

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

**M I N U T E S**

**Council Chamber**

**September 24, 2015**

**CONVENE:** 9:07 a.m.

**PRESENT:** VOTING MEMBERS:

Councilmember Don Couch, Chair  
Councilmember Robert Carroll, Vice-Chair  
Councilmember Gladys C. Baisa (left at 9:50 a.m. and returned  
at 10:25 a.m.)  
Councilmember Don S. Guzman (left at 2:13 p.m.)  
Councilmember Mike White (left at 11:58 a.m. and returned at  
2:29 p.m.)

**EXCUSED:** Councilmember Elle Cochran  
Councilmember Michael P. Victorino

**STAFF:** Jordan Molina, Legislative Analyst  
Greg Garneau, Legislative Attorney  
Pauline Martins, Committee Secretary

Ella Alcon, Council Aide, Molokai Council Office (via telephone  
conference bridge)  
Denise Fernandez, Council Aide, Lanai Council Office (via  
telephone conference bridge)  
Dawn Lono, Council Aide, Hana Council Office (via telephone  
conference bridge)

**ADMIN.:** Michael J. Hopper, Deputy Corporation Counsel, Department of the  
Corporation Counsel  
William Spence, Director, Department of Planning  
Joseph Alueta, Administrative Planning Officer, Department of  
Planning (Items 12, 13, and 4)  
John Rapacz, Zoning Planning Program Administrator,  
Department of Planning (Items 32 and 16)

**OTHERS:** Simon Russell  
Jack Naiditch  
Thomas Croly  
Plus (4) other people

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

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CHAIR COUCH: . . .*(gavel)*. . . Will the Planning Committee meeting of Thursday, September 24, 2015 please come to order. My name is Don Couch, I'm the Chair of the Committee. And I want to first before we start to ask everybody to turn their cell phones on to silent mode so that if it rings during the meeting we don't stop the meeting and ask who it was. So are you phones on silent?

COUNCILMEMBER BAISA: Yeah.

CHAIR COUCH: Okay, good. All right. I want to welcome the Committee voting Members. We have the Vice-Chair of the Committee Robert Carroll. Good morning.

VICE-CHAIR CARROLL: Good morning, Chair.

CHAIR COUCH: Okay. Gladys Baisa.

COUNCILMEMBER BAISA: Good morning, Chair.

CHAIR COUCH: Elle Cochran is excused. Don Guzman.

COUNCILMEMBER GUZMAN: Good morning, Chair. Thank you.

CHAIR COUCH: Good morning. Member Victorino is excused. And Council Chair White.

COUNCILMEMBER WHITE: Good morning.

CHAIR COUCH: Good morning, Chair. Okay. With the, from the Administration we have Planning Department Director Will Spence. Good morning, Mr. Spence.

MR. SPENCE: Good morning, Chair.

CHAIR COUCH: And the...I don't know what your exact title is.

MR. RAPACZ: Administrator.

CHAIR COUCH: Administrator of Zoning, John Rapacz. Good morning. And from Corporation Counsel, Deputy Corporation Counsel Michael Hopper.

MR. HOPPER: Good morning.

CHAIR COUCH: Good morning. And Staff, we have our Legislative Analyst Jordan Molina in the back over there. Good morning. Legislative Attorney Greg Garneau. Good morning.

MR. GARNEAU: Good morning.

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CHAIR COUCH: Committee Secretary Pauline Martins. Good morning. And in the Hana District Office, we have Dawn Lono. And Lanai District Office, Denise Fernandez, and Molokai District Office, Ella Alcon. Members, today on our agenda we have five items. We have PC-32, Transient Vacation Rentals in Planned Developments. PC-16, Amending the Comprehensive Zoning Ordinance Relating to Wet Bars in Dwelling Units. PC-12, Composting as a Permitted Use in the Agricultural District. PC-13, Park Zoning District Comprehensive Update, and PC-4, Residential Districts. First of all, we're going to start with...and then we also have from the Planning Department, Joe Alueta. Good morning, Joe. Let's see, that's everybody. Okay. We're going to have testimony here, open up for testimony. Anybody who's wanting to testify in the Chamber, please sign up at the desk outside the Chamber door. If you're testifying from a remote site please sign up with the District Office Staff. Testimony will be limited to the items I just listed. Pursuant to the Rules of the Council, each testifier will be allowed to testify for up to three minutes per item. I will also be allowing an additional minute to conclude testimony. And the lighting system we will be using, the green light will be on for three minutes, then it will go to yellow which means you have one minute to complete your testimony, and when it goes red, please end your testimony right then and there. Thank you. When testifying, please state your name and any organization you might be representing. Okay. Members, without objection, we'll open public testimony?

COUNCILMEMBERS VOICED NO OBJECTIONS

CHAIR COUCH: No objections. Okay. First up is Simon Russell, followed by Jack Naiditch.

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

MR. RUSSELL: Good morning, Chair, honorable Councilmembers. Thank you for hearing my testimony. I am the Maui County representative to the Board of Agriculture. I come in strong support of PC-12, composting as a permitted use in the Ag District. I think it's very important that our smallholder family farms are able to pursue this activity, bringing in outside sources of green waste to their compost piles to kind of scale up their composting operations. Right now if you're on a two-acre lot, chances are you won't generate enough green waste to really make significant piles of compost. Another reason I strongly support this measure is that we're experiencing the spread of little fire ant on Maui. One of the vectors for little fire ant is green waste. The other day I was driving to Hana and I saw a tandem truckload of green waste coming from the Hana Landfill to Central Maui. I would strongly encourage the County to stop that as soon as possible, because we all know that Nahiku has little fire ants. I personally have heard of farmers taking green waste to the landfill with little fire ants on it, meaning they're going to get to the Central Maui Landfill and spread around the island. I had an in-depth conversation with our agricultural, Chairman to the Board of Ag the other day, and basically the Big Island, it's pass the point of no return. There's no way they're going to contain the little fire on the Big Island anymore. On Maui we have the opportunity to contain little fire ant. I do believe that composting

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regionally is one of the solutions to containing little fire ant and would encourage you guys to pass this measure. That's about it really. Very important, I think regional composting is a solution also to lower the cost of agriculture production. I personally spent about 10,000 last year on compost for my farms. I run 30 acres on the North Shore and it's not really the compost is expensive it's the trucking, so if we can have regional composting systems like say Haiku, Hana, Kula, Central Maui, Lahaina, Wailuku areas where there is a lot of ag then we can not only reduce the cost to the farmer of trucking but also the spread of invasives. I've also been watching coqui frogs spread recently, and so the fact that MISC is unable to really contain the spreading of these invasive species means that we need to do more. Yeah.

CHAIR COUCH: Okay. Thank you, Mr. Russell. Members, any questions to the testifier? I have a couple.

MR. RUSSELL: Yes, sir.

CHAIR COUCH: So you're okay with outside sources? 'Cause typically composting is allowed as an accessory use for a specific lot.

MR. RUSSELL: Sure.

CHAIR COUCH: Ag lot. So you're okay with it coming out from outside sources? Because you say, your contention is that it helps either another person get rid of their green waste or you as a farmer on a two-acre lot to get more...or actually you have a 30-acre lot but to get more green waste so you can get compost on your site. Is that right?

MR. RUSSELL: Yeah. Because aggregating the green waste is a lot of work, and so if I have a landscaping contractor in the neighborhood or say Asplundh, you know, when they're chipping trees, come drop a huge pile. That's a heck of a lot of easier than me going around into gulches and so on and so forth collecting green waste. I think the composting process reduces the volume of green waste by about 70 percent, so you might have some huge pile of green waste and within 3 months it shrinks down to a pretty small pile. And if you're doing real acreage, you need a lot, especially in the wet areas where there's a lot of loss of nutrients from all the rain.

CHAIR COUCH: Okay.

MR. RUSSELL: Yeah.

CHAIR COUCH: And so even on a 30 acre, I mean a 30-acre lot is fairly large, that's a nice size farm. You don't have enough green waste to produce enough compost for your 30-acre lot so you need stuff to come in? Is that...

MR. RUSSELL: Yeah. I spent 10,000 last year on importing mulch and compost. Yeah. And all that came from other parts of Maui like West Maui, Central Maui, and if Haiku had its own green waste operation, I think that would be pretty good. I'm actually in

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negotiations right now also with...because I went to the Solid Waste Division, my concern about the spread of fire ant was pretty high and I went to the Solid Waste Division to talk about the movement of green waste out of Hana, and Sage who's, I think he's the Director [sic] of Solid Waste said that he doesn't want to move it out of Hana, it's very expensive. And so I've been in negotiation with the Hana Ranch and they've expressed interest in depositing the green waste and composting it on their property, 'cause they've got plenty but it's illegal until you pass this bill. So --

CHAIR COUCH: Okay.

MR. RUSSELL: --I think that would be good. And they've got 4,500 acres. I think they're only doing about 13 acres of veg cropping that needs compost right now, but I think they're going to scale up.

CHAIR COUCH: Okay. Thank you. Members, any other questions? Seeing none, thank you, Mr. Russell.

MR. RUSSELL: Thank you.

CHAIR COUCH: Up next is Jack Naiditch, followed by Thomas Croly.

MR. NAIDITCH: Good morning, Mr. Couch and Members of the Council.

CHAIR COUCH: Mr. Naiditch, can you bring the microphone closer to you?

MR. NAIDITCH: How's this?

CHAIR COUCH: Yep, much better.

MR. NAIDITCH: Good morning, Mr. Couch, Members of the Council, members of the Planning Department, Mr. Garneau. I'm here on behalf of Alaeloa which is a planned unit development on the West Side. And I'm here to respectfully request that you approve the proposed resolution PC-32. As you may know, PC-32 allows for planned unit developments in certain, in areas that have partial Residential zoning at least for planned unit developments which have certain criteria. There's only at this point two planned unit developments that I'm aware of that meet the criteria in the ordinance as it now stands, and that's Puamanu [sic] and Kaanapali Plantation. Both of those meet the requirements. Alaeloa is exactly the same as both those two projects with one exception, and the exception is that it has a number of duplexes which meets the criteria but it also has some single-family structures. If you look at the ordinance, the three criteria for meeting the ordinance are that the planned development received a final approval pursuant to this chapter, and at least one unit in the planned development was engaged in, as a vacation rental prior to 19...April 20, 1981. Alaeloa fits that criteria, it was formed in 1974. Its CC&Rs allow for TVR activity. It, units have been used for TVR activity since that time, so it meets that criteria. The second criteria is that the planned development must be located on parcels with at least some

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Residential District zoning. Alaeloa meets that criteria as well. Okay. The third criteria is the planned development consists of only duplexes or multi-family dwelling units. Alaeloa has 43 units, 1 is occupied as an office and by the manager so there's really 42 units that are owned by members. Of those, 17 are duplexes and...I'm sorry, 16 are duplexes and the rest are single-family dwellings. Now those small single-family dwellings have less density than duplexes or multi-family units. So from our perspective, they're less of a concern in terms of TVR activity. The, when the ordinance was first passed a year ago or more than a year ago, Alaeloa did not appear in front of this Committee to plead its case. It was noted at the time that the bill was passed that Alaeloa did not show up and therefore it was essentially excluded from this ordinance. So we respectfully request that there is from an equitable standpoint and from the fact that in every respect Alaeloa complies with the ordinance except for the fact that it has some single-family homes instead of multi-family units or duplexes, that the Council should amend the ordinance to allow for single-family units such as Alaeloa. If you have any questions I'd be happy to answer them.

CHAIR COUCH: Thank you, Mr. Naiditch. Members, any questions to the testifier?  
Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. Thank you for being here, Mr. Naiditch.

MR. NAIDITCH: You're welcome.

COUNCILMEMBER WHITE: How many are, how many of the units are owner occupied?

MR. NAIDITCH: I don't have the exact number but I can tell you that a majority of the units are owned by people who live on the mainland, who come and use their units on occasion and have their friends and guests stay at the units.

COUNCILMEMBER WHITE: Okay.

MR. NAIDITCH: So I don't have an exact number. There's not a high degree of vacation rental activity in the project. From my understanding currently talking to the president of the board--and I was hired by the board of directors who wants this to be passed because of their CC&Rs--there's as many as 5 or 6 who engage out of the 42 and maybe actively 2 or 3 at this time.

COUNCILMEMBER WHITE: So would you say there are likely no owner occupants or...

MR. NAIDITCH: No, no, there are some owner occupants, I'm just not aware of them. I'd say the vast majority, over 20 of the 42 units are owned by people who live on the mainland and come to use it as a vacation or allow their friends to stay there.

COUNCILMEMBER WHITE: Thank you. Thank you, Chair.

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CHAIR COUCH: Thank you, Mr. White. Members, any further questions? I have a couple. Are there any long-term rentals going on over there?

MR. NAIDITCH: Yeah, I believe there's six or so long-term rentals.

CHAIR COUCH: Okay. And these units that are being rented long term, do you have an idea of what the rental rate is?

MR. NAIDITCH: When speaking to the president, his understanding was that the rental rates are 3,500 to 4,000, in that neighborhood for the single-family homes. But I could check on that fact and get back to you with an exact number. And then there's duplexes and I don't know what the rental rates on the duplexes are.

CHAIR COUCH: Okay.

MR. NAIDITCH: I do know that these units sell in the market, a duplex that doesn't have the best view might sell for as low as 550 or 600. The other units can go as high as a million and a half.

CHAIR COUCH: Okay.

MR. NAIDITCH: If that gets you a sense about the valuation here.

CHAIR COUCH: Okay. Members, any further questions? Seeing none, thank you, Mr. Naiditch.

MR. NAIDITCH: You're welcome.

CHAIR COUCH: Next up is Tom, Thomas Croly and he was the last person to sign up to testify. Anybody else who wants to testify, please sign up in the back and come on down when we call your name.

MR. CROLY: Aloha, Chair. Aloha, Members. Thomas Croly testifying on my own behalf. I'm testifying on two issues, one is the one that you just heard about and then the second is the wet bar issue. On the first one that this particular measure really as already explained applies only to Alaeloa. I think it's the only planned unit development that would be affected by this. I was disappointed to see this thrown away at your last Council meeting, and I didn't quite grasp why, whether there was something defective in the bill that was going forward or whether there was lack of understanding as to what it applied to. But it's one of just hundreds of things that are in our County Code that needs to be cleaned up. It's more a housekeeping measure than it is a policy change in any great way. Our County Code is full of a lot of exceptions and a lot of, you know, unique situations and so forth, and I applaud this Council when it makes an effort to try to clarify these and make it simple so that our enforcement people, you know, aren't wasting their time and that kind of thing. This particular measure as we talked about just applies to Alaeloa, a planned unit development. It's interesting

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because there's parallels to three other properties in very similar situations, Mahina Surf that you just got a Change in Zoning, also R-3 zoning but not a planned unit development. So you get to these finite, you know, little differences between them, and their short-term rental is I guess based on what the Deputy Director said the last time, grandfathered in based on their use from 50 years ago. Then we have International Colony Club, also R-3 zoning but not multi-family so their short-term rental use is not grandfathered in and we have to go get permits for those guys or we have to figure out some other solution for those guys. And then we have Molokai Beach Cottages, another R-3 zoning or not, actually I think they're Interim zoning but a similar development where you have these single-family units built and condominiumized. And each of these presents a different problem, but I can say all of them have been short-term renting for more than 30 years, but we now need to figure out a way to continue that without making it too difficult. So I support this unit...this measure to try to correct it for this one place. Chair White asked about the number of units and I'm not familiar with Alaeloa at all, I've never even been there, other than looking at the tax record and looking at it on the map. And yes, there's 43 units, 10 of the units are paying Hotel/Resort taxation. Whether or not they're renting Hotel/Resort, you know, using it as short-term rental I couldn't say, but they're using Hotel/Resort. Four of the units are claiming a homeowner exemption, and 29 of the units are shown as Residential so they could simply be second homes and/or they could be rented out. You have some testimony. So it's a mix. And the assessed values are between 700,000 and 2 million, so, you know, you have a pretty high range there as far as what they sell for. But again, I encourage you to take this. I don't think this is a policy change in any way, shape, or form. I don't think this is going to change the availability of housing in, on Maui in any way. It's just going to essentially legalize a use that's been taking place for what, 45 years or more in this particular place. Shifting gears now to the second issue which is the definition of a wet bar. I think we have the wrong tool here for what we're trying to accomplish. I've thought a lot about this and I'm very familiar with what kind of started this. And I do believe that it's bad policy to set a policy based on some outlier. Here's someone who, you know, abused the law and worked his way around it so now we're going to set up a policy, because the results of this policy are going to affect everyone on the island. And a lot of the folks on the island that this is going to affect are people who have long-term rentals that are making their homes in single-family homes that boy, if we used the letter of the law here that we'd be ready to pass, we could be having people lose their homes. I also don't like it as a matter of policy because I don't think that our enforcement sources should be used tracing down how big a refrigerator is or whether a microwave oven exists on a countertop or, you know, that's just not good, a good use of our resources there. The only thing that I like about this particular measure is that it says we don't want to have a 220 outlet sitting here next to this sink. That makes sense from a building standpoint, and I think we need to educate the plans examiners so that when someone comes in and says this is a kiln, wink, wink, wink, and this is a sink next to it, we kind of know what they're trying to do and we put a higher level of scrutiny at that level. If the concern here is with the bed and breakfast rooms then let's address that in the Bed and Breakfast Ordinance. Let's, you know, come up with what the criteria for what would and wouldn't be allowed in a



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room or a studio that's allowed for bed and breakfast. On a side note, I noticed in San Francisco, they currently have an amnesty going on for what they're calling "in-law units." What these in-law units are are exactly what we're trying to address here. They're where someone has taken a single-family home and they've turned it into multi units, and they have a housing crisis in San Francisco even greater than ours apparently. Someone that I know just took a studio apartment in San Francisco for \$4,000 a month so that gives you an idea. But what they've decided to do there is say all right, we're not going to make you take out these illegal kitchens and these in-law...just come in and tell us about them so that we have them on record and so that, you know, we can do some safety inspections and make sure they're safe. They are saying we're not going to enforce our zoning laws and some of our building laws because housing is more important, and I kind of think that that's where this measure falls to some degree. We might want to really button this down but it's going to affect our housing in a much, much, much bigger way than any kind of short-term rentals or transient vacation rentals have ever. Okay. There's thousands of people making their homes in Maui County in, using these "wet bars" as kitchens. So I think it's a dangerous measure to push forward in its current form. I recognize the problem. I think we should deal with it in other ways, in the building plans examination, in the Bed and Breakfast Ordinance, but I don't support this measure as it's proposed. Thank you.

