Hana Advisory Committee's position is to leave it up to those communities to decide.

Chair Carvalho: Motion passes.

Ms. Flammer: Okay, thank you.

Chair Carvalho: So eliminate those.

Ms. Flammer: Okay, going to no. 3. We have three kinda meaty ag ones. When the B&B bill was first passed, these three restrictions were put on B&Bs in the ag district. The first one is properties that were subject to a condominium property regime on ag land cannot come in for a permit. When they did the short-term rental home, they took that out of the bill allowing those people to apply for permits. So to be consistent, you would need to remove that out of the current B&B bill. And my apologies. I wasn't working for the

department at the time so I don't have a lot of background information for you as to why these were put in at the first place, but I do know it was thoroughly discussed during the short-term rental home bill.

Mr. Mardfin: And -- Mr. Chair?

Chair Carvalho: Ward.

Mr. Mardfin: And to the best of my knowledge, we don't have any properties in the Hana District that have condominium property regimes. I think there was one in Kipahulu, and the position of the Planning Department was that the entire property get the one short-term rental, and I'm assuming this means that if there's a property in Hana that has two or three different owners condominiumized, that they get one B&B.

Ms. Flammer: Yes. It would be administered the same way. Thank you. And we had added clarifying language into the short-term rental home.

Mr. Mardfin: If that's the intent of this, then I have no problem with it and we don't need to vote on it.

Ms. Flammer: Okay.

Mr. Blumer-Buell: Chair?

Chair Carvalho: John.

Mr. Blumer-Buell: Yeah, just as a comment. I agree with this, but just to let people know, we do have other properties in Hana in rural areas and probably ag too that have been condominiumized, and I think we need to take note of those properties being taxed at that rate too. People that have condominiumized their properties I know it's in order to avoid subdivision requirements and may not be paying the condominium taxes. Thank you.

Ms. Flammer: Okay. The next one, and I don't know why this was originally put in, but it did not allow lots created after -- probably they didn't want lots to be subdivided for this purpose, for B&B, that's my guess, but the short-term rental bill does not have this requirement that does not allow any lot created after 2008 to qualify for the permit. So this would be removing that restriction. Okay, seeing -- oh.

Chair Carvalho: Ward.

Mr. Mardfin: So just for information, so you're saying if it wasn't created prior to 2008, it doesn't qualify? If they do it -- if they go in now, they can't get a B&B?

Ms. Flammer: Yes. If it was subdivided after 2008, they're unable to get a permit as the current law.

Mr. Mardfin: That's a really good position. Thank you.

Ms. Flammer: Okay. Seeing a lot of still members. Alright, the next one. This is our last ag one. There's currently a restriction that says if you have five acres -- hold on a second. If you have five acres or more, you have to have \$35,000 of farm income. I see I need to redo my description here. So what this is doing, and actually if you go to bill, you can see it, what it's doing is removing that \$35,000 farm income requirement if you're five acres or more. It does not remove the implemented farm requirement though. What we were seeing is that the true farms that are big are unable to come in because they're not making the \$35,000 three years in a row, and I think that's why it was taken out of the short-term rental.

Chair Carvalho: Ward.

Mr. Mardfin: I think when we were looking at this for short-term rental, my recollection is we made a motion, which passed, to have it be \$2,000 per acre of land under cultivation.

Chair Carvalho: You know, did it fail?

Ms. Flammer: No. It passed. You have a good memory. No it failed - two in favor; one against; Chair abstained.

Chair Carvalho: It failed, right?

Ms. Flammer: Yes. It failed.

Mr. Mardfin: Well, then I reintroduce the motion for this that instead of the \$35,000, it be -- they gave us -- first my motion to amend that the \$35,000 requirement for five acres or more be removed and that it be \$2,000 per acre of cultivated land. The purpose for this, I hope somebody will second it, but the purpose for this was that the \$35,000 seemed arbitrarily high. We got materials in our packet showing that \$10,000 was about right, but that \$10,000 was based on five acres, and I think it should -- the argument last time, which I guess failed, was that it be scaled up, so if you have a bigger piece, you got more income; you got a smaller piece, you get -- and that it be restricted to cultivatable land. There needs to be some consideration made for people that are growing forestry 'cause you might not get current income from growing koa trees, but there are ways to handle that. So the general principle is that it be generating either cash in-kind or increased value of \$2,000 per acre of cultivatable land.

Mr. Blumer-Buell: I'll second for discussion.

Chair Carvalho: Ward.

Mr. Mardfin: What would you like me to say? The \$10,000 -- the \$35,000 is too high.

Mr. Blumer-Buell: I have a comment but isn't it proper to second for discussion? Okay. I agree with your representations. We did have some testimony talking about a \$10,000 threshold. I agree with the sliding scale's probably a good idea as long as it doesn't create loopholes. A comment on the forestry. You know, that's difficult because if somebody plants out, you know, 20 acres of koa and other trees, I hate to think their only recourse and this is to cut it down in 20 years, you know, it's more valuable -- it could be more valuable just as a watershed area.

Chair Carvalho: Ward.

Mr. Mardfin: I don't disagree with you, John, but the current thing says \$35,000. If they're growing koa trees, they're not getting 35,000 either, so this is a more liberalizing motion and I think a more realistic motion in terms of what can be expected. I think somebody should deal with the forestry issue, but not passing this leaves it at \$35,000 from koa forest each year.

Chair Carvalho: Scott.

Mr. Crawford: I think the idea of having it be scaled with the amount of land instead of just one arbitrary number that fits everybody makes sense in principle. I can see that it could be more difficult to enforce because there has to be a determination made first of how much, you know, arable land there is, and I also think that just in a general sense, I mean this makes more sense but in a general sense, there's -- it's hard to always measure agricultural productivity just in income and, you know, the forestry is one example of that where it's a long term thing that you're not measuring year to year, but especially out here in Hana, I think maybe it's everywhere on the island, but especially here, I think that you have a lot of ag that's just grown for local consumption, and it's traded and exchanged, and when you have an abundance, you give it away, and that's all about feeding our own community and that's actually should be the first priority is not commercializing it but just sharing it with your neighbors or, you know, feeding your own town, but that's something that's really difficult to measure, but somebody could have a completely, you know, valuable agricultural operation where they're contributing to, you know, the self-sufficiency of the community and generating almost no actual income from it. So it's just hard to measure strictly on a financial basis what really is an agricultural operation or not.