CHAIR COUCH: Thank you. Members, any questions to the testifier? Seeing none, thank you, Mr. Croly.

MR. CROLY: Thank you.

CHAIR COUCH: All right, let's go to the Hana Office, any testifiers there?

MS. LONO: The Hana Office has no one waiting to testify.

CHAIR COUCH: Thank you. The Lanai Office?

MS. FERNANDEZ: There is no one waiting to testify on Lanai.

CHAIR COUCH: Thank you. And Molokai?

MS. ALCON: There's no one here on Molokai waiting to testify.

CHAIR COUCH: Okay. Members, seeing as there's nobody here rushing to testify here or, and there's no one in the District Offices, without objection, we'll close public testimony.

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR COUCH: Okay, great.

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

CHAIR COUCH: All right, thank you, ladies. I think I pressed the right button.

#### **PC-32      TRANSIENT      VACATION      RENTALS      IN      PLANNED      DEVELOPMENTS** **(CC 15-220)**

CHAIR COUCH: All right, Members, we're going to start off with--I see when the cat's away the mice will play--PC-32, Transient Vacation Rentals in Planned Developments. This item was previously in this Committee, it passed out seven to zero, and unfortunately I was not able to attend the Council meeting where this was brought up. And for some reason it was denied two to five. So I guess I have a question as to what the concerns are of the Members, and to see whether or not we want to continue with this. As a Committee Chair and as this Committee, I thought it was pretty unanimous that we're okay with passing it to Council. So I guess I will open it up to the Members who have some concerns with this and see if we can allay those concerns. Anybody want to give it a shot? Mr. Guzman?

COUNCILMEMBER GUZMAN: Oh, thank you, Chair. I actually was not present during the Committee when this was discussed. I was, I had a surgery done on my wisdom tooth, so I think I wasn't here during that time. But I wasn't sure whether this actually applied to more than...I guess my question would have been are those the only planned development areas that would be affected or are there more? Like could there be other planned development areas in the future that could be affected by this --

CHAIR COUCH: Okay.

COUNCILMEMBER GUZMAN: --ordinance? And why in, why was the intent to exclude those planned developments that had single-family units? What was the rationale behind that language?

CHAIR COUCH: Okay. When we had this, I believe it was in 2013, it might have been 2012, 2013, there was a concern, there were four planned unit developments. Remember, this also says on or before April 20, 1981, so no future planned unit, planned developments will be affected. It's only those that were --

COUNCILMEMBER GUZMAN: Oh, right. Okay.

CHAIR COUCH: --yeah, on or before April 20, 1981. So the question was we had contacted, somebody had contacted all four of the people, all four of the units, planned developments affected and did not, we did not get anything back from Alaeloa. So Ms. Cochran had a concern... 'cause that's in her district and had a concern about the folks at Alaeloa saying wait a minute we're not, I'm not sure what's going on. So her

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comment was can we make sure Alaeloa is not included in the original bill and we said yeah, we can look at that. And the way we were able to say okay, exclude Alaeloa, we knew that Alaeloa had some single-family homes and some residential...and some multi-family homes.

COUNCILMEMBER GUZMAN: Oh, okay, okay, okay.

CHAIR COUCH: It was the only one of the four that were affected. So we said we'll throw in there that they're only multi-family and that will eliminate, exclude Alaeloa from that. Now if we take this out, this will allow Alaeloa to do it. Now the question is prior, at the prior Committee meetings that we had for the previous bill, there was an acreage size that was in there, it was one of the items, and we pulled that out for some reason, and I can't remember why. That was a while back. We can add that acreage size back in or we can tweak it a little bit more so that there are other planned unit developments that aren't doing and have never done short-term rentals, we don't want to allow them to fall into that category. So and --

COUNCILMEMBER GUZMAN: Okay. Yeah.

CHAIR COUCH: --that's the rationale, so I want to bring it to the Department to say okay, he has some questions on what else will be brought in if this language was taken out. Mr. Spence?

MR. SPENCE: Committee Members, I have with me Zoning Enforcement Division Chief John Rapacz. We have some concerns about the way that it is, that this bill is written that we'll have possibly more units than just this one development that would be allowed to have vacation rentals. But, Mr. Rapacz.

MR. RAPACZ: Thank you, Mr. Chair. I do have some familiarity with this having been involved in the beginning on the Puamana aspect of it. As the changes are proposed now, your Item 3 in the bill essentially would be deleted, Item H-3 which says that the planned development would have to consist of only duplex or multi-family. That change...well in order to accommodate or include Alaeloa, you would have to allow it in planned developments that have single-family plus either duplex or multi-family. And I'm looking to Mr. Naiditch now just to sort of get his nod that if it were to allow single-family or require single-family plus either duplex or multi-family then Alaeloa would still qualify. That's my understanding. The concern is when you delete this limitation, this qualifier on duplex or multi-family, that opens it up to all planned developments built before 1981 and with a single unit having been rented before '81. So back when there was an acreage limitation in the bill and that acreage limitation, my recollection is it was removed to allow Kaanapali Plantation to qualify. That acreage limitation had also eliminated some single-family planned developments. One that comes to mind is I believe it's called Pukalani Fairways that is a exclusively single-family planned development, and I believe it was built before '81. I don't know if anyone was renting short term before '81, but there may also be others out there that are just single-family and would meet the other two criteria and then would be

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allowed to do short-term rentals at those single-family planned developments. So to accommodate Alaeloa and that type of development, I think that you could keep the existing language that says consists of only duplexes or multi-family and add the language "or consists of single-family and duplex or multi-family." So a pure single-family planned development would not qualify, it would only be planned developments that have single-family that also have duplex or multi-family in them. I think that would accomplish what it's intended to and not open the door to pure single-family planned developments.

CHAIR COUCH: That were built before 1981.

MR. RAPACZ: That were built before '81, yeah.

COUNCILMEMBER GUZMAN: Good. I mean that to me, Chair, it makes, it just clarifies everything for me.

CHAIR COUCH: Okay.

COUNCILMEMBER GUZMAN: That was one of, one of my hindrances was like, well how far does this ordinance affect, you know, the other planned developments, and so would it include...would the, I guess the class or the amount or the number of planned developments that are utilizing this ordinance, would it increase? And I, you know, I can just put that on the record, I don't want it to increase.

CHAIR COUCH: Sure.

COUNCILMEMBER GUZMAN: So...

CHAIR COUCH: So you're okay with Alaeloa going...

COUNCILMEMBER GUZMAN: Yeah.

CHAIR COUCH: Okay.

COUNCILMEMBER GUZMAN: I mean I'm okay with that language --

CHAIR COUCH: Okay.

COUNCILMEMBER GUZMAN: --as long as it's not...if we do include that language, the two part, whether it's going to be...what was it say, the original language that we have there or single-family or duplex, what did you say?

MR. RAPACZ: It would be single-family plus --

COUNCILMEMBER GUZMAN: Plus.

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MR. RAPACZ: --duplex or multi-family. So if it were single-family it would also have to have some duplex or some multi-family.

COUNCILMEMBER GUZMAN: Right. So then we're going to have to draft it in a way that it's either one section or --

CHAIR COUCH: Right.

COUNCILMEMBER GUZMAN: --the other half of the...

CHAIR COUCH: Adding or single --

COUNCILMEMBER GUZMAN: Yeah.

CHAIR COUCH: --family and at least...

COUNCILMEMBER GUZMAN: So it's not being read as or --

CHAIR COUCH: Correct.

COUNCILMEMBER GUZMAN: --or, or, or, or.

CHAIR COUCH: Correct.

COUNCILMEMBER GUZMAN: And so it's basically --

CHAIR COUCH: And we're fine with that.

COUNCILMEMBER GUZMAN: --pointless at that point.

CHAIR COUCH: Right.

COUNCILMEMBER GUZMAN: Yeah.

CHAIR COUCH: Okay.

COUNCILMEMBER GUZMAN: Little slow on the gun this morning.

CHAIR COUCH: Okay. That's all right. Any other comments, Mr. Guzman?

COUNCILMEMBER GUZMAN: I think that's it for right now. I'll just wait for my colleagues to ask some questions.

CHAIR COUCH: Okay. Chair White, you had raised your hand as well?

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COUNCILMEMBER WHITE: Yeah. Thank you, Chair. Would the changes as noted by the Department allow the two developments that Mr. Croly brought up to qualify as well or not?

CHAIR COUCH: Yeah, Mr. Spence or Mr. Rapacz, Mr. Croly brought up...one that we're trying to figure out how to deal with now is International Colony Club which was built at, all single-family homes. It was built for...I mean they have an office that was supposed to be doing their rentals, and it's one TMK condominiumized which is really an odd situation. So it's got 20-some units or I can't remember how many single-family homes all on one TMK that's been condominiumized. So right now they're only allowed one if they get a short-term rental home permit.

MR. RAPACZ: Right. I...thank you, Mr. Chair. I'm, I don't know whether that has a planned development approval. If it does and if it were pure single-family and you were to leave your proposed changes as is and it were built before '81 and rented before '81 then it would qualify. If you were to adopt the language that I've suggested then it would not qualify because it would be pure single-family, it would not be single-family plus --

CHAIR COUCH: Right.

MR. RAPACZ: --some duplex or multi-family.

CHAIR COUCH: Okay. And I believe in my research as well, I believe International Colony Club at least was not a planned development, it was a different type. We had a lot of things going on pre-1980s so.

COUNCILMEMBER WHITE: And does the Department have any idea how many homeowners there are in International Colony Club versus second homes? Mr. Croly probably knows.

CHAIR COUCH: Well, I would think that this language in here since it's not a planned development, I don't recall seeing that on it. We had a matrix we passed out in the prior, when the first version of this bill came out and I don't believe it was on that matrix.

COUNCILMEMBER WHITE: Yeah. Like the Department and Mr. Guzman, I'm not excited about opening, you know, opening the doors to --

CHAIR COUCH: Right.

COUNCILMEMBER WHITE: --the loss of a significant number of rentals, long-term rentals. And I think what happened at the Council level is, you know, sometimes Mr. Hokama sees things in bills that the rest of us don't necessarily see the same way and he brought up a concern that all of us are very sensitive to. And to be honest I had misplaced where, which Alaeloa was and so I was envisioning another development.

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CHAIR COUCH: Gotcha.

COUNCILMEMBER WHITE: And so I felt compelled to support Mr. Hokama's concerned.

CHAIR COUCH: That's okay.

COUNCILMEMBER WHITE: So I'm glad that you brought it back to Committee and that we're having this discussion.

CHAIR COUCH: Sure.

COUNCILMEMBER WHITE: Because I don't think any of us want to see the loss of significant numbers of long-term rentals.

CHAIR COUCH: Right.

COUNCILMEMBER WHITE: And I know if we, when we send this to the Planning Commission, they're similarly concerned about --

CHAIR COUCH: Exactly.

COUNCILMEMBER WHITE: --loss of long-term rentals.

CHAIR COUCH: Yep.

COUNCILMEMBER WHITE: So...

CHAIR COUCH: And that's the other portion of this, we're just sending this right now to the Planning --

COUNCILMEMBER WHITE: Right.

CHAIR COUCH: --Commission to see, get the public input there too. Then it will come back to us again for another shot.

COUNCILMEMBER WHITE: Right.

CHAIR COUCH: Okay?

MR. SPENCE: Right. And...

CHAIR COUCH: Mr. Spence and then Ms. Baisa.

MR. SPENCE: And, Mr. Chairman, we will be looking over that list and doing additional research when it come...if...when the reso comes down to us.

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CHAIR COUCH: Okay.

MR. SPENCE: Assuming it passes.

COUNCILMEMBER WHITE: Okay.

CHAIR COUCH: Okay.

COUNCILMEMBER WHITE: Thank you, Chair.

CHAIR COUCH: Ms. Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair. Chair, I'm real comfortable with sending this to the Planning Commissions to take a look at. But I'm kind of stuck on something I heard earlier in this meeting and I wanted to at least bring it up. You asked the question or somebody asked the question about what the rentals were going for, and I heard an answer between 3,500 and \$4,000 a month. You know I'm as concerned as everyone else is about the lack of long-term housing, but how much of this kind of housing would help us with the folks that we're concerned about providing housing for? I don't see the connection. The people that we're concerned about cannot afford that kind of rent. So is the concern real?

CHAIR COUCH: Right. And also if those units at Alaeloa are rented out as short-term they get a higher tax rate as well, as opposed to long-term, at the high-end long-term.

COUNCILMEMBER BAISA: So, you know, I'm sure this'll be part of the discussion at Planning Commission but --

CHAIR COUCH: Yep.

COUNCILMEMBER BAISA: --for me I don't see it solving our housing problem.

CHAIR COUCH: Okay. Thank you. Members, any other comments? Mr. Guzman?

COUNCILMEMBER GUZMAN: Chair, are you going to send the proposed language from Planning along with the or amend the ordinance prior to it going to the Planning Commission?

CHAIR COUCH: Yeah. Yeah, well whatever the Committee decides. I'm fine with Mr. Rapacz's additional language. Just a couple things that Staff has been working on as the questions came up. One is International Colony Club is not on that matrix so they wouldn't be affected one way or the other. Pukalani Fairways were not developed before 1981 so that's --

COUNCILMEMBER GUZMAN: Okay.



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CHAIR COUCH: --another issue. Thank you, Staff, for coming up with that. Okay. So any further discussion? Then what I'd like to do is, Mr. Rapacz, you had come up with some actual language. The suggestion is to leave in...and then, Members, looking at Exhibit "A" on the resolution, to leave in H-3 and then add the words "or consists of some single-family and some either duplexes or multi-family dwelling units." Something like that, Mr. Rapacz? You can...since you're the guy who has to do the interpretation and enforcement, I need some assurances from you.

MR. MOLINA: Mr. Chair?

CHAIR COUCH: Yes?

MR. MOLINA: If you would like we can prepare the proposed language to circulate to the Members so that they're able to read what, the proposal before the Committee.

CHAIR COUCH: Okay. Members, if you're okay with about a ten-minute recess, we might as well do our midmorning recess and then we'll come back with the language for you. Okay with that? All right. So we'll be in a recess until ten o'clock. This meeting is in recess. . . .(gavel). . .

**RECESS: 9:50 a.m.**

**RECONVENE: 10:09 a.m.**

CHAIR COUCH: . . .(gavel). . . please come back to order. Okay, Members, we will...have handed out or will hand out the proposed language, and I will read it. H says "transient vacation rentals shall be permitted in planned developments except for developments that have been publically funded, and except that all of the following shall apply to the planned development." And we know, we talked about one and two. Number three, "the planned development consists of only" duplexes, "A, duplexes or multifamily dwelling units, or B, a combination of single-family and duplexes or multifamily units." So, Mr. Rapacz and/or Mr. Hopper, does that handle the language that everybody has concerns about?

MR. HOPPER: Thanks, Mr. Chair. Again, I don't have the background of the particular location so it would, I mean it would probably be a good idea when it's presented to the Planning Commissions for that information to be --

CHAIR COUCH: Okay.

MR. HOPPER: --provided. But I mean the language right now does seem to deal with the intent of what was discussed earlier.

CHAIR COUCH: Okay. All right. Mr. Rapacz, you're okay with that too?

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MR. RAPACZ: Yes, Chair.

CHAIR COUCH: And remember, Members, this is just to send it down to Planning Commission where we can have more public input and more discussion, and it may come back different or it may come back as a denial so we'll see. Any questions the Members have having seen the language and heard it? Mr. Guzman, are you okay with that? You are the one that had some of the concerns.

COUNCILMEMBER GUZMAN: No, no, no. I mean thank you very much. I'm satisfied with the draft language on it. Just for, just preliminarily for the process, did it, did this go through the Planning Commission prior to us sending...

CHAIR COUCH: No, this is us to send it down to them.

COUNCILMEMBER GUZMAN: Right, right, right. So when it went to the Council for, it never went through Planning Commission?

CHAIR COUCH: So on the Council floor was to send it to --

COUNCILMEMBER GUZMAN: Send it to, okay, okay.

CHAIR COUCH: --Planning Commission.

COUNCILMEMBER GUZMAN: Okay, okay.

CHAIR COUCH: Right.

COUNCILMEMBER GUZMAN: Thank you.

CHAIR COUCH: Yeah, Mr. Hopper?

MR. HOPPER: And keeping in mind the version of this bill without that additional language at the end did go through the Planning Commissions when it was passed the first time. You know in order to...it was passed and then it was found out afterwards that it doesn't, didn't include the language for the additional development. Correct?

CHAIR COUCH: Right. The initial Puamana bill --

MR. HOPPER: Right. Yeah.

CHAIR COUCH: --what we called the Puamana bill way back in 2014...

COUNCILMEMBER GUZMAN: Right, right, I recall that.

MR. HOPPER: Yeah.

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CHAIR COUCH: Yeah.

COUNCILMEMBER GUZMAN: But yeah, I was just wondering.

CHAIR COUCH: That went through, but this version --

COUNCILMEMBER GUZMAN: Did not.

CHAIR COUCH: --was just to send it to --

COUNCILMEMBER GUZMAN: Okay.

CHAIR COUCH: --Planning Commission.

COUNCILMEMBER GUZMAN: Okay. Thank you.

CHAIR COUCH: And it didn't make it that far. All right. Is everybody...have any more questions? Mr. White?

COUNCILMEMBER WHITE: Just something for the Planning Commission to consider or the Department to consider, I was right, Mr. Croly did have the numbers for International Colony, and there are 25 units there that are paying the Resort level of tax so that suggests that there are 25 that are doing transient vacation rentals. And there may be more than that but that's how many are actually reporting. And only I believe five were claiming homeowners. So, you know, do, does the Department want to have 25 folks coming in and applying for permits and actually only 1 because it's...

CHAIR COUCH: Only one can apply at this point but that's on the short-term rental side. They're not a planned development. It's not a, it wasn't done under a planned development so it wouldn't apply.

COUNCILMEMBER WHITE: Just something that we or the Planning Commission should at least take a look at.

CHAIR COUCH: Correct. But I don't know that it could happen in this bill --

COUNCILMEMBER WHITE: Yeah.

CHAIR COUCH: --or not. It might be if it can, but that is something to take a look at as well.

COUNCILMEMBER WHITE: Yeah.

CHAIR COUCH: Okay. Any other comments? Okay. If...I haven't seen any comments, I would want to make my recommendation.

COUNCILMEMBER WHITE: Recommendation.

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CHAIR COUCH: Well...oh, I'm sorry, I do have a comment.

COUNCILMEMBER WHITE: Sorry, it's too late.

CHAIR COUCH: Procedurally I know some folks had some concerns about where this matter lies procedurally, is it still at Council, is it back here. Having done some research, I know Mr. Hokama had some real concerns that this is done and we have to reintroduce it and I kind of agreed with him until I did some research. And I did some research and Robert's Rules of Order does allow for us to pretty much keep it here and resubmit it. Staff actually did in July a effects of a lost motion, and essentially it says that because we haven't done anything at the Council level, we didn't file it and we didn't recommit it, it's just still here with us and we can push it back at Council. So if there's any concerns, I know Mr. Hokama had some concerns and I have done some research. So it seems that we're okay here, and if we have questions by the time it gets back to Council, we'll go over those. Mister, Chair White?

COUNCILMEMBER WHITE: Well, I'll just add that at the Council meeting I asked the question whether we need to recommit, and the comment I got from Staff at that time was no because we didn't file it so it's still in Committee.

CHAIR COUCH: Good.

COUNCILMEMBER WHITE: So I would agree with your summary.

CHAIR COUCH: Okay. All right. That being said it's the Chair's recommendation that we adopt...I'll entertain a motion to recommend adoption of a proposed resolution entitled Referring to the Planning Commissions a Proposed Bill Relating to Transient Vacation Rentals in Planned Developments; incorporating any nonsubstantive revisions and incorporating the language that we just passed out.

VICE-CHAIR CARROLL: So moved.

COUNCILMEMBER WHITE: Second.

CHAIR COUCH: Okay. It's been moved by Mr. Carroll...then we need a second first.

COUNCILMEMBER WHITE: I just said...

CHAIR COUCH: Oh, I'm sorry, I didn't hear you. Seconded by Member White or Chair White. Any discussion? Yes, Mr. White?

COUNCILMEMBER WHITE: Yeah. And I think that Mr. Hokama will probably be pleased because we've tightened it up, and I think his concern was likely that we were opening a door that we had left a little bit too far open. So...



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**PC-16      AMENDING THE COMPREHENSIVE ZONING ORDINANCE RELATING TO WET  
BARS IN DWELLING UNITS (CC 15-66)**

CHAIR COUCH: Okay, next up is PC-16 which is Amending the Comprehensive Zoning Ordinance Relating to Wet Bars in Dwelling Units. We are, Members, we're in receipt of County Communication 15-66, from the Planning Director, transmitting a proposed bill relating to wet bars in dwelling units, and a correspondence dated September 16, 2015, to the Department of Corporation Counsel, transmitting a revised proposed bill entitled A Bill for an Ordinance Amending the Comprehensive Zoning Ordinance Relating to Wet Bars in Dwelling Units. Also I believe we, I sent a proposed revision to the binder, it's on page...here we are. It's dated September 16, 2015, from me, it's a request for legal services. It was dated and signed by or stamped by Mr. Hopper on 9/18/15 and approved, so we're going to work off of that language. Does everybody have that in their possession and open to that page? All right. Members, we basically reworded it so everybody's happy with the language, the Department and our Staff. It basically says Section 19.04.040, Maui County Code, is amended by defining, adding a new definition to be appropriately inserted and to read as follows: "Wet bar' means an area within a dwelling unit, other than a kitchen, used for the preparation and serving of beverages that contains a sink that is one-and-one-half cubic feet or smaller and at least one of the following: refrigeration seven-and-one-half cubic feet or smaller; an ice maker; a small mixing or blending appliance; or a small appliance for the preparation of hot beverages, such as a coffee maker. For the purposes of this title, the area shall be considered a kitchen if any of the following are also present: a sink larger than one-and-one-half cubic feet; refrigeration larger than seven-and-one-half cubic feet; a 220-volt electrical outlet; a gas or propane service line; a dishwashing machine; a garbage disposal; a range hood, exhaust vent, or similar equipment; a stove, range, or oven; or any other appliance for the heating or cooking of food. No more than two wet bars shall be permitted in a dwelling unit that is less than 5,000 square feet in total floor area. No more than three wet bars shall be permitted in a dwelling unit that is 5,000 square feet or more in total floor area. No wet bar shall be permitted in a bedroom or a bathroom. That is pretty much all. I know it was, it's quite different from the original bill, but I think this fits everybody's concerns. Department, you want to be first up on this?

MR. SPENCE: Sure, Mr. Chairman. Thank you. We're looking at this I think for the first time. It appears that it has all the components that we wanted. Mr. Rapacz might have some comments. I would say for the record this is much more than about bed and breakfasts and abuses. That has very little...I mean it has to do with it but it has, it's not the primary considerations. The primary consideration is that we have, right now the, a single-family residence has a single kitchen in it. When we get building plans and people label things as wet bars, lacking a definition of a wet bar, to us it's a kitchen. And so we, we'll get multiple kitchens within a set of plans and we turn those plans around and say no or we can, and we really, we struggle with it. Because we want people to be allowed to have their, to have wet bars, we want those things to be able to take place. Lacking it...this definition will go a long ways towards aiding the plans checkers and being able to just sign off without delay instead of sitting around

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in our office waiting for an answer, waiting for the supervisor or the Planning Director to make a call on is this a wet bar or is this a kitchen. It's a huge waste of time and we do this dozens of times every year when we look at building plans. Having a definition that we can look at is going to make a huge difference in the expediency of granting single-family residential building permits. So I really thank the Committee for taking this up and taking such time with it. I know there's a lot of other questions about, you know, multiple units in single-family dwellings and all those. To me, those are different issues and I'm entirely happy to take those up with the County Council and with the rest of the Administration. I know it's out there and there is a big need for additional units and et cetera, I'm happy to work together to make those considerations as a separate matter. But in the meantime, this goes a long ways towards helping the Department perform its functions.

CHAIR COUCH: Okay. Mr. Rapacz?

MR. RAPACZ: Thank you, Mr. Chairman. One other perspective I'd like to add and that is from the viewpoint of the general public. I think that when the government is going to regulate what someone can or cannot do inside their own home or cannot build inside their own home, we need to be very, very clear about it so that the public knows exactly what is allowed and what is not allowed. That's true as the Director said when they are proposing to build something and we're reviewing plans, but it's also true in general when they simply want to add something inside their home and we happen to be there on inspection for another reason. Whether that reason might be related to short-term rental homes or a complaint from a neighbor, or we're, you know, in looking, inspecting the property for a different reason altogether and we run across something and we can't tell whether it's a kitchen or a wet bar. As the Director said, right now the definition of kitchen is very broad and so all of these things that are being proposed as wet bars, they fit the definition of a kitchen and we could call them a kitchen and say you can't have that second one, you're only allowed one kitchen. This will allow the public to have these items and to know exactly what they can have and that we won't be having a problem with it. So I think it'll be very helpful in that regard. I don't know if you want to get into any particulars of the language right now, Mr. Chair, or save that for a later discussion on the topic?

CHAIR COUCH: Well, let's see if the Members have any comments first.

MR. RAPACZ: Thank you.

CHAIR COUCH: Members, seeing this new language, it was again the September 16<sup>th</sup> request for legal services, any concerns with this language? I think it, like I said it pretty much answers a lot of the concerns that we had had before, and I'm fine with this language as it is. Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair. On Paragraph 2 when it has the language the following is also present, does that mean any of the items that are listed in

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addition to Paragraph 1? Or does that mean if you have a single 220-volt electrical outlet that's considered a kitchen without Paragraph 1 items?

CHAIR COUCH: That's a good...so it's saying if any of the following are also present.

COUNCILMEMBER GUZMAN: Yeah. So does that mean that the items listed in Paragraph 1, if those are found and in addition to that...oh well, Paragraph 1 allows, right?

CHAIR COUCH: Right.

COUNCILMEMBER GUZMAN: But you have one of them, in Paragraph 2 it disqualifies, it's considered . . .*(inaudible)*. . .

CHAIR COUCH: If any of those are also present, it makes it a kitchen.

COUNCILMEMBER GUZMAN: Okay, okay.

CHAIR COUCH: Is that how you would interpret that, Mr. Rapacz?

MR. RAPACZ: Thank you, Mr. Chair. Yes, I would. And I'm not sure that that's what the Committee had intended based on the changes from the last draft to this draft. What that would mean is that you would first have to have the components of a wet bar, so you'd have to have a sink and then one of those following wet bar items. Then you would also have to add one of these Paragraph 2 items in order for it to be a kitchen. Now I think that if you have a sink larger...and I'm looking in Paragraph 2, a sink larger than 1½ cubic feet and you have a refrigerator and a 220-volt outlet, that should be enough to call it a kitchen right there. You shouldn't have to also have the components of a wet bar. So I'm not sure --

COUNCILMEMBER GUZMAN: Okay, yeah. That...

MR. RAPACZ: --why the also is in there.

COUNCILMEMBER GUZMAN: It's not very clearly written as you've described or explained it.

MR. RAPACZ: So let's say for example you had all of the items in Paragraph 2, that would clearly be a kitchen. Right? But it says that an area shall be considered a kitchen if the following are *also* present, meaning, also meaning in addition to the wet bar components in the preceding paragraph.

CHAIR COUCH: Right. But those components are a refrigerator, a sink, and some or at least a small mixing or blending appliance. So all of those would include...I guess this is for you to be able to say no, that's a kitchen and not a wet bar. Because you still have the definition of kitchen further out in 19.04, right?

UNIDENTIFIED SPEAKER: Right.



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CHAIR COUCH: This doesn't change the definition of kitchen, this adds to the definition of a kitchen. If somebody says this is a wet bar and it says I've got this, you know, everything or one of the things in Paragraph 1, but it also has a 220 volt or something like that, you say no that's not a wet bar, that's a kitchen. This isn't, in my mind this isn't defining kitchen 'cause kitchen is defined further 19.04.040. This is just saying if you're saying this is a wet bar, we're saying no it's a kitchen because it has one of these.

MR. RAPACZ: Well let's...I understand what you're saying. In the first paragraph the wet bar definition is, it has to have, the minimum requirement is 1½ cubic feet or smaller sink. If you have a sink larger than that and a refrigerator, let's say, then you do not have the components of a wet bar, yet it is a kitchen.

CHAIR COUCH: Right.

MR. RAPACZ: That's why the also is a problem 'cause you don't have to first have the wet bar components before something can be considered a kitchen.

CHAIR COUCH: Oh, I see.

COUNCILMEMBER GUZMAN: Yeah, it's, yeah, the language also. Yeah. You see that?

MR. RAPACZ: It's the also that's the issue. These items you've described, I agree, in Paragraph 2 are things that would make an area constitute a kitchen, but I don't think that area would first have to qualify as a wet bar to be a kitchen.

CHAIR COUCH: I guess my take on this is this precludes you for...I mean this allows you guys to say oh they've got a sink and a refrigerator in the utility room, let's say, where they do their, you know, they have a big utility room, they decide to put a bigger refrigerator and obviously you're going to have a sink. That's not a kitchen or a wet bar, you can have that. I think that's how, I mean that's how I would interpret this as opposed to, you know, Mr. Guzman wants to put in a wet bar but it's got a refrigerator that's bigger than 1½ cubic feet and it's got a 220 volt, so then oh no, Mr. Guzman, that's a kitchen.

COUNCILMEMBER GUZMAN: I have a freezer next to a sink.

CHAIR COUCH: This is refrigeration. I don't know. I...we want to make it so you guys can enforce, you guys can look at the plans and say it's okay, so I want to make sure you guys are okay with the language. Mr. White?

COUNCILMEMBER WHITE: When I read it, I was comfortable with it. After the lawyers get involved, they tend to get a little bit further into the weeds than we do. But maybe we can just...would it fix it if we just took out the word also in the second paragraph? Second line in the second paragraph.

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CHAIR COUCH: Then that may make the sink and, the utility sink and a refrigerator in a laundry room, if you will, make it into a wet bar or a kitchen, sorry, it would make it into a kitchen then, I think.

COUNCILMEMBER GUZMAN: You're correct.

MR. MOLINA: Mr. Chair?

CHAIR COUCH: Yes, Mr. Molina?

MR. MOLINA: Having been involved with this immensely, if the intent is to proceed as Chair White's recommends then it would be more appropriate to place that in the definition of a kitchen rather than tying it to the wet bar definition. Thank you.

COUNCILMEMBER BAISA: Yeah, yeah.

MR. HOPPER: And, Mr. Chair. --

CHAIR COUCH: Yes, mister...

MR. HOPPER: --if the intent conversely is to just say this is not a wet bar then I think the Planning Department kind of had that in their original language and you could change that to say instead of for purposes of this title it could be changed to for purposes of this definition the area shall not be considered a wet bar if any of the following are also present.

CHAIR COUCH: Oh, okay.

MR. HOPPER: And that would be limited to the definition. So it depends on kind of what the Council wants, and I think we discussed that as being a potential problem of, you know, whether or not it's considered a wet bar. Well if it's not a wet bar but if it's not a kitchen, is it still prohibited or something, you know, that could still be...if that was an issue with the Planning Department's last definition then I suppose that could be looked at. But if the intent here is to just say here is what a wet bar is and if you include this other stuff you're not a wet bar so you can't do it then I suppose you can tweak that by changing title to this definition and the area shall not be considered a wet bar. But I'm not really sure what the intent of this was, if in fact the intent was to explain with more specificity what a kitchen is then that wouldn't do it. But if the intent is just to limit it to the definition and clarify what a wet bar is maybe you could narrow that scope a bit.

CHAIR COUCH: Okay. Any concerns from the Members? Mr. Rapacz, any comments on that?

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MR. RAPACZ: I think that would accomplish what we want. I do like the idea...and I'm not sure if it's appropriate here based on Council's comments. I do like the idea of saying this is a wet bar and if you include any of these things then it's not a wet bar.

CHAIR COUCH: Okay.

MR. RAPACZ: But it would be nice to say and that, and it makes it a kitchen, but I'll leave that to Council as whether that's appropriate 'cause then you're getting into the definition of kitchen and I understand that concern.

CHAIR COUCH: Right. Right.

MR. RAPACZ: But Mr. Hopper's approach I think is fine.

CHAIR COUCH: Okay. Members, so the change would be for the first sentence of the second paragraph, for the purposes of this, and change title to definition, the area shall not be considered a wet bar, and then everything else as follows.

MR. HOPPER: Or, Mr. Chair, even if you delete for purposes of this title, you could just say the area shall not be considered a wet bar if any of the following are also present, 'cause that's obviously part of the definition.

CHAIR COUCH: Okay.

MR. HOPPER: So you could even delete that first part. But again, I'm not exactly sure in this rewrite what the intent was, and if it was to be broader than to just say it's not a wet bar then maybe there's additional things we need to look at.

CHAIR COUCH: Well I'm fine with how the Department thinks it, able to interpret this. If the Department, since this is...their intent is to be able to define a wet bar on a, basically on permits and say that's a wet bar, that's not a wet bar. So when they want to go to kitchen, they can look at the definition of kitchen in a separate place. So can I get a verbal on the microphone on the record okay for that?

MR. SPENCE: That sounds good to us, Mr. Chairman.

CHAIR COUCH: Okay. Members, so now the change is taking out for the purposes of this title, and just starting with the area shall not be considered a wet bar if any of the following are also present. Any concerns with that? Mr. Guzman?

COUNCILMEMBER GUZMAN: I'm satisfied with that language.

CHAIR COUCH: Mr. Hopper?

MR. HOPPER: Again, if the purpose of this is just to say here's what a wet bar is, here's what it is not and two to three wet bars are allowed which is in the third paragraph then I

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think that's more consistent than saying the, redefining kitchen for purposes of this title.

CHAIR COUCH: Gotcha. Okay. All right. Any further discussion?

COUNCILMEMBER GUZMAN: I...

CHAIR COUCH: Yes.

COUNCILMEMBER GUZMAN: Chair --

CHAIR COUCH: Yes.

COUNCILMEMBER GUZMAN: --even though the, I like the language amendment, I still feel very uncomfortable with this bill. I, for me to feel comfortable I would like to just basically strike out that entire first and second paragraph and just leave in no more than two wet bars shall be permitted, that last paragraph. I feel comfortable with the last paragraph but the first and second paragraph...

CHAIR COUCH: Well but you have to define a wet bar.

COUNCILMEMBER GUZMAN: Yeah, I know, that's why it's hard. And I'm coming from a place where, you know, I've seen a lot of creative wet bars and I...

MR. SPENCE: So have we.

COUNCILMEMBER GUZMAN: It's...this is a...although it seems simple it's difficult, it's difficult from a personal and a family side, a cultural side. This is a very, you know, it's probably one of the more difficult bills to pass out.

CHAIR COUCH: Yeah. Now keep in mind too that we're talking about inside the house --

COUNCILMEMBER GUZMAN: Right.

CHAIR COUCH: --and you're talking about when we had the discussion further about dirty kitchens and whatnot --

COUNCILMEMBER GUZMAN: Right, right.

CHAIR COUCH: --that's usually out in the garage, right? No?

COUNCILMEMBER GUZMAN: Some. I mean not to \_\_\_\_\_ --

CHAIR COUCH: Yeah, yeah.

COUNCILMEMBER GUZMAN: --community or a, you know, specific whatever.

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CHAIR COUCH: Right.

COUNCILMEMBER GUZMAN: Yeah, just getting back to...it's difficult to sit down and say okay, we're going to limit what you can build in your private home. You know that's to me just, goes to that level of getting too...the government intruding too much into someone's life. And so that's where I kind of have that struggle is like okay, I worked hard for my house, people have worked hard to get that mortgage, pay for the house, and now they have that freedom to do what they want to do and build whatever they want to do inside their house. And we've come out with a law that says no, you can't, you can't build an extra, you know, sink, you can't build an extra area where, you know, your kids can go and eat and, you know, put, fry up some pork, you know, rinds --

CHAIR COUCH: Right. No, understood.