Mr. Mardfin: I agree with Scott. But again, this is more liberalizing. If you turn this down, we're left with the \$35,000 cap, and that makes it probably even worse, and I think we ought to figure a creative way to deal with that but I don't think we can deal with that now. And I do think that in-kind income could be considered but that's not -- we don't have the time or place to do this.

Mr. Crawford: Yeah, and I'm --

Ms. Thomson: I just wanted to add. If you take a look at the actual revised ordinance, it's page 3 in the handout, the suggested revisions are, you know, bonafide ag operation that produces 35,000 of gross sales or an approved farm plan fully implemented. An approved farm plan would include the forestry type activities, you know, as long as it's part of the farm plan and it's, you know, documentable and things like that. So it's not and 35,000 and the farm plan; it's 35,000 or the farm plan. And you, you know, you can -- I think the motion on the table discusses lowering that 35,000 to 2,000.

Mr. Crawford: Okay, that makes to me that the approved farm plan can address some of the other issues where it's not strictly a commercial but for those who do want to just show their commercial liability, it does make sense to have it be actually based on the amount of land you have.

Ms. Flammer: Maybe I can have the maker of the motion clarify. On the short-term rental, it was in addition to a farm plan. Is that what you were thinking in this particular case?

Chair Carvalho: Ward?

Mr. Mardfin: I'm not sure because part of the thing was some of us were looking at these farm plans and thinking that they're kind of bogus, you know. They're growing papayas for their own table and they're not anywhere near doing real agriculture as I would consider it. Yeah, I'll keep it with "and." But feel free to vote against it.

Chair Carvalho: If there's no other discussion on the motion, we can put the motion to a vote.

There being no further discussion, the motion was put to a vote.

It has been moved by Committee Member Mardfin, seconded by Committee Member Blumer-Buell, then

VOTED: to amend that the \$35,000 requirement for five acres or more be removed and that it be \$2,000 per acre of cultivated land.

(Assenting: J. Blumer-Buell; E. Cashman; W. Mardfin)
(Dissenting: C. Carvalho; S. Crawford)
(Excused: I. Ballantyne; A. Hoopai-Waikoloa)

MOTION FAILED.

Chair Carvalho: So we don't have --

Mr. Mardfin: Correct. So that didn't pass.

Chair Carvalho: Didn't pass.

Mr. Mardfin: And so we're left with the \$35,000 agricultural production, right?

Chair Carvalho: Correct.

Mr. Crawford: If it was "or" instead of "and," then I would support it, but I'd rather have \$35,000 or the farm plan, than 2,000 per acre and the farm plan, I guess.

Chair Carvalho: Okay. Before we move on, can I suggest a five-minute recess? Good idea? Okay, let's take a break and reconvene at 7:06. Thank you.

(A recess was called at 7:01 p.m., and the meeting reconvened at 7:10 p.m.)

Chair Carvalho: Okay, let's reconvene.

Ms. Flammer: Okay, so we're on no. 6, and this deals with the parking. Currently, the parking for bed and breakfast homes is one parking space for each bedroom in addition to any other parking spaces required. So if you have a six bedroom bed and breakfast home, and you live in the ohana, that home has to have eight parking stalls. We also came to find out, implementing the bill, that a lot of people rent the entire unit out, so what we're proposing is the same as for the short-term rental, if that B&B dwelling is rented out in the entirety, so what that would state is that you have to have one parking -- you'd have to have your normal parking stalls for the house that's required, it's usually two, and then if there's more than four bedrooms, there would be one more parking stall required.

Okay, moving along. All no. 7 does is it adds the ownership entities like are in the short-term rental home, and that is we now recognize that sometimes properties are owned by a trust or a partnership or a corporation. So what we did with the short-term rental home is that we required that all of those people be natural persons and they have to be related to each other. The applicant also has to be a trustee or has to be a 25% partner of either the limited liability or the corporate -- or 25% corporate shareholder, or 25% member of an

LLC. We also added in a limited liability partnership with the short-term rental home, so that's -- I'll just put it under here. I should backup a little bit and let you know that this is divided up into two different tables. We have the ones to make it consistent, and then at the very end, we'll go over just a few changes that we were suggesting for the short-term rental home if you wanted to go ahead and add those. So I don't see any comments about the ownership. Okay.

Chair Carvalho: Ward.

Mr. Mardfin: Yeah, this is one where I have some reservations. I don't mind family trusts. I don't mind limited liability partnerships or revocable living trust, or that sort of stuff. I agree that's common. Corporations give me a little problem here, and I wish corporation wasn't in there.

Ms. Flammer: I think they're looking at mostly S corps. The restriction that you have to be related really limits the type of corporation that can come in.

Mr. Mardfin: 'Cause you have that last point, if there's more than one trustee, partner, shareholder member they shall be related by blood, adoption, marriage, or civil union?

Ms. Flammer: Yeah, that applies to all of them.

Mr. Mardfin: That takes care of it, I guess. But I also said I thought the person's name ought to be on there, not just a revocable living trust or corporation, and you said on your application it does. I go to the TMK files to find out stuff and there they don't.

Ms. Flammer: No, they don't, and it makes it hard sometimes to find --

Mr. Mardfin: So I'm going to have to just check your website.

Ms. Flammer: Well, actually, how it works with this bill is that the applicant has to be a person. We don't allow, like an SMA permit, a corporation can come in for the permit, but in this case, it actually has to be a natural person, so even though the property may be owned by one of these entities, the applicant itself, the permit has to be held in somebody's name.

Mr. Mardfin: With that explanation, I don't have a problem with this.

Ms. Flammer: Okay. The next one is, again these are all things that are the current short-term rental home law, it allows for a permit to be transferred upon death to an immediate family member.

Chair Carvalho: Ward.

Mr. Mardfin: I don't have a problem with this either, and this is sort of the exception to the one we were recommending before that you had to own the property for five years, but this I think should count, you know, if it's an immediate family member that's taking it over, I don't consider that a change in ownership, you know, they shouldn't be held to the -- have to abandon it for five years before they can start again.

Ms. Flammer: Okay, thanks. I'm going to put a note about that. Okay.

Mr. Crawford: Yeah, I agree with that too. I just want to make a note that I'm supporting this.

Ms. Flammer: Okay. We used to tell people put your spouse on the permit because if something happens to you, the permit goes away; this would take care of something like that.