COUNCILMEMBER GUZMAN: --and eat it front of the football game while you're drinking your beer that comes from your wet bar. I don't know. It's very difficult.

CHAIR COUCH: And we had a little bit of this discussion, it might have been the day you were with the tooth.

COUNCILMEMBER GUZMAN: Yeah.

CHAIR COUCH: But the discussion was from the Department's point of view is that they haven't seen a lot of multiple, you know, people wanting to come through, plans coming through with multiple kitchens and whatnot. What we've been trying to describe, you know, we want, we said they could have as many wet bars as they want, one in the media room, one in the, you know, game room, and one in the whatever.

COUNCILMEMBER GUZMAN: No, that's why I really --

CHAIR COUCH: So...

COUNCILMEMBER GUZMAN: --do like Paragraph 3, how you're actually having some type of formula like saying per square footage then you can have more than 2, you can have 3.

CHAIR COUCH: Right.

COUNCILMEMBER GUZMAN: So I like that language.

CHAIR COUCH: That's telling them what they can have in their home.

COUNCILMEMBER GUZMAN: But I just don't like, you know, singling out specific appliances and specific things that really say that's not a wet bar. I would rather just

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say you know what, it's...you're only allowed whatever you think it is, a kitchen or a wet bar, you're allowed two per square footage, you know, three per, you know. But I can appreciate where the Planning Department is coming from and their detailed review of the plans, so I can appreciate that. But I'm just looking on the other side where it's...

CHAIR COUCH: Sure. And that's why we're here in this Committee, we need to discuss all that. Planning Department, any comments?

MR. SPENCE: Well just, Mr. Chairman, I mean I, again, I understand the reality that's out there, and particularly in certain neighborhoods you have multigenerational housing. You have, I mean just out of necessity there's a whole lot of things going on. We're, within the Department we're trying to look at perhaps different neighborhoods, things like that where perhaps we should up-zone and we should be able to have duplexes, triplexes, those kinds of things, which would just by definition have more than one kitchen and then of course your wet bars. But there's also places where you don't want to have...if you just allow a couple of kitchens, you know, it's, you're losing the concept of a single-family dwelling, and there's going to be places in the County that are zoned single-family that you don't want to allow, you know, duplexes, triplexes, quadplexes. And just a...so, you know, that's going to take some study on where, if and where we want to do that, because it would provide, you know, that kind of thing would provide more housing. Just for the purposes of, you know, the size where you have 5,000 square feet, whatever, I did take a good look around Kahului in the Real Property Tax records and started looking at okay, where are some really large homes and how large are those. And so that's where, you know, I came up with those numbers. So...

COUNCILMEMBER GUZMAN: I do appreciate that.

MR. SPENCE: Yeah. It would be Kahului and other neighborhoods where --

COUNCILMEMBER GUZMAN: I like Paragraph 3. I like the numbers in Paragraph 3.

MR. SPENCE: --you can tell, you know, what's actually being built.

COUNCILMEMBER GUZMAN: All right. Thank you.

CHAIR COUCH: Okay. Mr. Rapacz?

MR. RAPACZ: Thank you, Mr. Chair. And I would just add to that, I know that the Council is going to be looking at a separate track of discussion on how many kitchens should be allowed and, you know, what constitutes a dwelling unit and that type of thing. But even if you go through that route and you say three kitchens are allowed, we'll still need to have clear definitions of kitchens and wet bars in that context as well. So I think it makes sense to clear it up now and then I think that may help in the discussion of how many kitchens, that type of discussion later. Thank you.

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CHAIR COUCH: Okay. Ms. Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair. This is unusual, I don't normally find myself wrapped up in Member Guzman's stuff but I am. I really can identify with where he's coming from and the angst that he feels, because, you know, I live in this world of people that are making due and trying to do whatever it is so that they have a place to live. But I understand that we need a clear definition. It's very difficult for us to ask the Planning Department to enforce without something that they can say okay, this is what Council wanted, this is the policy they created. What I'm thinking about is if we were to pass this, then I'm taking it to the next step, we all know that a lot of this exists. I mean I think we'd be fooling ourselves if we tried to say it doesn't, so what is the intent about what exists? Are we going to go and make people take it out or are we going to say if it's in it's in and but we don't want any new? Or what are we going to do?

CHAIR COUCH: Department?

MR. SPENCE: I'm not sure I entirely understand the question.

COUNCILMEMBER BAISA: If I have more wet bars than I'm supposed to or you think my wet bar is a kitchen and you come there for some other reason or and, you know, we know what happens when you come to approve a permit or something and you find stuff, what are we going to do about it? Are we going to say okay, take it out or are we going to say well it's there and we passed the law now, so going forward you can't do this but if it was done before, well, we'll grandfather it or it's going to be nonconforming or whatever we, fancy names we come up to call these things?

MR. SPENCE: By and large, unless it's a vacation rental by and large we respond to complaints, so when we go out and we look at the complaints, if somebody is operating an auto body repair shop within a Residential District, we pretty much go out and look for that auto body repair shop and see if that's the violation. If we come across something else, we pretty much take it on a case-by-case basis. I don't think we go looking for issues. If something stares us in the face like, you know, that third house we can't find a Building Permit for then we might pursue something like that. But we don't...looking for an auto body repair shop, we don't do an inspection of the whole house to see if there's --

COUNCILMEMBER BAISA: Yeah

MR. SPENCE: --more, more, more, more.

COUNCILMEMBER BAISA: To me that's a very extreme example to talk about an auto repair shop. But I want to sell my house and so now somebody's taking a look and they find this wet bar that doesn't conform or this kitchen that doesn't conform, what happens?

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MR. SPENCE: The, well the seller should disclose that and the buyer takes responsibility. The seller could also require...the seller to either get a permit if it's possible to get a permit or remove it. I...that's...we don't go on inspections, we don't go look into transactions like that.

COUNCILMEMBER BAISA: So unless somebody complains nobody will be taking a look at this?

MR. SPENCE: Pretty much.

COUNCILMEMBER BAISA: Okay.

CHAIR COUCH: Mr. Rapacz?

MR. RAPACZ: Thank you, Mr. Chair. And just in a little more detail from the enforcement end which I handle. If someone had shown whatever the configuration was in a Building Permit and we approved it then they would get to keep it. If they had not shown it in a Building Permit application, they did it on their own afterwards and we were there for some reason, we would tell them this looks like a kitchen according to our definition, here's what you would need to do to reduce it to being a wet bar so it would be allowed.

COUNCILMEMBER BAISA: Okay.

CHAIR COUCH: You still have a look of concern on your face.

COUNCILMEMBER BAISA: This is not my favorite subject.

CHAIR COUCH: Chair White?

COUNCILMEMBER WHITE: Yeah, I guess the challenge I have as well is that we know that there are lots and lots of very creative people in lots and lots neighborhoods. Is this going to eliminate creativity? No. It's going to provide some, you know, solid direction for the Department to enforce and especially on new plans. Like the others, I'm a little concerned that if you have a disgruntled neighbor who files a complaint on you knowing that this is here, then what happens? If somebody has had their house in a creative configuration for ten years and their neighbor blows the whistle and they are required to eliminate whatever creativity they provided, then what? Who wins in that? I'm not sure anyone does. So I support the intent of the bill, I'm not sure I like the ramifications or the arming of neighbors to do something if they don't like what's going on next door, so.

CHAIR COUCH: Okay. I think the Department wants to respond, but I know I can respond is that the creativity that's out there now is already illegal --

MR. SPENCE: Yeah.



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CHAIR COUCH: --or...

COUNCILMEMBER WHITE: No, I understand that. We all understand that.

COUNCILMEMBER BAISA: We all know.

CHAIR COUCH: So I...

COUNCILMEMBER WHITE: But the problem is that a lot of that creativity has been driven by this kind of law.

CHAIR COUCH: Okay. I see what you're saying.

COUNCILMEMBER WHITE: So, you know, people get creative when they run up against a brick wall, and I'm not saying that what's on the books now is wrong nor do I have any sense of what the hell we can do to change it. I'm just relating that, you know, we...it was said earlier in the meeting, we respond to, you know, particular situations with a change in a law and we sometimes don't understand the ramifications that are going to be brought to bear on the community once we make those changes.

CHAIR COUCH: Right.

COUNCILMEMBER WHITE: So there is a side of me that says my house is my house, my property is my property, and if I want to do something that suits my family then I should have at least some flexibility with which to do so.

CHAIR COUCH: Understood. Very well understood, and that's where we get the line on government, you can do whatever you want at your house until you what, start selling, renting out rooms that weren't planned for or capacity issues. I mean we have planning on one side that we're trying to plan a community or wherever and then...at a certain capacity, I mean we went through for three or four years of the Maui Island Plan dealing with where are we going to put more dense locations. And then all of a sudden, places where we've, we're going to have less dense become more dense for whatever reason, how does that throw our planning off? And that's what this Committee is all about. I know the Department wants to respond to that, so...

COUNCILMEMBER WHITE: But you, but, Chair, with all due respect, you can have a reduction in density when your kids move out of the house. Right?

CHAIR COUCH: Right.

COUNCILMEMBER WHITE: And then that density increases if you're able to rent out rooms. So, you know, I, the density question, you know, I can, I've seen places that --

CHAIR COUCH: Oh yeah.

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COUNCILMEMBER WHITE: --have significant, you know, significantly higher planned density but I --

CHAIR COUCH: Yeah.

COUNCILMEMBER WHITE: --you know, I know that there are others the density is at the planned level even with a difference of configuration.

CHAIR COUCH: And by the way, Members, this is not an overall issue that's affecting Maui County alone or the State of Hawaii. I just got back from Santa Clara, it's worse over there than it is here as far as needing rentals and whatnot. So this isn't something that we're only tackling, we may be the leaders in how we deal with it. Department, you have some comments? And then Ms. Baisa.

MR. SPENCE: Just a fast comment regarding what Mr. White was saying. We already get complaints from disgruntled renters. When people move out and the landlord isn't going to give them their deposit back, all kinds, for whatever reason they file a complaint. They already know, the renters already know that the unit they were living in was not permitted. It happens probably, I don't know, I'm guessing, John was saying it's probably more than a dozen times a year, but the...so in other words, the neighbors are already armed with the information. And it is, the way it is now you're only allowed one kitchen. There is no definition, as of this moment there is no definition of a wet bar, so we can't...we go in and we go okay you have five kitchens in your house, you gotta get rid of these. You know, this will at least give a landlord the ability to reduce what we would refer to as a kitchen down to something that would be within the, what's permissible under the law. So it's...I see this as, you know, John was pointing this out and I see this as a great benefit to the community. I hope that made sense. They can...

COUNCILMEMBER WHITE: It makes sense, it just justifies our angst.

MR. SPENCE: Well and I'm...

COUNCILMEMBER WHITE: The bottom line is we're not being very effective in creating more housing and, you know, if, and if we are walking into a situation where there's five kitchens and five different units of living and reducing it effectively back to one then we're affecting four people or four family units or whatever, we're affecting their specific housing situation.

MR. SPENCE: Right.

COUNCILMEMBER WHITE: Which for better or for worse is what, you know, what they have available to them at the time. So, you know, I don't, I'm not comfortable. I mean I know that this is not changing the existing concern, I'm just sharing that it's a broad concern and something that we're not dealing with very well.

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MR. SPENCE: Right. And I'm really happy to have that discussion. I know I've said that before. And I agree, there's...right now this is a tool for us. We're...mostly for Building Permits. When the Building Permits come across our desks, it will have an effect in enforcement. But the truth is we're not going to go, unless there's a complaint we're not going to going hunting for wet bars or extra kitchens.

COUNCILMEMBER WHITE: Yeah, no, I understand that.

MR. SPENCE: Okay.

COUNCILMEMBER WHITE: And I appreciate that. It's just that when somebody is pointed out, you've got a responsibility to enforce. And, you know, when we have a stated goal of generating something like 30,000 more housing units by 2030 and we're right now at a pace of 300 where we need to be at 2,000, the creativity is what's creating the additional units. And so if we're not able to create it with making the process smooth enough then the creativity is the only thing that's really saving us.

CHAIR COUCH: Yeah. And I don't know that this would take away that creativity, it may shift it a little bit. But Ms. Baisa has been patiently waiting for us to discuss, to \_\_\_\_\_ that part of the discussion.

COUNCILMEMBER BAISA: I think, you know, Chair White is saying exactly what I'm trying to say is, you know, a lot of this has...and I think how we're feeling has a lot to do with timing. You know we're in this crisis, epidemic, whatever we want to call it of worrying about housing and where people live and how they creatively figure out how to survive wherever they are, even if they're stuffed in a home with 20 people that was intended for 4 or 5. And so everybody is trying to figure out how do we just do it, and so this becomes another affordable housing measure. And I want to be really careful, just really, really careful that we don't cause any harm, because we don't want to cause any harm. I think every single one of us is very dedicated to trying to move things along here and find people a place to live. You know every morning when I drive to work and I drive pass Kanaha Pond, my heart aches, that encampment is getting bigger and bigger every day. It's spilling out into the road now, and, you know, it's uppermost in my mind that people are trying to find a place to live. And I just don't want to make things any harder, but I do understand that the issue before us today is a definition of a wet bar. And, you know, I'm kind of excited when we get to the definition of the kitchen which I think is a partner that we gotta deal with, because it's amazing what you can do in a kitchen without a 220-volt line. I have a lot of equipment that operates on 110 that has absolutely nothing to do with 220s, and I could live very comfortably without a stove. So I don't know, Chair, this is not an easy one.

CHAIR COUCH: Okay. Mr. Rapacz, you look like you want to say something.

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MR. RAPACZ: Thank you, Mr. Chair. Two things, first just in general, I think this will allow people to do more than they're allowed to do now.

COUNCILMEMBER BAISA: That's good.

MR. RAPACZ: Okay. Because many things that would qualify as a wet bar under this new definition, right now if we were presented with that, we'd call it a kitchen and we'd say it wasn't allowed. So I think this is going to open things up more than narrow it down. Second point I wanted to make is that I've been back working with the County for two years and spent 15 years in the private sector before that, representing homeowners or landowners. One of the things that's most difficult from that perspective is the idea that things can change from Administration to Administration, so this, the definition of kitchen over the last 25 years has meant different things at different times. So people did not have the security of knowing exactly what they could do or could not do. And I think this is a tremendous move forward in that respect, to be able to define things this way so that the public can understand what they can do and cannot do and it's not going to change with another Administration. Because it's not just a policy or an interpretation, it's actually in the Code, and they can count on it. And I think that is going to bring security to the homeowners as well in terms of knowing what the limits are. Thank you.

COUNCILMEMBER BAISA: One more follow-up.

CHAIR COUCH: Go ahead.

COUNCILMEMBER BAISA: I know they're going to want to kill me, but in the last sentence it says no more than two wet bars shall be permitted in a dwelling unit that is less than 5,000 square feet in total floor area, and no more than 3 in something beyond that. Why two and three? Why not three and four, two and five? What is the rational nexus for these numbers?

CHAIR COUCH: For those numbers. Okay. Department?

MR. RAPACZ: I believe those are not the Planning Department's numbers.

CHAIR COUCH: Actually the Department said one --

MR. RAPACZ: One.

CHAIR COUCH: --and only one. That, I guess that kind of came from our Staff and our discussions.

MR. SPENCE: Right.

CHAIR COUCH: I'm wide open as to the number. We had to come up with something, so other than just one because I don't agree that just one is enough. So...

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COUNCILMEMBER BAISA: Just curious to know if there was a basis or just we think so.

CHAIR COUCH: As a result of our discussion, Staff said okay, you know, let's do two and three.

COUNCILMEMBER BAISA: But there's no standard anywhere that says --

CHAIR COUCH: No.

COUNCILMEMBER BAISA: --nothing.

CHAIR COUCH: No.

COUNCILMEMBER BAISA: This was just our best guess?

CHAIR COUCH: Correct.

COUNCILMEMBER BAISA: Okay.

MR. MOLINA: Chair?

CHAIR COUCH: Mr. Molina?

MR. MOLINA: In the initial meetings, the Committee had concerns with limiting it to a single wet bar --

CHAIR COUCH: Right.

MR. MOLINA: --and in discussions with the Planning Department, there was concern of getting too far up there even in the four to five range, and so two to three was sort of the middle ground that was reached. Thank you.

CHAIR COUCH: So that's basically a distillation of our discussion that we had. So obviously we can change it to whatever we, I mean we always can. The Department, their stance is one, period, end of story, or at least that's where it came. Now if the Department's okay with another number.

COUNCILMEMBER BAISA: Maybe I can ask a question.

CHAIR COUCH: Okay.

COUNCILMEMBER BAISA: What is the average for a single-family home? The square footage?

MR. SPENCE: That's...

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COUNCILMEMBER BAISA: What do people build? What do most people build?

MR. SPENCE: Probably averages like probably 14, about 1,400 square feet average, but then I mean you're going to have some huge homes that skew that.

COUNCILMEMBER BAISA: I understand.

MR. SPENCE: I'd say most homes are 2 or 3 bedrooms, probably about 1,400-1,500 square feet.

COUNCILMEMBER BAISA: I'm thinking, you know, all these subdivisions that we see being built, that kind of houses are all the same size.

MR. SPENCE: Yeah.

COUNCILMEMBER BAISA: And so what is that?

MR. SPENCE: I've just...to be honest I've never run that kind of average, and it is going to vary from neighborhood to neighborhood too.

COUNCILMEMBER BAISA: Yes.

MR. SPENCE: So and, you know, as we've pointed out, different, you know, Kahului is going to be different than, you know, Kihei or Kula or whatever.

COUNCILMEMBER BAISA: 'Cause, you know, for me a difference between a 1,400-square-foot home and a 5,000-square-foot home is tremendous.

MR. SPENCE: Oh, absolutely.

COUNCILMEMBER BAISA: Tremendous.

MR. SPENCE: We're saying...and there are not that many. I mean the...where I came up with that number is I really did go into Real Property Tax records and I looked around, because the discussion within the Committee was in particularly neighborhoods where there are large multi-family or multigenerational homes being constructed. And so I went around and I looked and went okay, a good portion of those large homes are about 5,000 square feet. Everything else around is less than that. I would say the vast majority of homes on Maui are less than 5,000 square feet, so we thought 2 out of the discussion as Mr. Molina was saying. But out of the discussion we're going okay, so your typical 1,500 square foot or, you know, if they want to go 3,000 or 4,000 square feet, those are really decent sized homes. Those, you know, couple wet bars, that seems like plenty. You know over that you're getting into...and over five, most of those kinds of homes are going to be luxury homes.

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COUNCILMEMBER BAISA: I would think so.

MR. SPENCE: Yeah. So most of your homes are going to be, you know, relatively small. I'm not sure that they're going to want to have two wet bars because that takes up other room, but give them that option.

CHAIR COUCH: Okay. Does that --

COUNCILMEMBER BAISA: Yeah.

CHAIR COUCH: --help answer your question?

COUNCILMEMBER BAISA: No. But that's okay.

MR. SPENCE: Mr. Chairman?

COUNCILMEMBER BAISA: But that's okay.

CHAIR COUCH: Yes, Mr. Spence?

MR. SPENCE: If this Committee chooses another number then this Committee chooses another number and we're going to live with that. If you say three and four instead of two and three, you know, that's, we would rather get that passed and have clear direction on where we can go than go on and, you know, delay this much further. So if that's...that's up to the Members.

CHAIR COUCH: Mr. Hopper?

MR. HOPPER: Just a comment in hearing the conversation. Keeping in mind that this doesn't alter the number of kitchens that are allowed in any dwellings. You can still only have one kitchen in the dwellings under the law. If that's a concern of the Council then it could change that or it could go for essentially a rezoning of those properties to multi-family if you'd like. Those are a couple of suggestions. If the real issue is that you would like...you wouldn't have a problem if a dwelling would have multiple kitchens then that can be changed in the definition. This is going to deal with wet bars and but will not change the fact that only one kitchen would be allowed. So if that's a problem that the Council has with the law in general then that would need to be addressed as kind of a greater issue. So just as a note that this won't make legal anybody who wants to have five kitchens in their house. Particularly if they're actually using it as a multi-family dwelling, and that's in fact the express reason why a kitchen is the limiting factor in determining whether it's a dwelling. Because they would need some measure to determine how many dwelling units there are in a home. So if the issue is we're fine with multi-family dwellings in those areas then a rezoning could happen or a change in the definition could happen. But if that's the problem then we would still have in the Code something that says you can only have one kitchen in your home; otherwise, it's considered a multi-family dwelling. So I didn't

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want any misconception that that would be being changed here. You are allowing additional wet bars but you can still only have one kitchen in your home; otherwise, it would be considered a multifamily dwelling whether it's existing now or would be built in the future.

MR. SPENCE: Mr. Chair?

CHAIR COUCH: Yes, Mr. Spence?

MR. SPENCE: I know I've alluded to this but and I'm just trying to think of where our Department would find time to undertake another project, but perhaps we should really take a look at which neighborhoods should be up-zoned. And that would involve Community Plan Amendment from single- to multi-family and allow duplexes, triplexes, quads, but that's another study that...and that would not only legitimize a lot of the homes that are already there but it would allow additional density. And, you know, that's a, that's going to be a pretty tall order. I mean we...it's not so difficult identifying where I don't think. It's going to be a matter of identifying is the infrastructure in place, you know, sewage capacity, those kinds of things, 'cause you would expect a number of people to redevelop their properties from actual single-family to multi-family. But it, that's something that we've been thinking about not only, I mean certainly in the Planning Department but also within the Administration, and I see Councilmembers' heads shaking positive, shaking their heads positively too. We, I mean we would really like to work together on finding something for this.

CHAIR COUCH: Thank you. Does that help a little bit better?

COUNCILMEMBER BAISA: Like I said I'm...it's difficult for me to deal with this. My problem is I have a lot of pictures in my head of what I see when I drive through our neighborhoods. I have pictures of my own neighborhood of what's going on there, and...

CHAIR COUCH: But keep in mind as Mr. Rapacz said that this will actually allow for a little bit more than what is currently allowed.

COUNCILMEMBER BAISA: Yeah.

CHAIR COUCH: So...

COUNCILMEMBER BAISA: I understand that. It's just that, you know...

CHAIR COUCH: And that's a whole policy issue --

COUNCILMEMBER BAISA: Yeah.



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CHAIR COUCH: --that we may want to bring up in Mr. Victorino's Committee to have a discussion as what are we going to do with all this stuff.

COUNCILMEMBER BAISA: I think what I'm hearing from the Planning Department is we really need to look at more than wet bars.

CHAIR COUCH: Yeah.

COUNCILMEMBER BAISA: You know we have evolved, this community has evolved into a very different community than it was in the days when we all moved into the Dream City. You know the houses have changed, the sizes of the houses have changed, the housing has changed, the way people live has changed. So maybe we do need to look at what we have and look at other alternatives, because somehow, somehow we have to get this housing situation under control. And it's not just us, as you said --

CHAIR COUCH: Right.

COUNCILMEMBER BAISA: --it's the entire country --

CHAIR COUCH: Right.

COUNCILMEMBER BAISA: --that is dealing with this. And, you know, every day we read the paper about Honolulu and it's just frightening, it's real frightening. And it's not going to go away because people keep coming, people keep being born, people keep graduating from school --

CHAIR COUCH: Yeah.

COUNCILMEMBER BAISA: --looking for a place to live. I mean it's just getting worse and worse, so I think we have reached a point where we really need to look at what we're doing and evaluate it and say is this still viable. And that's not easy. But, you know, I do understand what the Planning Department is looking for, and it's good that, you know, these laws if we amend them the way they are will be more liberal than what we have. But I don't think it's enough, I don't feel comfortable. I don't like, I'm sorry, the 5,000 square feet. I think, I could do with 2 wet bars maybe in 3,000 square feet, but 5,000 is a heck of a big house, I'm sorry. So...

CHAIR COUCH: Okay.

MR. SPENCE: Mr. Chairman?

COUNCILMEMBER BAISA: And if people are living in there, two or three families then it's just not going to work, so.

MR. SPENCE: Mr. Chairman?

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CHAIR COUCH: Yes?

MR. SPENCE: It would allow 2 wet bars in anything up to 5,000 feet, so your 3,000-square-foot house could have 2 wet bars. And...

COUNCILMEMBER BAISA: But what about 3 if I have 5,000?

MR. SPENCE: If this Committee wants to change it to 3, we'll go along with that, that's fine with us. If...

COUNCILMEMBER BAISA: But see I think the companion is and we're dealing with it and so it muddies it up for me is the kitchen thing. Where right today we're only looking at wet bars, but in this 5,000-square-foot house would you also allow 1 kitchen, 2 kitchens? What would you allow?

MR. SPENCE: Right now it's just one.

COUNCILMEMBER BAISA: It's just one.

MR. SPENCE: That's the definition.

COUNCILMEMBER BAISA: So I think...

MR. SPENCE: And the definition since, that we've had...

COUNCILMEMBER BAISA: I think that's part of the issue that I'm having.

MR. SPENCE: Okay. Well that's a separate, that really is a different issue.

COUNCILMEMBER BAISA: I understand.

MR. SPENCE: That right now this is just a tool that we need. And it's...we're...the discussion is that we're wrapping a whole lot of different things around it that are separate issues.

COUNCILMEMBER BAISA: I get it.

MR. SPENCE: Okay. Thank you.

CHAIR COUCH: Okay.

COUNCILMEMBER BAISA: So, Chair, what is your recommendation?

CHAIR COUCH: Thank you. If there's no further discussion, the Chair's recommendation is to entertain a motion to recommend passage on first reading of the revised proposed bill entitled A Bill for an Ordinance Amending the Comprehensive Zoning Ordinance

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Relating to Wet Bars in Dwelling Units; incorporating any nonsubstantive revisions; and the filing of County Communication 15-66.

VICE-CHAIR CARROLL: So moved.

CHAIR COUCH: Are we going to get a second? For discussion.

COUNCILMEMBER WHITE: I'll second for discussion.

CHAIR COUCH: Okay.

MR. MOLINA: Mr. Chair?

CHAIR COUCH: Mr. Molina?

MR. MOLINA: Just to clarify that the Committee has also recommended revisions to the proposed bill --

CHAIR COUCH: Yes.

MR. MOLINA: --and that the motion would include those revisions.

CHAIR COUCH: Yes. The revised bill includes the changing of the Paragraph No. 2 to say, the area shall not be considered a wet bar if any of the following are present. That was implied but good to get it on the record. Okay. Not that we've had enough discussion but now the matter is before us for discussion. Before we get...I'm going to take a little bit of Chair's privilege here and mention that there is a bigger issue, this will allow for a little bit more legality in some of the creative homes as opposed to right now potentially saying no, sorry, you gotta take everything out except for your kitchen. So this is kind of, as all politics are, this is kind of a compromise to allow for a little bit more. We want to change the number from two to three, that's fine, I'll entertain any motion for that. Or by the time it comes to the floor, if everybody decides okay, I want to make, change those numbers, that's fine. I think it allows for quicker processing of permits which is what we're trying to do. I think it allows for a little bit more of these creative places to be a little bit more legal. So I think it's a step forward. Also, I'm very willing to put an item either out to Council or back to this Committee for kitchens and also for the whole philosophy of what are we going to do with the situation we're in. So the whole policy question. So I'm willing to do that as well if we pass this out today. Mister...Ms. Baisa and then Mr. White.

COUNCILMEMBER BAISA: I just want to say, Chair, that if you're making that commitment then I will support this with a lot of reservations.

CHAIR COUCH: Thank you. Mr. White?

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COUNCILMEMBER WHITE: Yeah. Ditto Ms. Baisa's comments, but the thought occurs to me that if you have a 3,000-square-foot house and you have 3, the approval for 3 wet bars as Ms. Baisa suggested, can you trade in 3 wet bars for 1 additional kitchen?

CHAIR COUCH: Again, that would be the discussion when we --

COUNCILMEMBER BAISA: Yes.

CHAIR COUCH: --go into the kitchens. We will, I will bring up kitchens, I'll make that an item, a separate item. Staff? And but that you're right, we could do some, we can be creative, you know, we're trying to be creative. Mr. Guzman?

COUNCILMEMBER GUZMAN: Yeah. Thank you, Chair. I will ditto my colleagues as well, and I will hold you to that commitment to bring in the issue of more than one kitchen. Looking forward to maybe Mr. White's suggestion of trading in two or three wet bars for an additional kitchen so that I can eat my chicharron and drink my beer.

CHAIR COUCH: Yes . . . *(inaudible)* . . .

COUNCILMEMBER GUZMAN: But I will go along with the majority on this one --

CHAIR COUCH: Okay.

COUNCILMEMBER GUZMAN: --with reservations.

CHAIR COUCH: Yeah.

COUNCILMEMBER GUZMAN: Thank you.

CHAIR COUCH: I think we all have reservations on this, but I do see it's a way of expediting the Department getting the permits out and also allowing for a little bit more flexibility. So any further discussion? All those in favor, please say "aye."

COUNCILMEMBERS VOICED AYE.

CHAIR COUCH: Opposed? Let the record show the measure passes five "ayes" and zero "noes."

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**VOTE: AYES: Chair Couch, Vice-Chair Carroll,  
Councilmembers Balsa, Guzman and White.**

**NOES: None.**

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: Councilmembers Cochran and Victorino.**

**MOTION CARRIED.**

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

CHAIR COUCH: Thank you, Members. And we'll get that, Staff has already assured me that they're going to get that going for kitchens.

MR. SPENCE: Thank you, Members.

CHAIR COUCH: All right. Thank you.

**PC-12 COMPOSTING AS A PERMITTED USE IN THE AGRICULTURAL DISTRICT**  
**(CC 14-310)**

CHAIR COUCH: Members, let's bring up the next item which is Item PC-12. Members, we're in receipt of County Communication 14-310, from Councilmember Elle Cochran, transmitting a proposed bill to allow for composting as a permitted use in the County Agricultural District. We also have a correspondence dated September 17, 2015, to the Department of Corporation Counsel, transmitting a proposed resolution entitled Referring to the Lanai, Maui, and Molokai Planning Commissions a Proposed Bill Amending Title 19, Maui County Code, Relating to Composting. The purpose of the proposed resolution is to refer to the Planning Commission the proposed bill. The purpose of the proposed bill is to allow for composting using materials sourced from off-site as a permitted use in the County Agricultural District. Okay. If we can get...oh, I guess Staff is passing out...we'll just...oh, some more testimony, yes. If we can get...you know first of all I wanted to talk, Ms. Cochran has had some issues where she can't be here for a little while, so I apologize for bringing this up without her being here. But we wanted to get this going and move forward on this if at all possible. So I would like to have the Department give us their comments on why we would need a bill like this at this point.

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MR. SPENCE: The...thank you, Mr. Chairman. The, we need a bill for this because we, right now we have no place in the Ag District that, where composting would be outright permitted. Right now it would...I don't even know if we could do it with a Special Use Permit.

CHAIR COUCH: Well, let me stop you right there. I would think that composting itself, I mean one would think that that's a definite, something that should, is able to be done in ag. I think this bill is saying taking outside sources of green waste to do composting.

MR. SPENCE: Sure.

CHAIR COUCH: So there is...I just want to make sure in my head that we're okay, you know, farmer Spence can do composting from green waste from his own lot but nobody else's, right? Is that how it works right now? Mr. Alueta?

MR. ALUETA: Sorry. Thank you, Mr. Chair. Composting would be considered a normal activity of an active farm. I do it on my farm. And it's the act of taking it in and making, processing it from other properties in which you would then commercial. We have processed Special Use Permits and/or Conditional Permits for such activities in the past. This would make it as an outright permitted use within the Agricultural District. I think the testifier earlier today brought up some really good points about, you know, the scale in which you would be able to, other farmers could consolidate or farmers could take in neighborhood green waste from other areas rather than having to have it transported to the areas. I was just seeing my neighbor the other day and he was hauling a whole truckload of green waste from his property all the way to the County green waste, I mean to the landfill, and I thought it was kind of a waste of gas, you know, to do that. I mean but that was his only alternative. I told him he could just dump it on my property and I'll deal with it, but, you know, it's one of those things that it would be good for other farmers, small farmers, again, that don't have a lot of land, do not generate a lot of green waste on a regular basis and do need to have some type of ongoing composting facility. I think the, we went over this bill with, in our Department and I think we had some proposed changes that we'd like to see to it prior to it being transmitted down to the Planning Commission.

CHAIR COUCH: Okay. And, Members, the idea is to get it as solid as we like it and then send it to the Planning Commission. This discussion came up in our staffing when we were discussing it with Staff. It used to be that Council would say oh, here's a bill, send it down to the Planning Commission, let them work on it and bring it back. If you read the Charter, they're to advise us on stuff that we propose, so if we send something down to them, I would like it to be as clean as we feel necessary and then send it down. So that's why we're having this discussion today on composting in Agricultural area, allowing outside compost to come in. Now one of my concerns that Staff brought up and I will ask Corporation Counsel, does HRS 205 allow for us to do this as a permitted use or even as an accessory use?

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MR. HOPPER: Mr. Chair, I signed the resolution which would send this to the Commission but we did not do a full review of the ordinance itself. In reading HRS 205, I don't see anything outright that talks about composting as a permitted use. And I spoke with Staff and they did say that there was a bill and I haven't read it, but a proposed State bill that did not pass that would make composting a permitted use in the State district. So at this point it does not appear that it is an allowed use in the State district. So I think something to add to this would be that a State Special Use Permit would have to be required as well unless the Department sees, thinks differently. That question could be asked of the State as well. I think if this goes to the Commissions, it would have to be circulated to them. But similar to short-term rental homes and bed and breakfasts which are also not permitted uses in the State Agricultural District, they would have to obtain a State Special Use Permit for those operations if they're not listed. And it would be beneficial to have that language in the section that explained basically that this may be a permitted use in the County zoning district but you're going to need to get a Special Use Permit from the State or from the Planning Commission if the property is under 15 acres or the operation is under 15 acres in order to do the use. But again, that hasn't been fully explored, because at this point it's just sending to the Commissions. But it appears that those are a couple of relevant issues that will need to be determined before the bill can be signed. Even if it's not allowed in the State district, it is possible for the County to list it but make clear you still need a State Special Use Permit. The County could not allow it as an outright permitted use on the State district without a change to the State law.

CHAIR COUCH: Okay. That's what I wanted to get out is that we can put it there, but we would have to say until otherwise changed at the State level, it's a special use, State Special Use Permit. Mr. Spence?

MR. SPENCE: Oh, no, Mr. Chairman, I just, I don't think I clearly stated for the record that we support adding a definition and adding this as an activity with all the, you know, within the confines of 205, but adding this as a permitted use within the County Agricultural District.

CHAIR COUCH: Okay.

MR. SPENCE: However we have to deal with the special use, you know, we'll deal with that, but I think this is important to do. And I'm not sure where else you should put composting except in the Ag District. So I suppose it could be Industrial or Heavy Industrial but since it's related to farming it seems like it would be more closely related to Agriculture, to that district.

CHAIR COUCH: Okay. All right. Members, let me, I know this is an agricultural thing but Mr. Carroll has been chomping at the bit to talk and then we'll go right down the line. Okay. Mr. Carroll?

VICE-CHAIR CARROLL: Thank you, Chair. As you heard from the testifier today, specifically Hana and East Maui there are a lot of concerns. We've been trying to get them to, the

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County to process mulch at the Hana Landfill and we've only run into problems. They are now trucking out every day how much stuff over there. I've passed the trucks going inside and I see them coming outside. There's quite a bit comes outside, I don't know if it's every day, every week, or whatever. But they have tried to get it going to where they would have over there. Hana Ranch has indicated they would like to run a place over there where they can process it. It was mentioned about our fire ants and other things where people are bringing it down there. As far as I know, I have seen nobody checking, when they haul it, come outside over here, there's been no checking to see if we have invasive species, specifically fire ants being removed from Hana area, because we don't know who brings that, where it comes from. Whether it's Nahiku or anyplace else, people go over there, down there and dump it. If it was on the ranch place and they're willing to do it, they're very responsible. You would have somebody processing it over there and watching to make sure that if there are any invasive species like fire ants coming, they could take care of it. We have asked long time to have our mulch put back over there. The County is not willing to do it. If this bill passes, it would give the opportunity for an entity like the ranch to do it and collect from other people that could take it over there. This would also save the County money because then the County wouldn't have to process it. So I would hope that we can get something that would address these concerns out to the Planning Commissions that they can get some further input on it.