Next one deals with Molokai, so I'll just move on to no. 10. In this, again, we go back to the CCRs, we don't go back, this deals with the CCRs on a property. The current B&B bill had a restriction that prohibited the consideration of CCRs, and those are when you have a homeowners association, they put specific restrictions on it. When we did the short-term rental home, we took a much deeper look at CCRs, and the council determined that they can actually tell you a lot about the character of a neighborhood and that its okay to consider them, so we're just asking that that be considered for B&Bs.

Mr. Mardfin: And --

Chair Carvalho: Ward.

Mr. Mardin: I remember James Giroux often telling me, you know, we're not in the business of enforcing private agreements. I read what you had in there, in the bill itself, and it seems okay. You're using the information to get the nature of the character, you're still not enforcing it. If your neighbor wants to enforce it against you, that's -- you take it to -- you use a civil action against them, not get the Planning Department to be in lieu of civil law.

Ms. Flammer: Thank you for that. We're also not interpreting the CCRs. We're requiring a letter come from the homeowners association so that they can be the ones interpreting them, not us.

Ms. Thomson: I think my only hesitation is the word "requires," requires communication from the homeowners association. There are homeowners associations that -- well, let me

backup. There are CCRs for subdivisions that have no homeowners association but you have CCRs. I have property that has, you know, some old CCRs from the 1970s and nobody bothers to get together and talk about them in the entire time I've owned the property. So the word "requires" might be a difficult compliance step, so, you know, you could look at that information, you know, may consider, you know, rather than requires. That would be my only caveat to that.

Mr. Mardfin: I'll trust that you'll deal with the Maui Planning Commission and let them take care of that little wrinkle. I don't think we have many places in Hana that have CCRs. The one possible exception, I know Kipahulu we sort of do but we don't really enforce them all that well anyway.

Ms. Flammer: On the application it says, "if applicable," so we take a look at what that homeowners association is. If its never been formed and there's no enforcement authority, generally we don't -- we won't hold an applicant up if there's nobody that can write a letter.

Okay, the next one, no. 11, it adds in restrictions and criteria in which the department and also this body and the planning commission can use to evaluate the permit. We didn't have that in the B&B before. We adopted a few at a planning commission meeting just so we would have something that we could work with. But when council did it, looked at the short-term rental home bill, they came up with quite a number, so all we're doing is adding more in.

Okay, no. 12. This is a housekeeping item. When we read through -- actually, I have to credit an eagle eye. I send my stuff out as I'm working on it to people either in the industry or people that are involved in the issue that may not agree with the law. I get a lot of good information back from people. Somebody picked up the fact that the advertising requirement only applied to properties in the residential district, whereas the advertising it really applies to everybody, it doesn't matter what district you're in, so this just takes that out of it. This also requires that a reservation website include the house policies or a working link to the policies so that if someone's planning on booking and they want to have their wedding party there, they can see right there what the restrictions are.

No. 13 deals with the one-foot sign that we talked with Dawn about. Either somebody somewhere has a lot of these signs, or they blow away, they seem to disappear, and they're not very useful with the size they are.

Chair Carvalho: Ward.

Mr. Mardfin: Two things. One is sort of a housekeeping. I tried to find 19.64.030.L. and didn't.

Ms. Flammer: You're on your old one. I think I corrected that. It's "O."

Mr. Mardfin: Oh, did you? Okay.

Ms. Flammer: I'm sorry about that.

Mr. Mardfin: But I think I found it under "O" on page 8, but that's okay.

Ms. Flammer: Yeah, help me out with these things when you see them.

Mr. Mardfin: Let's not deal with that. Let's deal with what was on the sign is supposed to be what?

Ms. Flammer: Let's see what it says.

Mr. Mardfin: I couldn't tell 'cause I couldn't find it.

Ms. Flammer: Within the Hana Community Plan area, and Lanai and Molokai, one square-foot sign identifying the bed and breakfast home permit number. That's all it is. On Molokai, the sign has to have the telephone number.

Mr. Mardfin: I actually -- I know you're trying to get consistency, but I'm not. I think we ought to go with Molokai's way. I think we have the permit number and the telephone number on it. One square-foot is not terribly difficult. And it'll stop a lot of people -- it'll help the visitor coming in to find the place 'cause our house numbering is kinda kapakahi around here, and a one square-foot sign can stop or reduce the chances that they're going to impinge on neighbors, you go up the wrong driveway and, you know, they say no, it's down the other way. I think it's a good idea to have it but I would include -- and so I will move to amend that we not remove the one square-foot sign for Hana but that we -- and that we require that both the permit number and the telephone number of the contact person be included on the sign.

Chair Carvalho: Can that be made on one amendment?

Ms. Flammer: Yes. I think it could. Just to throw another option out there. We debated on whether it should be the same requirement as the short-term rental sign, which has the two square-foot permanent sign and it has certain requirements, the phone number, the name of the operation, and the permit number, and the number of the county is also on there. The number of the county is also put --

Chair Carvalho: The county number.

Mr. Mardfin: I will self amend my motion to make the signage comparable to what we did for short-term rental, a two square-foot sign.

Ms. Flammer: If anybody is curious about that, it's in the short-term rental home packet. It's the last page of Exhibit 3 with the application. It shows what that is. It has the permit number, the name of the manager, which is optional, a 24-hour phone number, and then the Department of Planning Zoning and Enforcement Division phone number.

Mr. Crawford: I will second Ward's motion or motion to amend.

Chair Carvalho: And there's --

Mr. Mardfin: There's a motion to -- the motion is -- the motion is to make the B&B requirement have a two square-foot sign, not two feet square, that's four square feet, two square-foot sign with the appropriate information on it.

Chair Carvalho: So consistent with the short-term rental requirement?

Mr. Mardfin: Yeah. And that it'll be able to be seen from the road. I don't care where they put it, but I want them to be able to see it from the road so they don't have to bug the neighbors.

Ms. Flammer: If you're doing it the same as the short-term rental home, it has to be placed at the main -- erected along the main access road to the establishment in a clearly visible location within five feet of the front boundary, but not in the road right-of-way or other public facility. We spent a lot of time thinking about the sign, council did. We made mockups of it. There was a lot of thought that went into it, and your two square-foot, we had to teach math to a number of people, it was -- I was kind of surprised.

Mr. Mardfin: You know, like we just approved one for Andrew Rainer, and he lives a half-mile up the road, and if the sign's on his house, that doesn't do any good. It needs to be where people can see it so you can find the place and people know where to complain if you're making too much noise. And so that was the motion and Scott seconded it. It's a motion to amend.

Chair Carvalho: Alright, let's put that motion to a vote, the motion to amend, that's amendment no. 13.

There being no further discussion, the motion was put to a vote.

It has been moved by Committee Member Mardfin, seconded by Committee Member Crawford, then unanimously

VOTED: *to amend no. 13 that the requirement for a B&B within the Hana Community Plan area include installing a two square-foot sign with the permit number, the name of the manager, which is optional, a 24-hour phone number, and then the Department of Planning Zoning and Enforcement Division phone number, and that it be erected along the main access road to the establishment in a clearly visible location within five feet of the front boundary, but not in the road right-of-way or other public facility.*

Chair Carvalho: Motion unanimously passes.

Ms. Flammer: Okay, the next one you guys have talked about a little bit. The B&B bill doesn't have a provision to review the cap when you meet 90% of that cap. How it works now, if we hit the cap, we would just stop taking applications. To make it consistent, I had to put it in here. Okay, I see some nods there.

Okay, the next two are -- they reflect what's the current policy, we tried to make sure that people understood up front what they're dealing with with their homes and what their dealing with with their permits, so what we put in there, in the application, and this is just our current application department policy, but we want to put it in the code, it requires that the applicant provide evidence that the B&B proposed dwelling was built in compliance with Maui County regulations at the time it was built, and we offer some ways in which they could do that.

Mr. Mardfin: I don't have a problem with the intent. I'm just looking at, in 15, it says, "Requires that evidence be provided in the application showing that the proposed STRH dwellings." Should that be "B&B dwellings?"

Ms. Flammer: It should be "B&B." Yeah, that was one of the typos I corrected. Some of the stuff got added at the end there so we -- it was fast and furious. Yeah, I think I did a short-term rental home search. You're going to find it if you're using the old one in a couple of places. Keep pointing it out though.

Okay, so the next one, no. 16, is this adds a home inspection report must be submitted with the application; that can either be a miscellaneous inspection by the Department of Public Works, or it can be a home inspector that's actually certified, and the department did actually put together a home inspection criteria, a list that's included in your short-term rental home. It's actually in your B&B application, it's included right in this report, and that makes sure the house is still safe.

Okay, the next item that we're going through, no. 17, is the current B&B sign is 16 square feet, it's quite large, so what we're recommending is that the B&B sign be the same as the short-term rental home sign, which is 4 square feet; I'm sure you've all seen both around town.

Okay, the next one, permit processing. We would like to add in the stronger neighborhood provisions, protest provisions to the B&B bill. We've only had I think one case with a B&B that met the 30% neighbor provision. So what we'd like to add is what's in the short-term rental where if there's two or more written protests of either adjacent or across the street, it goes to commission, and then we lowered the written protests; if there's under 40 lots, it only has to be 15%. Okay, see agreement with that.

The next one deals with --

Chair Carvalho: John? Sorry.

Mr. Blumer-Buell: Yeah, I have a question about that. What's the rationale for not giving the burden of, you know, putting the -- if the owner of a property in a neighborhood, just one owner doesn't like the idea, why shouldn't that owner be able to trigger a public hearing although we've -- yeah?

Ms. Flammer: We've had cases where one owner wasn't -- didn't reflect the neighborhood desire. They had problems with something else. I think the phrase "everybody has one crazy neighbor" came up occasionally. We thought that two would be stronger. If the one person had valid enough concerns, we can bump it to the planning commission based on that, but I think the council just thought one wasn't enough so they put in two.

Mr. Blumer-Buell: I'd like to know how the other folks feel. I mean I feel like if one person who's investing their lives in a piece of property has a complaint about the use in the neighborhood, that should be a valid way to trigger a concern not, you know, 30% or 2%, or whatever, you know. So I guess that's a motion that I would like to make it if any neighbor has a concern, that they can trigger a public hearing, you know.

Mr. Mardfin: Is this on item 1, you know, condition 1, the director receives one written -- receives a written protest from the owner or lessees of record of an adjacent -- of a lot adjacent to or directly across the street from a proposed?

Mr. Blumer-Buell: Yes. And that, you know, to me that gives recourse for individual owners. I mean if it's a matter of it coming before the --

Mr. Mardfin: I'll second the motion to amend because it's limited, it's not everybody within 500 feet, it's just adjacent to or across the street from, so I will second that motion.

Mr. Blumer-Buell: Okay.

Chair Carvalho: Any other discussion on the motion? With that, we can put that motion to a vote.

There being no further discussion, the motion was put to a vote.

It has been moved by Committee Member Blumer-Buell, seconded by Committee Member Mardfin, then unanimously

VOTED: to amend no. 18 that if any neighbor adjacent to or across the street from a proposed B&B has a concern, that can trigger a public hearing.

Chair Carvalho: Unanimously passed.

Ms. Flammer: Okay, thank you. Okay, next one deals with Lanai and Molokai. No. 20 allows the director to transmit in accordance with complaints received or some other substantive reason. We're going to go later into short-term rental home where we talked about moving the 500-foot trigger but for right now, we're just looking at giving the department the ability to bump an application to planning commission. Currently, we don't have that ability unless they meet one of those triggers. Okay, we'll get to 4a. when we get there.

No. 21, again, is a housekeeping item. It just adds "renewals" into the title.

Chair Carvalho: Sorry. John?

Mr. Blumer-Buell: Yeah, I just wanted to double-check on 19. I mean it seems we've made it clear that the Hana Advisory Committee would like to, I mean this is for Molokai and Lanai, but we've made it clear that we'd like to see all the applications initially.

Ms. Flammer: Let's put that in there. Let's take that now. I have it written for the end but this seems like the best place to put it.

Mr. Blumer-Buell: Okay.

Ms. Flammer: You want to go ahead and make that motion and vote on it, and I can add it right to this part?

Mr. Blumer-Buell: Yes, please.

Mr. Mardfin: I'll second that motion to amend that all applications for B&Bs come before the Hana Advisory Committee.

Chair Carvalho: Okay, so let's vote on that motion, for amendment no. 19, motion to amend.

There being no further discussion, the motion was put to a vote.