CHAIR COUCH: Yeah. Good point. Mr. Guzman and then Chair White, and then Ms. Baisa.

COUNCILMEMBER GUZMAN: Oh, thank you, Chair. I wanted to kind of talk about some of the issues raised by the testifier, specifically the fire ants and the transportation of the green waste from one area of the island to the next, and he spoke about regionalizing. Could there be a possibility of putting language in there that regionalizes the composting areas where you can't deliver or you can't bring the other green waste from like one end to the next, it's gotta stay in a certain region to try to avoid the spread of certain invasive species like the fire ants just as a precaution? I just don't, I don't know the biology behind it all, but I would assume by just trying to keep it more condensed in a certain area, the green waste, the transportation of the green waste, would help try to prevent the spread of these type of invasive species. The other question I would have is I don't see in the, anywhere in the language that allows other green waste not produced on the land to be used or at least placed on that property. Do you see that? 'Cause you did mention that you thought that this bill allowed other green waste from other properties to be placed on a specific property to be compost. I don't see where that language is. Are you...my understanding is that you could bring...

CHAIR COUCH: It would be Page 2, No. 9. If you look at the request for legal services dated September 17<sup>th</sup>.

COUNCILMEMBER GUZMAN: Oh, okay.

CHAIR COUCH: Yeah.



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COUNCILMEMBER GUZMAN: In 19.04.040?

CHAIR COUCH: No, 19.3A.050 [sic], Permitted Uses. If you look at Page 2, No. 9, it says composting as defined...oh, I'm sorry, yeah, as defined in Section 19.04.040 --

COUNCILMEMBER GUZMAN: Right.

CHAIR COUCH: --of this title, including the use of materials sourced from off site.

COUNCILMEMBER GUZMAN: Including the materials sources from off site. Okay.

CHAIR COUCH: Right.

COUNCILMEMBER GUZMAN: Can we have a little bit clear wording on the materials sources from off site.

CHAIR COUCH: Materials sourced from off site, yeah.

COUNCILMEMBER GUZMAN: Materials sourced from off site. That, just a little, if you can tweak that language just to make it more clear that you could use other I guess green waste that are produced off site. Is it...

CHAIR COUCH: Okay.

COUNCILMEMBER GUZMAN: Is there something that...I think they're discussing it here --

CHAIR COUCH: Yeah.

COUNCILMEMBER GUZMAN: --behind the table.

CHAIR COUCH: Anybody want to take a stab at that? Page 2, No. 9. I don't know how it could, I guess how it could be...

COUNCILMEMBER GUZMAN: I guess another, the third question or issue would be how large of a composting production are we talking about?

CHAIR COUCH: Yeah, that's one of my questions too is...

COUNCILMEMBER GUZMAN: Is like okay, are we talking about an entire parcel of compost, composting production? Like ten acres worth or an acre worth? I mean that's a lot of...I mean granted it's needed but the health issues or I don't, like that's a, one thing that raises in my mind, what is the, if there are health issues as to the size of composting and do they, are there certain regulations out there Federally or State that they have to, that are required for certain sizes of composting productions? I don't know. These are just other questions that I have.

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CHAIR COUCH: Okay.

COUNCILMEMBER GUZMAN: But I'm for, I'm definitely for this bill, it's just that there's certain aspects of it that I have questions about.

CHAIR COUCH: Okay. Any response from the Department?

MR. ALUETA: The only thing, Mr. Chair, the only point I guess I would make is this just adds the definition as well as allowing it in the County Agricultural District as defined by the definition of what is composting. For it to be in the Agricultural District it just makes it a permitted use, and I'm not sure if we're allowing for the commercialization of composting as far as being sold from the site. I'm not sure if that...I guess that would be my, I would need to have clarification as to what the intention is. Right now the issues that we've had where we had to issue permits for these specific things or clarification on what they can do has been if somebody wants to come in and bring off-site green waste, process it and compost it on the site and then sell the compost as a valued-added product I guess you could say. If it's a normal function of the agricultural activity on site then either they're composting it for use on the site, bringing in material off site to compost on site, that's all considered to be normal activities of an, if it's part of an agricultural activity. So I mean that's pretty basic. We would not necessarily say that if somebody wanted to operate a composting facility where they're bringing stuff over and then selling it or taking it and then selling it, that would be separate, that would be considered processing, from off site. And that's where I think we'd want to have clarity as to what exactly the intentions are.

COUNCILMEMBER GUZMAN: Yeah.

MR. ALUETA: However, right now, again, special use permits are, State law still requires that a State Special Use Permit be required.

COUNCILMEMBER GUZMAN: I guess there's that extra layer of getting past the State --

CHAIR COUCH: Right.

COUNCILMEMBER GUZMAN: --you know, when you have to apply for the Special Use Permit. But after what the Department has said, it's almost like why do we need the ordinance? But...

CHAIR COUCH: Because you can't, right now you can't bring stuff from off site.

COUNCILMEMBER GUZMAN: Right, right, right. And I see that clearly on Page 2 that you've included that. Getting back to my other question was the regionalism --

CHAIR COUCH: Yeah. That's a good question.

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COUNCILMEMBER GUZMAN: --on the transportation of those --

CHAIR COUCH: I'd like to hear what they have to say.

COUNCILMEMBER GUZMAN: --off site --

CHAIR COUCH: Yeah.

COUNCILMEMBER GUZMAN: --green waste and addressing the invasive species problem that we have. And then the third question was are we going to have a size restriction?

CHAIR COUCH: Right.

COUNCILMEMBER GUZMAN: What is the scale of allowability [sic] of these, I wouldn't say fields of compost but I mean when I think of just --

CHAIR COUCH: Sure.

COUNCILMEMBER GUZMAN: --unlimitless [sic], there could be, you know, there's a possibility of abuse where, you know, full on acres for compost but I don't know, you know, I'm not in that situation. But those are just issues to be raised. That's, and we're here for discussion.

CHAIR COUCH: Yeah.

COUNCILMEMBER GUZMAN: Thank you.

CHAIR COUCH: Mr. Alueta?

MR. ALUETA: Thank you, Mr. Chair. And I guess that's my question to this. Before it comes down to the Planning Commissions, we would want you to ferret out a lot of those questions. I'm not too concerned about the invasive species because that, I think that's a totally separate issue from what's going on for this item and I'm not sure you want to put, try to muddy the water any more than it is on this bill. I think the main thing is you want to allow, what do you want to allow as far as composting. Right now a farm can do composting if it's part of a farm. They can bring it in, they can compost, they're using it on site. That's a normal activity as if you're bringing in any other, as if you're bringing in fertilizer. That's the way I look at it as far as the processing. Do you want to allow...so the way it's written now composting would be allowed, so you have a two-acre lot, you have no farming activity or very minimal farming activity, and you're bringing in and you're processing composting for what purpose? To be, right now it would be you could compost it on and use it on your site. Or they could either...or bring it down to the site and process off-site material and then take it out to their, another facility that they already own such as HC&S uses it or some other large agricultural landowner. We would see that as being, under this law being permitted. If you intend to expand it to be where they can do a composting

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facility as well as retail the compost facility, retail compost from that site then you need to make that clear, further define it or further clarify what your intentions are. I guess there's different levels of activity that we would be, we would want to have clarified. The act of composting, yeah, that's what it is but are you saying retailing? Once you compost the green waste down, what are you doing with it? They're just using it on their property then that's in there, that's, you don't need to say anything else. If you are saying that they can then retail it then you, we want to be more clear on what's going on. If you are concerned about the scale relative to the size of the lot then you need to say that. It would make sense to say it now or you can rely on the State Special Use Permit process in which that would still be required. Getting into the more specifics of the bill, I guess we wanted to, reading from the definition on Page 1, composting means we would want to have...is an active process.

MR. SPENCE: . . .*(inaudible)*. . .

MR. ALUETA: Yeah, okay. So do we want to get into a specific language right now from what you've given us now. We have some questions and maybe some recommendations to clarify it. But again, you still need to decide what's your, how far you want this composting as a permitted use to go.

CHAIR COUCH: Okay. And the regionality, we didn't quite...any concerns? I know your...yes, that invasive species is a separate issue, but it also kind of fits in if we're going to discuss the regionality. Should we have a regionality component?

MR. SPENCE: Mr. Chairman, people are going to take their green waste to the closest available location.

CHAIR COUCH: Yeah, that's kind of what I figured.

MR. SPENCE: If there's nothing available in Hana, it's going to end up in gulches or they're going to take it, you know, to Central Maui and that's a long drive and that adds a lot of expense. But by and large, I mean if we put in a requirement for regionality [*sic*], what if there is nothing in Hana? What if there's nothing...I don't know, what if there's nothing in South Maui, you know, where are they going to take it then?

CHAIR COUCH: Okay.

MR. SPENCE: Molokai. Molokai is one region, at least community plan wise and so is Lanai, so I'm not sure.

COUNCILMEMBER GUZMAN: Yeah, Chair, I, just to address like the regionality [*sic*], like the limitation of being able to transport green waste across the County, you know I realize that the invasive specie [*sic*], the fire ants is a separate issue but it's all...

CHAIR COUCH: It's all mixed.

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COUNCILMEMBER GUZMAN: Yeah, it's all mixed.

CHAIR COUCH: Yeah.

COUNCILMEMBER GUZMAN: And so if we can do one step to try to prevent the spread of the fire ant then it's one step closer to not becoming a Big Island crisis. You know I just don't know how to handle it, the --

CHAIR COUCH: Right.

COUNCILMEMBER GUZMAN: --fire ant issue, and I guess every little bit of piece of legislation that we can put out there to prevent it from happening or checks and balances to make sure that the transportation of these green wastes are at least checked before they're being processed into the compost fields or processed and...the better. You know and if it doesn't seem to be applicable, I think we should make it applicable before it gets too out of hand. But thank you, Chair.

CHAIR COUCH: Thank you. Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. You know if somebody told me that you needed to get clearance to do composting on your own property, even bringing things in from the outside as, you know, to augment your composting, I would never have guessed that you couldn't bring things in.

CHAIR COUCH: Same here, when I had our meetings.

COUNCILMEMBER WHITE: You know I can understand having a whole different level of permitting for someone who's interested in doing composting for resale, but to me that's the only thing that really should have a Special Use Permit. One of the written testimonies that we've received also brought up a concern about biosolids and manure being included. So I'd like to, I'd like us to have some discussion about that before sending that on to the Planning Commission.

CHAIR COUCH: Sure.

COUNCILMEMBER WHITE: But other than that, I, you know, I support the bill. So thank you.

CHAIR COUCH: Okay. Ms. Baisa?

COUNCILMEMBER BAISA: I'm essentially where Chair is. I was interested in this biosolids issue that was brought up.

CHAIR COUCH: Okay. I believe that issue and you can look at some of the testimony, but the biosolids, it's allowed right now at the Special Use Permit at our landfill. I believe that's maybe why this is in here as well. If they want to be able to do it...or I guess

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our question is if we're going to allow it in different places, maybe we should restrict the biosolids just to where it already exists or maybe it's a Special Use Permit or something like that.

COUNCILMEMBER BAISA: I don't think we have a choice if we start talking about ag, 'cause we gotta be really careful what we put in ag.

CHAIR COUCH: Well and the original...

COUNCILMEMBER BAISA: You know you start talking about bringing manure and those kinds of things and you run into trouble. I mean I recently ran into all these questions about using greywater because of that, so to me it's the same kind of issue.

CHAIR COUCH: Okay. I know that for a long time manure was the main source of fertilizer, so I don't see...

COUNCILMEMBER BAISA: Yeah, I don't see it either but it has become an issue.

CHAIR COUCH: Right.

COUNCILMEMBER BAISA: You know any kind of biosolids, that's why they don't want us to use washing machine water --

CHAIR COUCH: Right.

COUNCILMEMBER BAISA: --'cause it might have something in it, hello, so now you're going to bring composting with it and put it in the ag land? You're going to have a problem.

CHAIR COUCH: Mr. Spence?

MR. SPENCE: Okay. I think...well, first let me clarify. Perhaps we weren't clear first with something that Councilmember or Chair White said. You can bring other green waste onto your property to augment your own composting.

COUNCILMEMBER WHITE: Currently?

MR. SPENCE: Yes. And...

MR. ALUETA: If you're using it on site.

MR. SPENCE: Yeah, if you're using it on site.

COUNCILMEMBER BAISA: Then what are we doing?

MR. SPENCE: If your, if this is a part of, you know, let's...I don't know, if I was an onion farmer or a cabbage farmer, I don't know. I wanted to, I don't have enough compost, I

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could go get green waste from some other location, compost it with my own, and then use it on my own property. What we're talking about here is like a freestanding composting facility where all you're doing, your primary function is to go get green waste, bring it to your property, compost it, and turn around and truck it off to, for whatever use. I mean with the composting itself as being the primary activity.

CHAIR COUCH: Oh, okay. Yeah. 'Cause I...yeah, I was...

COUNCILMEMBER WHITE: Okay. Well I have a completely different understanding.

COUNCILMEMBER BAISA: Yeah.

CHAIR COUCH: Yeah, same here.

MR. SPENCE: I'm sorry if that...we should have clarified.

COUNCILMEMBER WHITE: So this is a very singularly focused bill?

MR. SPENCE: Well it...I'm sure people would do a number of things on their property as they're allowed by law, but this, what this would do would be allow what I just described. Would be able to do...somebody could go buy a piece of Ag property and with a Special Use Permit at least for right now, they could do like an EKO Compost on their property provided they got all, you know, all the permits.

COUNCILMEMBER WHITE: Okay. Because obviously the testifiers were of the same mind as Mr. Couch and --

COUNCILMEMBER BAISA: Right.

COUNCILMEMBER WHITE: --I --

CHAIR COUCH: Right.

COUNCILMEMBER BAISA: Right.

COUNCILMEMBER WHITE: --because they said they would like to be able to bring things --

COUNCILMEMBER BAISA: Right.

COUNCILMEMBER WHITE: --to their own property.

MR. SPENCE: Yeah, they can. If, so long as they're using it on their own property, they're not, this isn't a...they're not doing it as a, you know, as a business for, I want to say export, it's getting close to lunch.

COUNCILMEMBER WHITE: Then why do we need to insert the definition to allow it?

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MR. SPENCE: Because this would allow a freestanding --

CHAIR COUCH: Right, only composting.

MR. SPENCE: --composting facility.

CHAIR COUCH: Say you have a two-acre Ag lot and --

MR. SPENCE: You're adding a permitted use.

CHAIR COUCH: --you just --

COUNCILMEMBER WHITE: Okay.

CHAIR COUCH: --wanted to do composting. I think, Mr. Hopper, you had something you wanted to say?

MR. HOPPER: No, Mr. Chair. Again, we can check these with the State and what the State feels is permitted, and if the State already allows you to do composting on your own property even including bringing in outside materials then that's fine. We also may want to clarify in this bill that that's exactly what we're talking about. But I think, I see the idea is that if you're doing composting on your own property, that's really an accessory to your agricultural use; whereas, if your only use is the composting, that's an outright permitted use. Composting is not an outright permitted use. I think what the Department is saying is that if you're using it, if you're doing agricultural use on that facility, you can bring in compost for that agricultural use, but you can't make compost on that property and sell it off to other properties as a separate use.

MR. ALUETA: It can't be the principal use.

COUNCILMEMBER BAISA: I see.

MR. ALUETA: You see it? Okay.

COUNCILMEMBER GUZMAN: Yeah, and it goes back to scale again.

COUNCILMEMBER BAISA: Right.

CHAIR COUCH: Right. So I guess then it's how we want to discuss the use. Do we want to allow composting only? A, that's the first question. Then B is if we do want to allow composting only, how big of an area? And then also are they allowed to then sell it. I'm guessing that anybody who wanted to do composting only that that's the only reason they would do it is they would be able to sell it.

COUNCILMEMBER BAISA: Right.



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CHAIR COUCH: So I think those would have to go hand in hand. If we're going to allow for a piece of ag property...and keep in mind too, you know, we talk about ag property, farms and whatnot, there's a lot of ag property out there that's, you know --

COUNCILMEMBER BAISA: Not ag.

CHAIR COUCH: --is...yeah, not really ag, so that's a potential area where they may be able to do that as well and make good use of land that pretty much isn't good for ag at this point. I think the testifier brought up and we're going to hear, wrap it up here real quick for our lunch break. The testifier mentioned that for instance Hana Ranch is looking to, wanting to do composting. Now I guess my question to them and maybe Mr. Carroll would know, do they want to do it as a service to the community where people can bring their stuff in there, they can compost it, and then they'll give the stuff away? Or do they want to actually do it as they want to sell the compost?

VICE-CHAIR CARROLL: As far as I know, never got into the details of how the operation would actually work. I do know that they would like to compost and I do know that all the small farmers around there would like to have compost available. But nothing has been worked out at this time.

CHAIR COUCH: Okay. So that's the whole point is that if they want to do it as a, you know, service to the community, I don't think that's illegal as we speak, but if they do want to sell it, that's our discussion here is do we want to allow that.

VICE-CHAIR CARROLL: That I couldn't say until I talk to them.

CHAIR COUCH: Okay. Okay. Staff, did you have a comment? Okay, it looked like you were wanting to make a comment. All right. So, Members, that's something that we may want to discuss with the Department, we have to discuss. I would like Ms. Cochran to be here for this discussion as well, but I just wanted to get it out there what this bill really is looking for, what we want to do as a Committee. And I would like to, you know, maybe discuss it with Mr. Guzman too because that's his Committee. I think everybody here is on his Committee as well. This is something that people are looking for, so I'm fine with deferring this at the moment and then coming up with, seeing if the Department has, they said they had some concerns on language, seeing if they can come up with it. Do you, Members, feel that it is something that we want to pursue to allow as a outright permitted primary use is composting on Ag land? That's the first question. Yes, Mr. White? Chair White?

COUNCILMEMBER WHITE: Is there someone requesting this approval other than Hana? I mean it...

CHAIR COUCH: Mr. Spence, did you have comment?