It has been moved by Committee Member Blumer-Buell, seconded by Committee Member Mardfin, then unanimously

VOTED: to amend no. 19 that all applications for B&Bs come before the Hana Advisory Committee.

Chair Carvalho: Motion passes.

Ms. Flammer: Alright, unanimous. Thank you. Okay, so back to 21, it's a housekeeping item; 22, again, deals with I think it's supposed to be --

Mr. Mardfin: Excuse me one minute. That applies to the Hana regional community, right? I mean that --

Ms. Flammer: Hana Community Plan area.

Mr. Mardfin: Hana Community Plan region. Yeah. Okay. I don't think the Maui Planning Commission wants to see everybody's coming through but --

Ms. Flammer: They don't, but this is --

Mr. Mardfin: But we do.

Ms. Flammer: Yeah, this is restricted to just your area.

Mr. Mardfin: Okay.

Ms. Flammer: Okay, the next one deals with subsequent permit renewals for Molokai and Lanai. I think it's only Molokai.

Mr. Mardfin: It doesn't matter. We've already said we'd leave it up to them.

Ms. Flammer: Yeah, okay. I'll check that one later. The next ones are a couple enforcement ones. When we did the short-term rental home, we decided, the department

decided they'd like, and the council, they'd like to see enforcement provisions written right in the bill, so what I've done is I've taken those and put them into this bed and breakfast. So the first one we deal with is if the department receives 3 complaints within a 12-month period, we have the ability to do an investigation and then we can revoke the permit. It specifies that those complaints must come from property owners on two or more different lots, it can't be just one neighbor, and then it adds criteria in which are considered when while you're evaluating those complaints. Okay.

The next one, it says if a permit is revoked, the department shall not accept a new application for, from that permit holder, for two years after the date of revocation. Okay. We're trying with the enforcement. The next one, no. 25.

Chair Carvalho: John. John.

Mr. Blumer-Buell: I appreciate you moving right along. I do have a question about no. 23, and that's that I had someone come up to me and say look at these B&Bs that, you know, they're having parties and that sort of thing, and so, you know, it seems to me, you know, one complaint shouldn't trigger a cancellation of a permit, but how does one -- I'd like to see it read so that one party within earshot has the ability to complain or get some action, you know.

Ms. Flammer: They do. That's different than having it revoked. So what would happen is an RFS would go in, and that can be done through me, as the planner, or it can be done through the person calling, if somebody calls me, I can do the RFS for them if there's a complaint, and then that would go to our enforcement division, and then they would either cite them or not, and then when they come up for renewal, we take a look at those complaints, and then we can decide, if we see complaints, we can decide to give them less time, or if we get more than one within this time period, we can send it to commission to revoke, or we can revoke it.

Mr. Blumer-Buell: Okay, thanks for explaining it. I'm okay with it, and it's just, you know, the adjoining owners need to speak up or it's not going to work for them.

Ms. Flammer: That's why they call me sometimes.

Mr. Blumer-Buell: Thank you.

Ms. Flammer: They know I'm the planner, they're familiar with me, and I can put it in for them. Okay, we just went over the one for the two years, so no. 25, this is the language that's in the short-term rental home, and this is the advertising language, and it gives us the ability to go onto the computer and see who's advertising and we don't have to, I joke about this, but they used to, we don't have to stake them out anymore and we don't have

to get receipts. It says that if you are advertising, it means you are operating. Now we will take a look to see if it's a valid link. We also state in here that any communication by a property owner, so if we send an email that says I want to book it for this date, and they email back and said great, this is how you do it; well there's evidence that you're operating right there. And then it also puts in here that if you're advertising for a home without a permit, that constitutes a violation all by itself, so that helps us with our enforcement.

Mr. Mardfin: Gina, this is a -- I'm happy with it all. I was really happy with 25 in the old version, and the new version has even more stuff in there, so that's good.

Ms. Flammer: Okay, thank you. And then the last one, and this deals with you guys, is that we didn't include the urban reserve district as an area where you can have B&Bs, so what was happening is the B&Bs, and the Bamboo Inn is a good example, is they had to go for a change in zoning first, so we decided that we would just add in "urban reserve," we did it for the short-term rental home, so that if you're located in that area, you can go ahead and you can obtain a permit without getting a change in zoning.

Okay, the next table that we have, and we're almost done here, are these, and I've got a couple that you guys made also that we were going to want to talk about, but the table that we have right here --

Chair Carvalho: Gina, sorry. John?

Mr. Blumer-Buell: Yeah, a little question on the no. 27. What about the SBRs, how does it relate to that?

Ms. Flammer: You don't have to get -- if you're in the urban reserve, you don't have to go for a change in zoning to an SBR to allow the B&B. That's all it does.

Mr. Blumer-Buell: Okay.

Ms. Flammer: Yeah. Okay --

Mr. Mardfin: Gina, was -- you said -- oh, add, that's why I didn't see it. Never mind.

Ms. Flammer: Okay, so going onto some proposed changes we're making, the first one is the breakfast that we talked about, it makes serving breakfast optional, it sounds odd, but what happened with the B&Bs is they did the bed and breakfast and it wasn't until afterwards that we realized DOH regulates what you can serve, so we basically tell people, unless you have a commercial kitchen, you can serve prepackaged food, it's call "nonhazardous food," so anything that can sit out for hours and hours and not go bad, that's all you can serve.

Mr. Mardfin: I can tell you from sitting on the Maui Planning Commission, they would come through and I'd ask, they would have to provide menus of what they were going to serve, and it was innocuous stuff, and it was silly, it wasn't -- you know, I think they could give fresh fruits, so if you were growing papayas --

Ms. Flammer: Not cut up.

Mr. Mardfin: You could serve the fresh fruit, but you couldn't cook them eggs, you couldn't cook them bacon, you know, I don't think you could even do cereal 'cause of milk issues. It was silly. And, as Donnie says, he didn't want to provide a breakfast, you know. I'm glad you're getting rid of it.

Ms. Flammer: Okay. Thank you. It'll be odd with the title, but I understand the intent of it. Okay, the next thing is the change in the sign requirement. You know, we used to say it had to be up prior to submitting the application, and it's the first thing people would do, and it would sit up for nine months, so what it does now is it changes it to the same time as the neighbor notice period, so it has to go up before you send out your mailing, and then once your mailing is done, and you get all that back, you can take your sign down. And again, like we talked about, it changes the 16 square-foot sign down to 4.