MR. SPENCE: I just think...

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COUNCILMEMBER WHITE: And it sounded like Hana was going to use what they generated --

CHAIR COUCH: But...

COUNCILMEMBER WHITE: --more than they were looking at selling it.

CHAIR COUCH: Hana Ranch was going to use? Okay. I know the testifier also was saying that other, and Mr. Carroll just said other farmers would like to have access to --

COUNCILMEMBER WHITE: Right.

CHAIR COUCH: --compost. So having that access probably would be having to buy it.

COUNCILMEMBER WHITE: Yeah.

MR. MOLINA: Mr. Chair?

CHAIR COUCH: Yes, Mr. Molina?

MR. MOLINA: Thank you. In researching the matter and discussions with the proposer of the measure, it partly generated out of an interest from EKO Compost to look into establishing a green waste facility at the Olowalu Transfer Station to address West Maui residents as well.

CHAIR COUCH: Okay. So maybe that's the impetus as well.

COUNCILMEMBER WHITE: Good. That helps.

CHAIR COUCH: So, Members, put that in your heads, how you want, what you want it to look like so when we bring this up at the next meeting, when Ms. Cochran can make it, we have some direction that we want to give to the departments, if that's all right. That being said, unless there's any more discussion on this item, I'd like to defer. No objections?

COUNCILMEMBERS VOICED NO OBJECTIONS

**ACTION: DEFER.**

CHAIR COUCH: Okay. So we'll defer this item and, you know, wrap your heads around now what we're trying to get across here and we'll have Ms. Cochran come in and give her discussions as well. With that, Members, we have two more items that we're going to bring up after lunch, and I'm planning on getting this meeting over way before three o'clock just to let you know because I have a meeting with the Department at three

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o'clock. So let's break for lunch and recess this meeting until 1:30. So please be back at 1:30. I know Mr. White will be slightly late but if the three of us, four of us can get the meeting going, we want to start talking about park zoning district at least. Okay? So, Members, this meeting is in recess. . . .(gavel). . .

**RECESS: 11:58 a.m.**

**RECONVENE: 1:35 p.m.**

CHAIR COUCH: . . .(gavel). . . Will the Planning Committee meeting of September 24 please come back to order. Remind the Members and everybody here to turn your cell phones back on to stun. I'm sure you turned the noises on before, for lunch so turn it back off.

**PC-13 PARK ZONING DISTRICT COMPREHENSIVE UPDATE (CC 14-312)**

CHAIR COUCH: Okay, Members, we're on the next item which is PC-13. And we're in receipt of County Communication 14-312, from Planning Director, transmitting a proposed bill entitled A Bill for an Ordinance Amending Chapter 19.27, Maui County Code, and Repealing Chapter 19.615 Relating to Park Districts. The purpose of the proposed bill is to update the County zoning provisions relating to park districts, including the Maui Central Park District, and to consolidate the provisions into a single chapter within the Comprehensive Zoning Ordinance. Members, we had quite a bit of discussion last time this item came up, and we still have some concerns and issues. So what I'd like to do is remind the Members that basically this bill is taking several park districts, PK-1, PK-2 and PK-3, turning them into just PK-1, and doing some changes to PK-4 which is Golf Courses. There were some questions as to who owns or what zoning PK, I believe PK-4, how many golf courses or PK-4-zoned land is private and how much is public? Hopefully the Department was able to come up with some of those answers.

MR. ALUETA: Yeah, we can have these copied if you want. . . .(inaudible). . .

CHAIR COUCH: Sure if you'd like.

MR. ALUETA: Pass these out.

CHAIR COUCH: Okay. And there was some discussion on do we keep PK-1 versus PK-4, just say PK and GC or whatever, so we'll deal with that when the time comes. I want to remind you that in the middle of this transmittal dated or County Communication 14-312, there is the new bill that has, that is listed, it's way back in the back. It's ordinance...it's an ordinance and it's in Ramseyer format, and we're kind of working off of that at this point. We did have some concerns. Staff and I were looking at some of these changes and there were talk about MCP, Maui Central Park District, and it's referenced in Section 19.27.010. There isn't much in the ordinance

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that created that park district and there are no conditions. But what it does say is, it basically refers to the Maui Central Park Master Plan as pretty much where everything is permitted or prohibited. What I...the first thing I'd like to know is do we have a copy of that plan anywhere?

MR. ALUETA: I guess we got word that you wanted to see that plan recently, yesterday, so we don't have it. We're going to have to pull the file from our storage units to see whether or not they're still there. So like I said we got, a roundabout way got your request on that yesterday late afternoon, so.

CHAIR COUCH: Oh no, that's fine.

MR. ALUETA: And then I also...my...like I said, when we drafted this, it kind of was initiated by the Parks Department in the updating of this ordinance so that they could get clarity on their light structures for some of their fields, and then it kind of turned into well let's just redo the whole Code. And then they, when I gave them the draft, they like, they wanted to liberalize it, they wanted to add more stuff. And then at that time, I was under the impression that they had master plan, Pat Matsui had told me that they had a Central Maui Park Master Plan and basically the committee consisted of him. So I e-mailed the new Director of Parks and he said he can't find one either. So I will, again, be looking for our, requesting the file from our side to see whether or not there's anything that resembles a master plan for that area. As I said, the original SMA I guess you could say, for the Central Maui Park was back in '90...it was '92, about '92-'93 is when it was granted. And so again, there would have been some type of plan in that. And then if some of you recall that whole plan was, it included existing lots, to create these, primarily to create these separate lots out for people like the Boys Club of...Boy Club, YMCA, I think there was a time, a boundless playground that was planned on next to the botanical garden for the old zoo site. And so it kind of...along with...and it was very...I think the general...the plan for there was very conceptual in that aspect. I mean it had the soccer fields, your fields you see and incorporating overflow parking for the MACC and all that, but I don't know, I'm not sure if it had any real specifics on it. And I think that was the point that it was supposed to be updated as they went along. But again, we'll try to see if we can find whatever plan there is that qualifies as a master plan. But right now all we have is the uses that are currently in the existing Code under 19.27 and as well as the updated, how we're expanding on what's there now.

CHAIR COUCH: Okay. Yeah, Members, one of the biggest things is we're trying to simplify the Code. We've done this for several different districts. Today we're looking at Parks and Residential. Except for we just want to make sure that we're not, I don't know, granting a bunch of uses that would normally not be granted or under the existing Code or if we are going to grant new uses, that we're aware of those uses. So the first thing that we did talk about...we'll skip over the Central Park District right now or, because that is only Keopuolani Park, right, at this point?

MR. ALUETA: Yes, that's what it's for --

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CHAIR COUCH: Right.

MR. ALUETA: --Keopuolani Park.

CHAIR COUCH: Because I know certainly for the Boys and Girls Club that they don't have their own separate lot, it's a metes and bounds thing, there's no...I know the Y has its, but that's about the only two that I can recall from that are the lots. I guess the question I would have is how do you guys issue permits or do you issue permits for different activities that may or may not be allowed there if you don't have the plan?

MR. ALUETA: I'm sorry, that don't have the what?

CHAIR COUCH: The Maui Central Park plan.

MR. ALUETA: Well...

CHAIR COUCH: Or is it, or does the Parks Department, are they the only ones that will issue permits?

MR. ALUETA: No, we...like in I guess the last permit I pulled was 2007, which we issued a Major SMA for the renovations and new construction at the YMCA. So it is within the SMA area --

CHAIR COUCH: Right.

MR. ALUETA: --so all improvements do require to get some kind of Special Management Area Permit from the Planning Commission. So we look at the uses that are allowed. Right now they're, I think 27 governs the general uses and they're pretty broad for the most part.

CHAIR COUCH: Right.

MR. ALUETA: So and the YMCA I guess in that aspect was specifically called out . . . *(inaudible)* . . . So we do process permits that way.

CHAIR COUCH: Okay.

MR. ALUETA: So I think that, at our last meeting the main issues I guess there was concern with and rightfully so was...can I get my original back? Yeah. The main issue I guess or concern was you wanted to limit some of the, certain operations to be regulated, would be allowed only within County-owned park. So I'm not sure, I know that it was specifically with regards to some open land recreation and maybe open land outdoor recreation as well as the skeet and trap shooting where, in which you wanted to have a Special Use Permit or some type. I'm not sure if you want to...those are kind of the, where some of the focus was on. There was also some discussion I think with regards

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to, you know, if you wanted to allow for some of the commercial activities that would be allowed, whether you wanted to limit that to only County facilities and then see whether or not...or you didn't want to expand it to say if you had a private park, lands that were privately Park zoned.

CHAIR COUCH: Right. A lot of those is, I believe a lot of the private parks are PK-4 and then there are some smaller private parks that are going to eventually be turned over to the County.

MR. ALUETA: Right. And that's why we tried to provide you with a list with some of them. And so there is more lands than just the PK-4 that are in private but may have some type of agreement with the County as far as uses and limitations. And so again, that may be some general statement that you either put on those uses that you don't want to have occur in those private parks. I noticed in some of the lists that I have, it looks like some of the, for whatever reason the land was never turned over to the County, it maintained within, especially within the Makena Resort area, you've got a lot in Wailea, A&B has quite a bit. And I'm not sure exactly, the TMK is there but I don't know of this specific park in particular. A couple others I noted were like the ones out in north, for North Beach, those two big parks. Those are still owned by, are privately held but they're, as you know they were done as part of the Change in Zoning as well as the Special Management Area, the park lands were I guess used as part of their dedication to the Parks Department. I don't know the, whether there's some type of restriction from within the Parks Department on that.

CHAIR COUCH: Okay.

MR. ALUETA: Yeah. And then just to touch on the two lists I gave you. One is as-is and the other one is after, what we're saying is after proposed, the DSSRT, Phase 1, if that gets adopted. So but yes, most of the park land is, would most likely fall within either County of Maui or State of Hawaii. And then the majority of the PK-4s are privately owned ones.

CHAIR COUCH: Right. I think we only have Waiehu, right?

MR. ALUETA: Right, that is correct.

CHAIR COUCH: Fifty five...56 acres about. Okay. Members, some of our concerns was, were that allowing for instance archery and gun ranges on golf courses or stuff, land zoned for golf course, PK-4, skeet and trap fields, and sporting ranges. I believe that was it.

MR. ALUETA: I had pointed out to you at the end of the meeting that outdoor land recreation --

CHAIR COUCH: Yeah.

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MR. ALUETA: --and open land recreation both allow for hunting, so you would want --

CHAIR COUCH: Oh right, yes.

MR. ALUETA: --to have a limitation there, except for hunting, a Special Use Permit be required, if that's the intention whether or not it's private or public lands, it's up to you.

CHAIR COUCH: Yeah, that's going to be a little difficult because we do have some that we just bought that is pretty much...actually it's still listed as Ag so we haven't really defined it as Park yet. Members...let me ask Mr. Guzman first since you're the Committee Chair that deals with parks as well. Have you been able to take a look at this list and see what you...not the list that Joe gave us but the list of uses?

COUNCILMEMBER GUZMAN: On the --

CHAIR COUCH: On the bill.

COUNCILMEMBER GUZMAN: --bill itself?

CHAIR COUCH: Yeah. And take a look and see --

COUNCILMEMBER GUZMAN: Yeah.

CHAIR COUCH: --what, you know, I don't know, maybe if this might be something that we would discuss in your Committee for a while and get the uses down and then come back here and...

COUNCILMEMBER GUZMAN: Yeah, we could, if you want to refer it --

CHAIR COUCH: Is that something you...

COUNCILMEMBER GUZMAN: --and then have Parks come down to the...

CHAIR COUCH: And just go through this thing with...

COUNCILMEMBER GUZMAN: Go through it one by one and have them explain what they're doing exactly and then maybe we can have Planning there as well.

MR. SPENCE: Sure.

COUNCILMEMBER GUZMAN: I'm not sure how much coordination Planning and Parks did prior to drafting or whether there was.

CHAIR COUCH: Well yeah, I think I understand why they wanted to do it 'cause they wanted to get the --

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COUNCILMEMBER GUZMAN: Right.

CHAIR COUCH: --light heights taken care of. But yeah, it morphed into, as all things tend to do it's morphed into a big project.

COUNCILMEMBER GUZMAN: Yeah, I have no problem with it. I'm not sure whether I can get it done within the next couple months. I . . . *(inaudible)* . . .

CHAIR COUCH: Well, let me ask the Department, is there a rush on getting this through? I know in our Planning meetings you were eager to get this.

MR. ALUETA: I don't see a big urgency from the Planning Department, it's just that, you know, we, you hate to see your work stagnate somewhere and --

CHAIR COUCH: Right.

MR. ALUETA: --not go anywhere, and it seemed like a pretty...from our aspect, it was kind of a cleanup bill to get some of the uses and consolidation of it. But again, mostly it was we wanted to make sure Parks Department was satisfied with what they're doing. Again, we took a very conservative, we thought we were taking a very conservative approach initially, and then like I said the Parks Department felt it was better to have more of a liberal uses and as far as sizes. So I think it's not a rush for us, we still regulate it, there's no major project for us that's coming up, but I think it's always better to get it done sooner than later.

CHAIR COUCH: Sure.

COUNCILMEMBER GUZMAN: Or we could, you know, Chair, we could ask Parks to come to your Committee and have them present as well as we kind of work this through.

CHAIR COUCH: We can, yeah, we're absolutely willing to do that.

COUNCILMEMBER GUZMAN: That way we won't have to, you know, delay the matter --

CHAIR COUCH: Right.

COUNCILMEMBER GUZMAN: --in terms of the referral.

CHAIR COUCH: I just feel I want to make sure you're okay with --

COUNCILMEMBER GUZMAN: Oh no, no, that's fine.

CHAIR COUCH: --us talking about it here.

COUNCILMEMBER GUZMAN: I'm absolutely okay with it.



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CHAIR COUCH: Okay. All right.

MR. ALUETA: So, Mr. Chair?

CHAIR COUCH: Yes.

MR. ALUETA: Just, again I gotta understand or reiterate some of the things that came up last time and how we kind of were moving or amending the table --

CHAIR COUCH: Right.

MR. ALUETA: --per se. It was primarily again looking around archery ranges and gun ranges, splitting those two items up --

CHAIR COUCH: Yes.

MR. ALUETA: --and requiring a Special Use Permit if it's on private lands. And then we highlighted like I said, open land recreation, outdoor recreation has some type of firearm involved. You amended the sporting clay to be sporting clay ranges. Again, on private facilities you wanted Special Use Permits. And then under the Special Use Permits, we added firearm or gun ranges on private lands, and we just checked 'em off for PK-1 and 4.

CHAIR COUCH: Right.

MR. ALUETA: And I believe that we wanted to on the, Page 10 of the bill was front setbacks and we were going to scratch out, I guess there was some discussion, it was except for habitable and then we crossed out and non-habitable. Building accessories listed under 19.27.030 shall not be subject to the setback provisions herein, and they wanted that phrase to go down for the side and rear, and then further down on Page 10 on the exceptions column.

CHAIR COUCH: Oh, you wanted that whole thing to go to the other two table?

MR. ALUETA: Correct. I think there was some discussion during and after the meeting about trying to resolve the, I think it deals mostly with the poles --

CHAIR COUCH: Yeah.

MR. ALUETA: --with the light poles.

CHAIR COUCH: Yeah.

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MR. ALUETA: I think that, by doing that, it would make it clear that, you know, the light poles, non-habitable structures, that would be within, would normally be within a setback area, could be allowed within the setback area.

CHAIR COUCH: Okay.

MR. ALUETA: But again, that's our, those are just reading off from my scribbled notes from our last meeting, so.

CHAIR COUCH: And that's, Members, that's why we wanted to bring this back up is to get a little bit more clarity. If we're okay with pretty much everything that Mr. Alueta spoke on. I know we talked about doing, possibly allowing campgrounds on PK-4 or at least I have that written in my notes.

MR. ALUETA: Campgrounds, okay.

CHAIR COUCH: I guess part of the issue and we'll have to look at this list here, PK-4, are there any parks in here that aren't actual golf courses?

MR. SPENCE: I'm sorry?

CHAIR COUCH: Are there any...

MR. SPENCE: On this list?

CHAIR COUCH: On this list.

MR. SPENCE: Yes, Mr. Chairman, I'm aware that the...there may be one in Makena, it's the subject of a lot of discussions. But also the one in Hana it's zoned Golf Course but there is no golf course there.

CHAIR COUCH: Right.

MR. SPENCE: That's going to be the subject of a Change in Zoning shortly.

CHAIR COUCH: Oh, it will be?

MR. SPENCE: Yeah.

CHAIR COUCH: To?

MR. SPENCE: Agriculture.

CHAIR COUCH: Oh really?

MR. SPENCE: Yes.

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CHAIR COUCH: Okay, that's good. And those are the only two that are PK-4 that are not actual golf courses? 'Cause I'm looking at this Moomooiki - Condo Master. It's a PK-4, half an acre...or no, it looks like it's 0.05 of an acre.

MR. SPENCE: Okay.

CHAIR COUCH: What would that be?

MR. SPENCE: Where are you, Mr. Chairman?

CHAIR COUCH: On the as-is list, Page 2, down at the bottom quarter. It says Moomooiki - Condo Master /et al, 0.05 of an acre. Gosh, that's --

MR. SPENCE: Yeah, I'm not sure.

CHAIR COUCH: --like 230 square feet.

MR. SPENCE: I'm not sure. We ran the numbers, what's in the database. We can flag that and ask.

CHAIR COUCH: And Nuu Aina, .7 of an acre.

MR. ALUETA: Yeah, a lot of that is that lot line adjustments. You know like we're projecting this, you know, on our, on a parcel basis, and so a lot of times you have slivers and that's part of, like I said that's the as-is, how the thing lays out.

CHAIR COUCH: Okay.

MR. ALUETA: And then and chances are in the, after DSSRT we've made those corrections so that we've either moved the zoning to the appropriate parcel line because that was probably the original intent; however, the way the line lays out on a zoning map, it may have a sliver of some other zoning that was never intended to be. And so that's part of that whole DSSRT correction where we're trying --

CHAIR COUCH: Okay.

MR. ALUETA: --to correct some of the zonings where there may be some errors or unintended consequences that we're trying to clarify.