Okay, the next, 3a, again, one of the things you don't realize till you implement a bill is we used to refer to another section about the noticing and that required an applicant to place an add once a week for three weeks, it's about a thousand dollars, like the short-term rental home, we're recommending that they -- we just get rid of that. The department still places an add for all public hearing items, and a neighbor notice is still done to everybody within 500 feet, and the sign is still up during that period. Okay.

The next one is where we moved that 500-foot trigger for a planning commission if there's another one within 500 feet, currently, it automatically goes to commission, this one is it's more an attempt to reduce the planning commission's schedule, it makes it at the discretion of the department, and I know you had a change for the short-term rental bill.

Mr. Mardfin: Yeah, but I think we just dealt with it. This is where I would have put the thing about all -- the Hana Advisory Committee consider all B&Bs in Hana District, and I think we just passed that motion so --

Ms. Flammer: You did. It's a separate area. If you wanted to make separate comments on this, you could. I think when you did the short-term rental, what you did is you said we don't agree with this, instead we want all of them. I can make the same comments.

Mr. Mardfin: Yeah, we -- so I move to amend to include that comment that we want to see all them, not just the ones that happen to have these other triggers.

Mr. Blumer-Buell: I'll second.

Chair Carvalho: Any other discussion? No? Let's put that to a vote.

There being no further discussion, the motion was put to a vote.

It has been moved by Committee Member Mardfin, seconded by Committee Member Blumer-Buell, then unanimously

VOTED: to amend to include the comment that all bed and breakfast permit applications for the Hana District be considered by the Hana Advisory Committee.

Chair Carvalho: Motion passes unanimously.

Ms. Flammer: Okay, no. 5, this is where we're suggesting that they remove the trigger for you to review applications when there's four or more bedrooms. Again, I think with the short-term rental home, you included the same language that you'd like to see all of them instead. Okay. I'm going to put a note in there to see other amendment.

Okay, no. 6a. deals with multiple -- one owner having multiple properties, it deals with the loophole that we were having with the bill where you're only supposed to have one permit per person, so what we've done is we've moved it to a planning commission trigger when there's an owner, or trustee, or a partner, or a corporate shareholder that also is a member of an entity which holds title in another permitted B&B home.

Chair Carvalho: Ward.

Mr. Mardfin: Like we did with short-term rentals, I move that it's an outright ban. You get one shot, as far as I'm concerned. You don't get -- have multiple ones of these things. And if you're in a big group and somebody in group gets it, you're out of luck. So my motion to amend is to not allow any individual to have -- I'm going to get my phrasing right, but basically we don't want any person to be involved in more than one of these things.

Chair Carvalho: Do we have a second?

Mr. Blumer-Buell: I'll second that.

Mr. Crawford: I'll just say I'm not really aware enough about the pros and cons of this issue to take a position one way or another, so I'm going to abstain unless we have some further discussion that illuminates it further for me.

Mr. Mardfin: Before you abstain, Richelle wants to tell you what an abstention means. Let me -- the reason I think it should be an outright ban is I saw some examples where a person would have a B&B, and they own another property, so they gave their housekeeper a 1% interest in the property, and they kept 99%, but the 1% owner went and made the application, and my feeling was you're cheating on the deal. You get one -- you got your B&B, that's it. You don't get a second one through interlocking directorships or any other kind of ownership deal. You get one.

Ms. Flammer: I do just want to mention, since you brought this up, we currently don't have any requirements on percentage of ownership. I know it's a different issue.

Chair Carvalho: We did have a second so --

Mr. Crawford: Yeah, I just don't know -- I mean I can see if we're trying to close a loophole, but, to me, the idea that it gets brought up before the planning commission, that it becomes a trigger for the planning commission so then it can be reviewed whether it's reasonable for somebody to say, well, I have two properties and I want both of them in short-term rentals, I don't necessarily see why there necessarily should be a restriction that you only get one shot at it. I don't understand the reasoning behind that at this point.

Chair Carvalho: Ward.

Mr. Mardfin: Earlier today, I read a whole bunch of reasons why I think B&Bs and short-term rentals make some sense, particularly here in Hana, to a limited degree. But I don't think a person should get multiple -- this is a benefit. You make more money on this. And I don't think -- I think we ought to be of the form of spreading the wealth and letting a given person get more than one I think is not right. I think you ought to get your one to help, you know, you survive on your farm or to help you make your mortgage or whatever, but I don't see more than one per person.

Chair Carvalho: I believe we had a second, so we can put that motion to a vote. Did we have a second? If not -- okay, John seconded it. Sorry. There being no other discussion, we can put that motion to a vote.

It has been moved by Committee Member Mardfin, seconded by Committee Member Blumer-Buell, then unanimously

VOTED: to amend to not allow an individual to be involved in more than one bed and breakfast.

Ms. Flammer: Okay, moving along then, no. 7a., this just adds some clarifying language that if there are recorded complaints or you're dealing with noncompliance with the permit

or other government requirements, then we don't have to grant renewal to your permit. This was put in by our -- or we can have a shorter extension time. This was put in by our enforcement division. They just wanted some clearer language so that if we get an appeal on a revocation, we have something we can refer back to.

The next one, 8a., removes the requirement for the department to have annual compliance report every year. It's currently not something that we have the capacity to deal with; we just don't have the staff to review one. They come in at renewal time, the compliance. If there's any other issues that come up, we do investigate those separately.

Okay, no. 9a. We talked about this with the short-term rental. This is where permit holders we're asking that they be required to allow access for compliance inspections within one hour of the request. We talked about out in Hana, and you did pass an amendment.

Mr. Mardfin: Yes. On the rest of the rest of the island, they have 24 hours notice, but they're going down to one hour across the state, and Ian made the point last time that that's really tough. If you happen to be out on the other side at Costco that day and they come in and want to be let into your property in one hour, it's a little too much. And what was the amendment, 24 hours?

Chair Carvalho: It was 48 hours, and then it was amended to 24 hours.

Mr. Mardfin: Twenty-four hours was passed?

Chair Carvalho: Ian proposed 48 hours, and you amended it to 24.

Mr. Mardfin: And 24 is what passed?

Chair Carvalho: Twenty-four was what passed.

Mr. Mardfin: I move to amend to make it 24 hours for the Hana community region.

Chair Carvalho: Do I hear a second?

Mr. Blumer-Buell: I'll second.

Chair Carvalho: Any other discussion from board members who weren't here? Alright, we can put that motion to a vote.

It has been moved by Committee Member Mardfin, seconded by Committee Member Blumer-Buell, then unanimously

VOTED: *to amend from 1 hour to 24 hours for the Hana region.*

Chair Carvalho: Motion unanimously passes.

Ms. Flammer: Okay. And we also talked about this one, but I don't think you took any action, and that's where the department is going to require that unpermitted -- you have to have a valid address or TMK on your advertising, if you have a permit and even if you don't have a permit, and I think the comment for the short-term rental home is the address doesn't always work out in Hana.

Chair Carvalho: Before we move forward, I don't know if it was in the motion that the 24 hours only applied to Hana. I just making sure.

Ms. Flammer: Yeah. I got that. Thank you.

Chair Carvalho: Okay.

Ms. Flammer: Yeah, that may go island-wide, but for now, I have written just for you guys for Hana.

Chair Carvalho: Thank you.

Ms. Flammer: And then I have some unique circumstances that you talked about with the short-term rental home. Okay, so now we're talking about providing a physical address or a TMK on the advertising. Okay, I don't see any comments.

Okay, we're done with this part, so what I'm going to do real quickly is you guys passed today -- or, actually, last time you passed one amendment and then today you passed three. So let's just, real quick, go through these last ones. Now, when you did the short-term rental home bill, you had a motion to amend the 500-foot trigger -- oh, you included it for B&Bs. Okay. The 500-foot trigger, just to remind you, also includes if there's a -- if this is for the B&B, now we would add the short-term rental home. Okay. You had that in your motion. The second one you did today was the -- also included the B&Bs that was the native Hawaiian one, so I'll put that as a separate comment. And then the cap, you already went through and did 30. And then you already passed in the 5 years, so it looks like you guys, unless there's something else that you can remember --

Mr. Mardfin: So, Mr Chairman, for clarification, those are the amendments that we passed in this discussion are thereby included -- my motion was to recommend approval of the proposed bill as recommended by the Planning Department with amendments, and we now

know what those amendments were that passed, and so the motion on the floor is to approve the amended --

Chair Carvalho: And we did have a second for that before we proceeded, right?

Mr. Mardfin: Yes, we did.

Chair Carvalho: Correct. Okay.

Mr. Mardfin: We can have discussion if you want.

Chair Carvalho: Yeah. Any other discussion on that? Alright.

There being no further discussion, the motion was put to a vote.

It has been moved by Committee Member Mardfin, seconded by Committee Member Blumer-Buell, then unanimously

VOTED: to recommend approval of the proposed bill as recommended by the Planning Department with amendments.

Chair Carvalho: And motion unanimously passes.

Mr. Mardfin: Mr. Chairman?

Chair Carvalho: Ward.

Mr. Mardfin: I think we're going to do a couple things with Clayton but I wanted to thank Richelle and especially Gina for all their help in helping us get through this stuff, it was long, but I think it was valuable, and I, personally, am grateful for this for both of you guys.

Ms. Flammer: Well, if I could thank you guys as well too. You guys come up with some great ideas, and I know they'll continue to be talked about as we go through it, so thanks for all your hard work.

Ms. Thomson: And I agree. I think you're -- all of you are -- it's impressive to see that you have all read all of this and put some very good thought into it before you came, I can tell. I have -- this is related, although it's not related to the code sections that we're dealing with tonight for the B&B and short-term rental home, this is related to the tax rate for commercialized residential, so if you have a B&B or a short-term rental home permit, you lose your homeowners exemption and then you're also taxed at a different tax rate called "commercialized residential." What I wanted to point out is that commercialized residential

is actually a lower tax rate than regular residential by about a dollar per thousand of value, so that's just for your consideration, you know, whether or not you'd want to make any kind of general recommendation that when council is looking at budget, maybe they look at making that equal to or higher than regular residential, if that's what the feeling would be.

Mr. Mardfin: Mr. Chairman?

Chair Carvalho: Ward.

Mr. Mardfin: I certainly don't think it should be lower for the short-term rentals because they don't have a real property exemption anyway, legally, and so I don't think they should be getting a break; if anything, I think they should have a higher rate. For the bed and breakfast, I'm a little less frightened on that because they give up quite a bit when they give up that homeowners exemption, and I can't think of numbers that would make it that they were actually paying less real property tax for B&B with a lower rate and a loss of exemption than the higher rate with the exemption, so I'm not -- I guess I can live with it for B&Bs, but short-term rental, I think they ought to be paying a higher rate, not a lower rate, and they ought to be assessed at a higher rate than a lower rate.

Chair Carvalho: Thank you, Ward.

Mr. Yoshida: I believe real property is taxing short-term rentals at the hotel rate, so they're charging them \$9.00 per thousand, the same as if I had a condo in Kihei and I was renting it short-term.

Mr. Mardfin: Yeah, that I have a problem with too, the other way. I think -- I think that the hotel rates are too high for this kind -- for a short-term -- again, I'm not so sure about short-term rentals, but the B&Bs, I don't think they ought to be paying hotel rates, so --

Mr. Yoshida: No, the B&Bs are paying the commercialized residential rate. The short-term rentals are paying the hotel rate.

Mr. Mardfin: The short-term rentals are paying what rate, the hotel rate?

Mr. Yoshida: Hotel rate. Our office have received numerous complaints from short-term rental permit holders that real property is taxing them at the hotel rate.

Ms. Flammer: Just to clarify for the B&Bs. When you get your B&B permit, you go from a homeowners rate to the commercialized residential and you lose the \$200,000 homeowner exemption. The short-term rental, the assumption is you shouldn't be taking a homeowner rate if you don't live there, sometimes people move out, then it gets bumped from that, but, generally, it goes from residential up to hotel.

Mr. Mardfin: And residential is how much per thousand roughly?

Ms. Flammer: They just changed it all, it used to be about six, and then everything was just reduced, so it's around six.

Mr. Mardfin: Six, and hotel is nine?

Ms. Flammer: It was ten before, now it's nine-something.

Mr. Mardfin: I think it should be somewhere in between. I think, you know, you don't have all the infrastructure of a hotel, you know, you're not paying bell boys, you know, but I do think they ought to be paying extra in some fashion, how much extra is debatable, but hotel does strike me as a little on the high side.