CHAIR COUCH: All right. I just want to make sure we don't have public places where we can do, we'll all of a sudden allow a lot of stuff that we, you know, the unintended consequences. There aren't a lot there but there's potential. Okay. So, Members, if, do you have any concerns or questions on what we talked about last time? Other than the Maui Central Park, I have a lot of questions on that. But so we're okay with dealing with a special...archery and gun ranges as a special use in private parks?

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Public parks, I mean County-owned parks or State-owned parks, we're okay if the State...because Ukumehame and a few of those other places.

COUNCILMEMBER GUZMAN: So...

CHAIR COUCH: Yes, Mr. Guzman?

COUNCILMEMBER GUZMAN: So just to clarify. So, Chair, the archery on private lands is that they get a Special Use Permit? Is that...

CHAIR COUCH: That's what the, that's what we all discussed last meeting. It's...I'm, I can go either way on it. Maybe as an accessory use, you know, some pretty hefty, I mean you can take down deer and everything else with archery, so I would imagine that you have kind of the same concerns with, as you would, with a bow and arrow as you would with a gun, just a distance factor. I don't know.

COUNCILMEMBER GUZMAN: Yeah. I kind of...

MR. ALUETA: At the last meeting, Mr. Chair --

CHAIR COUCH: Yes.

MR. ALUETA: --you guys purposefully split out archery ranges and gun ranges so that --

CHAIR COUCH: Correct.

MR. ALUETA: --you would...and then you, it was only for the gun ranges that you had  
. . .(inaudible). . .

CHAIR COUCH: Oh, the gun ranges were only special use.

COUNCILMEMBER GUZMAN: Okay.

CHAIR COUCH: Archery was okay. Okay.

COUNCILMEMBER GUZMAN: Okay, very good.

CHAIR COUCH: I'm fine with that.

COUNCILMEMBER GUZMAN: Thank you. 'Cause I recall that discussion and I thought --

CHAIR COUCH: Right.

COUNCILMEMBER GUZMAN: --archery was excluded.

CHAIR COUCH: Okay.

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COUNCILMEMBER GUZMAN: Okay. Thank you.

CHAIR COUCH: Yeah, it'd be interesting to have a golf course with archery in there. It's kind of a mixed sport, right? I'd like to see Mr. Baisa go deal with the archers.

MR. ALUETA: Well...

COUNCILMEMBER BAISA: My son is an archer.

CHAIR COUCH: Oh see, father-son event. Golf and then shoot the ball down.

COUNCILMEMBER GUZMAN: I just, you know, for me archery and a firing range are way, two different...

CHAIR COUCH: They are two different animals but they both can be very lethal --

COUNCILMEMBER GUZMAN: Yeah.

CHAIR COUCH: --at short range. So but so can a badly aimed golf ball too. At least some of the ones I've hit in my earlier youth. Okay. So then, Members, I would like to turn your attention to the concerns we have with the Maui Central Park District. Mr. Alueta, we did send you a list of questions. I know it was only yesterday, but I think some, a lot of those were, are pretty easily answered. So let me find them, I had them here just seconds ago. What'd I do with them? Good grief, a big pile of...oh, here it is. Okay. We have a couple uses that are currently permitted in the MCP District are being revised in the proposed bill, and was just curious, you know, you have parks deleted as a principal use in the MCP. Maintenance area is deleted as a principal use. Restaurant and gift shop uses for cultural and performing art centers and zoos and biological [sic] gardens is revised by deleting art centers and zoos, art centers, zoos, and gardens as a principal use. Comfort station is deleted as an accessory use. Gymnasium deleted as an accessory use. Are things like that, are they, you know, did you want to move them in as a regular use or I'm not sure what your intent is there, and that's where Staff and I have some concerns.

MR. ALUETA: I can see where the maintenance, your, might be a concern.

CHAIR COUCH: Speak into the mic.

MR. ALUETA: Sorry. Just trying to make room here. I can see where originally I think the intention was that we took it out because it's allowed as an accessory use; however, after driving by there recently, I noticed that the Parks Department does use one of the lots as their maintenance facility which has nothing to do with maintenance of the Maui Central Park. Meaning it's just, it's used as their, a general park facility.

CHAIR COUCH: Okay.

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MR. ALUETA: And so I can see where you would probably want to put that back in there --

CHAIR COUCH: Right.

MR. ALUETA: --for them as being a maintenance facility for Parks.

CHAIR COUCH: I guess I have a little bit of concern with making a lot of changes, and, Members, there are a lot. I can, just I'll read down the list of some of the things we noticed. Comfort stations were deleted as an accessory use. I'm assuming you'd want to make them as a primary use but it's not allowed at this point. Yeah.

MR. ALUETA: Subordinate uses in structures...

CHAIR COUCH: Oh, you're going to lump that all into in one big...I'm fine with that. If...I guess this is my concern is you guys, you know, Joe you've been here for a long time and Mr. Spence you may not be after so many years and a bunch of people are going to be moving on one way or the other. So we want to be able to make sure that there aren't interpretations.

MR. ALUETA: No, and I agree with you. And I would say just it could have been just an oversight but I would say, you know, standard comfort facilities, bathroom facilities would be considered to be a standard accessory use within a park facility. I don't think you need to...be listed as a permitted use.

CHAIR COUCH: Okay.

MR. ALUETA: Because you have a park or outdoor activity that's there and --

CHAIR COUCH: You should have a comfort station.

MR. ALUETA: --a comfort station would be a typical accessory feature, so.

CHAIR COUCH: And I'm fine with that too.

MR. ALUETA: Yeah.

CHAIR COUCH: So gymnasium, deleted as an accessory use. I would think you would want that as a primary use or would you want that as a special use for the County depending on what park it is, et cetera? And if that's the case we're going to not pass this until the gymnasium in Kihei gets built. And again, this is just under the Maui Central Park --

MR. ALUETA: Okay.

CHAIR COUCH: --zoning.

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MR. ALUETA: Oh, I see what you're saying. Okay, it probably was...I'm not sure how that was deleted.

CHAIR COUCH: Okay.

MR. ALUETA: It was probably never...and I don't recall it being discussed specifically to remove it, so.

CHAIR COUCH: Okay. Historic buildings, structures, or sites or areas of scenic interest is revised from an accessory use to a permitted use, that's good. Luaus, carnivals, bazaars and fairs that are special events and temporary in nature is revised by inserting food, wine, or film festivals.

MR. ALUETA: Correct, so we expanded it from 10 days to 30 days.

CHAIR COUCH: And then you also...the definition of temporary is 10, no more than 30 days. And I like, that's very good. Does that help...oh of course this is at, only at Maui Central Park, so. Maintenance and storage structures...so you're adding food, wine, or film festivals over at Keopuolani Park then essentially? As a...

MR. ALUETA: I mean that would...that's typically what you see nowadays.

CHAIR COUCH: Yeah. Okay.

MR. ALUETA: I mean it's not so specific. I think the luaus it was very specific, and again, we're trying to check it off so that it's not only allowed, it's a use that's listed for Maui Central Park, it's use that's allowed in the PK-4 or in other park districts.

CHAIR COUCH: Right. Okay.

MR. ALUETA: So we just tried to make it --

CHAIR COUCH: Just add that --

MR. ALUETA: --. . .*(inaudible)*. . . Yeah.

CHAIR COUCH: --straight across? Gotcha.

MR. ALUETA: I mean that's the intention of it.

CHAIR COUCH: Okay. Of course we talked about maintenance and storage structures deleted as an accessory use, but that's, we want to put maintenance areas and those storage structures back in as an accessory use I would think.

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MR. ALUETA: No, I think you wanted to...I think it was listed as a...I'm sorry, was it deleted as an accessory use?

CHAIR COUCH: That's what it seems like.

MR. ALUETA: Let me go back to my...

CHAIR COUCH: You have maintenance buildings but you took out maintenance and storage structures. I guess maintenance building is good enough. I mean as far, if you're okay with interpretations. Okay?

MR. ALUETA: Yeah.

CHAIR COUCH: All right. Off-street parking and loading is deleted as an accessory use in MCP. You actually don't have it anywhere, unless you're again going to say that other similar businesses or commercial enterprises or activities that are not detrimental to the welfare of the surrounding area. But that's talking about businesses or commercial enterprises or activities. My concern again would be off-street parking, would you want to...I guess that can fall under subordinate uses in structures which are determined by the Director of Planning to be clearly incidental and customary to the permitted uses listed herein.

MR. ALUETA: Yeah.

CHAIR COUCH: Okay, again we're trying to be, you know, we want it to be specific so we don't leave open --

MR. ALUETA: Right.

CHAIR COUCH: --to interpretation. So I guess...

MR. ALUETA: I guess the...I see your concern and if it makes the Council feel more comfortable I would say put it in. I think that during our discussions when we prepped this in management, we felt that I guess for the sake of brevity I guess, we were trying to cut it down so...

CHAIR COUCH: Which is great.

MR. ALUETA: Right. And so but if you feel more comfortable having that back in there specifically, we have no objections to it, we're just trying --

CHAIR COUCH: Okay.

MR. ALUETA: --to make sure that...



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CHAIR COUCH: I'll leave this up to the Members. Do we have a concern on whether we want to leave a whole big section open to interpretation?

COUNCILMEMBER BAISA: No.

CHAIR COUCH: Or do we want to start listing items? 'Cause I do...like I said I have a list here. Park furniture was deleted as an accessory use but I understand that that could fit in that other list. Play and outdoor exercise equipment, pavilions. So I guess the question to you guys is do we want to list those each individually as an accessory use or do we want to just say subordinate uses in structures which are determined by the Director of Planning to be clearly incidental and customary to the permitted uses listed herein?

COUNCILMEMBER BAISA: I like the latter better.

CHAIR COUCH: The latter? My question would be for Corporation Counsel, could there be some issues that you would have to at some time later down, you know, in a number of years, say okay, this was interpreted by Mr. Spence one way and now another director is interpreting it the other, and then having to have...it happens all the time? Okay. Mr. Hopper, do you have any concerns on that about the fact that we just have a generic customary to the permitted uses listed herein kind of language?

MR. HOPPER: I think we have done that in other ordinances before. I don't think that's necessarily uncommon to allow the Planning Director to determine what uses are accessory.

CHAIR COUCH: Okay.

MR. HOPPER: I mean it gives the Director more discretion, and the, with the Commission, the Commission would make, being making a discretionary decision as well. So it's, you know, in either case, there's a discretionary decision being made in those situations. So it, you know, having it be the Director or the Commission, it's still allowing additional uses.

CHAIR COUCH: Okay. I guess the...does the Planning Department have administrative rules for parks or for interpretations that you guys are sometimes making? I know you have interpretation books but they're not codified anywhere.

MR. ALUETA: We have...rule-making authority. Sorry. Rule-making authority is at the very end.

CHAIR COUCH: Right, understand, but do you actually make the rules? Have you made, have you gone through and made interpretive rules...interpretations into rules?

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MR. SPENCE: Not necessarily interpretations...well yes, it would involve interpretation. We have for like short-term rentals. We have for, you know, the Ag District and farm plans, those kinds of things. We do do it, it's not with every chapter.

CHAIR COUCH: Okay.

MR. SPENCE: And then there's a section at the beginning of Title 19 on how to interpret. So we --

CHAIR COUCH: Okay.

MR. SPENCE: --observe that.

CHAIR COUCH: Members, we are at bare quorum so I believe somebody needs to excuse themselves so we're going to take a short break, probably ten minutes. So this meeting is in recess. . . .(gavel) . . .

**RECESS: 2:13 p.m.**

**RECONVENE: 2:29 p.m.**

CHAIR COUCH: . . .(gavel) . . . Will the Planning Committee meeting of September 24<sup>th</sup> please come back to order. Members, it seems like when we discussed the Maui Central Park plan, master plan that the Department hasn't been using that at all which is understandable. So I guess it's your Chair's suggestion is to take out from Title 19 the reliance on that plan and just change...I mean have the uses that we have here as what is permitted. So if that's okay with the Members, I think that's what we'll do. We already discussed everything else that we had concerns with so pretty much everything else is good. So what I'd like to do is I would...and I'll call on you in a little bit, Mr. Carroll, give direction to the Department and our Staff, they'll come up with a revised bill that we can pass out at, on the October 9<sup>th</sup> meeting which is our next meeting.

COUNCILMEMBER BAISA: No objection.

CHAIR COUCH: I believe we have clear direction. Department and Staff, you have clear direction from the Committee as to which way they want to go? Okay, good. Mr. Carroll, you had a...

VICE-CHAIR CARROLL: No, I was just going to say that I think that's a good way to --

CHAIR COUCH: Okay.

VICE-CHAIR CARROLL: --look at it and do it.

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CHAIR COUCH: So that's what we're going to do. With objection, we'll defer this. We'll come up with the right language. Now that we have the direction, we're going to deal with the PK-4 stuff, and then we'll come back and it'll be pretty much just review it and we'll pass that out. Okay. So without objection, we'll defer this one.

COUNCILMEMBERS VOICED NO OBJECTIONS

CHAIR COUCH: Okay. So we're deferred.

**ACTION: DEFER.**

**PC-4 RESIDENTIAL DISTRICTS (CC 13-78)**

CHAIR COUCH: All right, Members, the last item and we're only going to spend a little bit of time on there, we're in...it's PC-4, Residential Districts. We're in receipt of County Communication 17-38...13-78, wow, from me, transmitting a copy of County Communication 10-210, from the Planning Director, transmitting a proposed bill entitled A Bill for an Ordinance Repealing Chapter 19.09, Maui County Code, and Amending Title 19, Maui County Code, Relating to Residential Districts. The purpose of the proposed bill is to repeal Chapter 19.09 and amend Title 19 as it relates to Residential Districts. This is another one that the Department has been working on to consolidate and make friendly. The reason it was filed, apparently County Communication 10-210 was inadvertently filed. I recall that now. We were going to defer it to the new term because home-based businesses were involved. So we did the whole home business bill. Unfortunately the bill that is before us has home businesses in there, so, Staff, you had, I believe a recommendation on how we're going to do this? We're going to get it rewritten without home businesses?

MR. GARNEAU: Yes. This is Greg. We would need to do a new proposed bill and work with Planning to do that, and I did discuss this with Michele McLean. Because it was filed, this is essentially a dead bill, and so it would be a brand new one that we'll have to do a reso as well and route it to the Planning Commissions. But we need to know the portions of the bill that Planning wants to keep in the new Residential Districts . . .(inaudible) . . .

CHAIR COUCH: Okay. All right. So, Members, what we're trying to do is we'll work with the Planning Department as to how they want to reconsolidate now that we have home businesses in there. Planning, do you have any questions or concerns or any direction you would like from us before we go and do the rewrite with you?

MR. ALUETA: I guess it's kind of timely. I mean we're disappointed because it has, we had gone through all Planning Commissions and spent a lot of time on the public hearings, so it's unfortunate that it, it did not...it was inadvertently filed. A good thing is that I believe that there is some other bills that are kind of related to it that would be timely for us to discuss at the Planning Commissions at the same time. I believe that there is

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the, allowing for accessory structures, accessory dwellings on smaller lots that have, has been or recently been transmitted to the Planning Commissions. From my aspect, I think it's important to discuss the two together. We do have, there is, the new concept within the, Title 19 and the Residential District about lot coverages. I think that's timely as far as being in discussions along with the use of allowing accessory dwellings on smaller lots. I think that'll kind of play into that. And I think we talked about that at a break earlier, so hopefully we can give a more holistic view to the Planning Commissions as well as the Council when it gets back here.

CHAIR COUCH: And, Members, too, we also discussed at an earlier item about the whole kitchen thing. This would be a time to discuss that as well because it is all part of residential, is it not? Or is that...

MR. ALUETA: One aspect is dwelling.

CHAIR COUCH: Dwelling. I'm sorry, yes, dwellings. So it's your Chair's...I wanted to get information from the Department and let you know what happened with this bill. I had no intention of passing anything out today, because it's not a valid bill and it does have to go to Planning Commissions again in whatever form we decide to deal with it. So with your permission, I'd like the Committee Staff and the Planning Department to get together, consolidate all the stuff we're talking about and get something ready for us to come back, and then we'll have a huge discussion on accessory dwellings, number of kitchens, the whole nine yards, the dwelling definition and whatnot. So if you're okay with that, I, that's the intent. Mr. White, you have a confused look on your face.

COUNCILMEMBER WHITE: No more than usual. No, I was just wondering if the, if every issue needs to come to us then go to the Planning Commission and come back to us. If it's something that the Department is initiating, is it possible for them just to take it to the Planning Commission and then --

CHAIR COUCH: Yes --

COUNCILMEMBER WHITE: --come back?

CHAIR COUCH: --that is one way to do that, and I think what we discussed was that we'd like to do as much as we can here before it goes to the Commission so they just give us advice. On this one however because so many different pieces, parts are in Planning Commission, you know, in some sort or phases in the Planning Commission, I'm fine with our Staff working together. 'Cause they've kind of got an idea where we're going to go with things, and then just having the Department submit it to the Planning Commission. And then when it comes back from the Planning Commission, we'll pick it up.

COUNCILMEMBER WHITE: Okay. Thank you.

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CHAIR COUCH: Does that sound good?

COUNCILMEMBER BAISA: Yes, no objection.

CHAIR COUCH: Okay. Planning Department, you have any concerns with that?

MR. ALUETA: No, we're good.

CHAIR COUCH: Staff? Okay. So without any objections, we'll defer this item.

COUNCILMEMBERS VOICED NO OBJECTIONS

**ACTION: DEFER.**

CHAIR COUCH: And, Members, thank you so much for allowing for this off-day meeting. And thank you for also being here on the 9<sup>th</sup>, those of you who will be here on the 9<sup>th</sup> for the next scheduled meeting. And we'll bring up at least Parks on that one and have that done. So without any further ado, thank you very much, Staff, for muddling through this with us. And this meeting is adjourned. . . .(gavel). . .

**ADJOURN: 2:38 p.m.**

APPROVED BY:

A handwritten signature in black ink, appearing to read 'Don Couch', written over a horizontal line.

DON COUCH, Chair  
Planning Committee

pc:min:150924:ds

Transcribed by: Daniel Schoenbeck

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CERTIFICATE

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

DATED the 13<sup>th</sup> day of October, 2015, in Kula, Hawaii

  
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Daniel Schoenbeck