Ms. Flammer: The vacation rental industry has put forth an idea where the dwelling itself would be taxed at hotel, and then the rest of the property would stay at a different rate, but that hasn't been called up though in the budget committee.

Chair Carvalho: John.

Mr. Blumer-Buell: Yeah, I'm not sure we have to take a position on this because the issue of tax rates and assessments are fought out every year during the county budget process, and there's even folks, at this point, that feel that the timeshare rates, which are by far the highest, are way too high, and the homeowners, I think with the exemption, are way too low, but those in combination with the assessed values are going to be subject to political debate every single year, so I don't -- even if we were to recommend something, I'm not sure if it would do any good. You have people lobbying on every side of the tax rate issue so -- I mean I've seen it change every year.

Mr. Mardfin: Yeah, you're right and -- but I think Richelle was just kind of asking our ideas I think, I didn't make a motion for anything, but I was kind of expressing my view, as an economist and a human being, and, you know, they listen or they don't listen. You can't do much about that. The Planning Department has no direct, as far as I know, has not direct impact on the taxing rates or how real property tax rates are done so, you know, I just gave my own mana`o.

Ms. Flammer: We've listed it as an unresolved issue in the short-term rental home report. I don't know if the chair of the planning committee has the ability to amend the tax classification.

Ms. Thomson: No. And the reason I brought it up was really just for general discussion purposes, not for any particular action.

Chair Carvalho: John.

Mr. Blumer-Buell: Yeah, I appreciate Ward's views on that, and I also wanted to thank Ward for being here today because I recall that you changed your schedule to be able to be here and --

Mr. Mardfin: Yeah, I was supposed to go to Kihei for the day.

Mr. Blumer-Buell: Yeah, well, you know, the fact that you come back, you're valuable on the Committee, so thanks for being here.

Mr. Mardfin: I love you guys. And I figured out, the thing I thought I was going to do on the other side got turned from a 9 to 12 meeting in Wailuku, which I would have gone to and come back for, and instead turned into a 9 to 4 meeting in Kihei, and I said I'm not going to do that, so I stayed around actually, I didn't drive back, but I love you guys.

Chair Carvalho: With that, we can move on to agenda item D, the Director's Report, Clayton.

D. DIRECTOR'S REPORT

- 1. Meeting day of the week, time, and place for future Hana Advisory Committee meetings for the current board year. *The Committee may take action on this matter.***
- 2. Scheduling of other Hana Region Applications**
- 3. Discussion of Future Hana Advisory Committee Agendas**

Mr. Yoshida: Thank you, Mr. Chair and Members of the Committee. I guess we have two pending Hana region applications; one is the quarry at Kawaipapa that we've been processing for a while now, and the other is the county special use permit at the Hana Airport to locate a cell -- private cell antennae there, and we're still in midst of processing that, so we don't have any immediate B&B or short-term rental home permits to bring to you. So that's that.

I wanted to talk to the board about possibly having the meeting time start earlier. If we go on these long meetings, and because we don't drive any -- I mean we don't fly anymore, you know, by the time we get home, it's like 10:30, and just for your consideration. Or maybe we could stay overnight at one of those permitted B&Bs or short-term rental, or the county might fund us to stay at Travaasa, but probably not. Probably not. But just for your consideration.

Chair Carvalho: John.

Mr. Blumer-Buell: Well, I think it would be appropriate, when we have long meetings, for both you and us to consider even for those of you that don't want to drive home or drive home late to be able to stay at one of the, you know, modest priced overnight things in Hana. I don't think that's unreasonable, you know, that road is dangerous and you can fall asleep late at night, and so if that's worth anything, I would support you being able to stay overnight, but I'll be here at an earlier starting time too if that's better, I mean three's -- I'm not sure. I think you'd need to survey to see how 3:00 would be for everybody.

Mr. Carvalho: We've been pretty good about our times up until these last two meetings, so I mean we can start earlier, I'm with either suggestion.

Mr. Mardfin: My only concern with starting earlier is people getting here for testimony, people work, and, you know, sometimes we have them, sometimes we don't, but if we made it much earlier, I think we'd be excluding people who might want to give testimony.

Mr. Carvalho: We could go on a meeting by meeting basis as well. Scott? John?

Mr. Blumer-Buell: Yeah, I have on concern, I don't know if this is appropriate, but I've had concerns brought to me by individuals about the quarrying operation and I hope, as part of the planning report, you'll bring SHPD, the State Historic Preservation Division, and have them take a look at what's going on there. The concerns, archaeological sites, and I haven't heard any burials, but I have heard archaeological sites as being a concern.

Mr. Yoshida: Okay, I guess so we'll keep that on a meeting by meeting kind of discussion item as far as possibly starting earlier, depending on how much public input we anticipate. Okay, with that, thank you for your diligence, I know we spent about eight hours on this, cumulatively, on this item, but very important because we'll be going to the three planning commissions in July, so we will summarize your comments and present it to the planning commissions and then to the council, and keep following the item however long it takes.

Mr. Mardfin: Thank you very much, Clayton, and I know you'll do a good job at conveying this to the, you and Gina will do a good job at conveying this to the commission and to the director. Thank you.

Chair Carvalho: Thank you, Clayton, for sitting through those eight hours and not saying more than a few hundred words. Thank you. Any other members have any other questions or comments tonight? Okay, if not, I'll hear a motion to adjourn the meeting.

E. ADJOURNMENT

Mr. Crawford: I move that we adjourn the meeting.

Chair Carvalho: Do I hear a second?

Mr. Mardfin: Second.

Alright, there being no further business brought before the Committee, the motion's going to be put to a vote.

It has been moved by Committee Member Crawford, seconded by Committee Member Mardfin, then unanimously

VOTED: to adjourn the meeting at 8:03 p.m.

Respectfully submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards & Commissions

RECORD OF ATTENDANCE

Present

Clayton Carvalho, Jr., Chairperson
Ward Mardfin, Vice-Chairperson (Arrived at 4:19 p.m.)
John Blumer-Buell
Ed Cashman
Scott Crawford

Excused

Ian Ballantyne
Anjoleen Hoopai-Waikoloa

Others

Clayton Yoshida, Planning Program Administrator
Gina Flammer, Staff Planner
Richelle Thomson, Deputy Corporation Counsel