

PLANNING COMMITTEE
Council of the County of Maui

M I N U T E S

Council Chamber

October 20, 2016

CONVENE: 9:06 a.m.

PRESENT: VOTING MEMBERS:

Councilmember Don Couch, Chair
Councilmember Robert Carroll, Vice-Chair
Councilmember Gladys C. Baisa (left at 10:46 a.m.)
Councilmember Elle Cochran (arrived at 9:22 a.m.)
Councilmember Don S. Guzman (arrived at 9:14 a.m.)
Councilmember Mike White

EXCUSED: Councilmember Michael P. Victorino

STAFF: 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
Kathleen Aoki, Administrative Planning Officer, Plan Implementation Division, Department of Planning
Rowena Dagdag-Andaya, Deputy Director, Department of Public Works

OTHER: Stan Franco, Housing Co-Chair, Housing Advocacy Program
Cassandra Abdul, Executive Director, Na Hale O Maui Community Land Trust

PRESS: *Akaku Maui Community Television, Inc.*

CHAIR COUCH: . . . (*gavel*) . . . Will the Planning Committee meeting of October 20, 2016, please come to order. It is 9:05. My name is Don Couch. I am the Chair of the Committee, and before we go any further, can I ask people to set their phones to silent

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

mode, or turn them off? And let's get started. Joining us today are the Vice-Chair, Committee Vice-Chair, Robert Carroll.

VICE-CHAIR CARROLL: Good morning, Chair.

CHAIR COUCH: Good morning. Member, Gladys Baisa.

COUNCILMEMBER BAISA: Good morning, Chair.

CHAIR COUCH: Good morning. Council-Chair, Mike White.

COUNCILMEMBER WHITE: Good morning, Chair.

CHAIR COUCH: Good morning. And excused is Councilmember Elle Cochran, Councilmember Guzman, and Councilmember Victorino. From the Planning Department we have Will Spence and he's the Director of the Planning Department. Good morning.

MR. SPENCE: Good morning, Mr. Chairman.

CHAIR COUCH: And we have Kathleen Aoki, who is the Interim Planner. No.

MR. SPENCE: No.

CHAIR COUCH: Long-range Planner.

MS. AOKI: No.

MR. SPENCE: No.

CHAIR COUCH: Implementation Planner.

MR. SPENCE: Implementation Planner.

CHAIR COUCH: There you go, I got it. I know it started with an I.

MS. AOKI: Good morning.

CHAIR COUCH: Good morning. You keep changing your position so I...from the Public Works Department we will have Rowena Dagdag-Andaya. And from the Department of Management, we will have David Ching. We have Deputy Corporation Counsel, Michael Hopper. Good morning.

MR. HOPPER: Good morning, Chair.

CHAIR COUCH: And Staff Legislative Attorney, Greg Garneau. Good morning.

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

MR. GARNEAU: Good morning, Chair.

CHAIR COUCH: And Committee Secretary, Pauline Martins, who's busy handing out stuff. Okay and from the Hana District Office, we have Dawn Lono. Good morning, Dawn.

MS. LONO: Good morning, Chair. This is Dawn Lono at the Hana Office.

CHAIR COUCH: And from the Molokai District Office, we have Ella Alcon.

MS. ALCON: Good morning, Chair. This is Ella Alcon on Molokai.

CHAIR COUCH: And the Lanai District Office is closed today. Members, we have two items on the agenda today as PC-28, which is Amending the Comprehensive Zoning Ordinance to Establish Affordable Accessory Dwellings as a Permitted use in the Residential Zoning Districts. And PC-37(2), Increasing Inventory of Available Housing. And before we get going we'll start public testimony. For individuals testifying in the Chamber, please sign up at the desk in the back. If testifying from a remote testimony site, please sign up with District Office Staff. Testimony will be limited to the items listed on the agenda today. The two that I just listed. And you'll have three minutes to do your testimony, and with a minute to conclude, according to the Council rules. What we'll...the way we're gonna do...use the lighting system is the first three minutes the light will be green, and then it will be yellow for one minute, and when it turns red, please conclude your remarks. And when you come up, please identify yourself and the name of any organization you may be representing. Alright, Members, we have two people signed up in the Chambers to testify. First up is Stan Franco, followed by Cassandra Abdul.

. . . BEGIN PUBLIC TESTIMONY . . .

MR. FRANCO: Good morning, Chair and Members.

CHAIR COUCH: Good morning.

MR. FRANCO: My name is Stan Franco. Sorry about that. And I represent FACE Maui. First on PC-28, we have testified previously in favor of this bill and we are supporting that testimony. So thank you for doing this. It will help our inventory of affordable homes. On the 37(2), I sent out earlier this morning to Don our comments, sorry so late. I don't know if everybody's gotten those comments. And I want to go through some of the comments. And if you have any questions. This is number two of the TIG, comprehensive rezoning. We do not agree on doing this because we believe that our communities need to vet the Maui Island Plan. You know, this is the idea of having community plans. So we want the communities to look at this before we do any kind of comprehensive rezoning. Number five, identity...identify undeveloped properties. We agree with that. We would like the lands to be...we don't want the

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

lands just to be multi-family rentals, we believe in mixed housing units, because we don't want to prevent...we want to prevent ghettos of only low-income housing. On the recommended referrals, number one, prioritize County development. We agree that the County of Maui should help with infrastructure costs but where would the money come from? We want...we may want to consider a mechanism where the buyers of the lots in the subdivision pay back over time the County, for the improvements. On number two, third-party, non-County Chief to coordinate construction of affordable housing. We strongly agree with this. And we have sent to Mike White, our housing advocate, duties and responsibilities. And if you have any questions on that, I'd be glad to talk about that. On number four, revise County housing policies. We agree with caution. We need assurance that our residents get homes built at their earning power. We may want to consider an entirely different ordinance only related to affordable, 50 percent affordable housing projects. In other words, something like a law for the County of Maui. And on number six, proposed amendment to the Maui County Code, we agree with caution. Because we don't know how these additional monies will be used. We would be in favor of the additional 2 percent be slated for the purchase of land to build affordable homes. We think that land is one of the real big issues that we need to overcome if we are gonna build the homes that our people need. Thank you.

CHAIR COUCH: Thank you, Mr. Franco. Members, any questions to the testifier? I have one. You mentioned the comprehensive rezoning made at the Maui Island Plan time, is that...and you don't support that? Is that correct? This number two.

MR. FRANCO: Well, the way it's written, it says that to give immediate weight to the choices and policies made in the County Island Plan. That's fine but I think what that Island Plan has to be vetted at in, the communities. That's why we need community plans.

CHAIR COUCH: Right.

MR. FRANCO: Because our communities have to look at it, before we make any decisions to do any kind of comprehensive rezoning.

CHAIR COUCH: And I agree with that. The question I would have for you is, if we change that comprehensive zoning to be done after the community plans are done, would you support that?

MR. FRANCO: Yes.

CHAIR COUCH: Okay.

MR. FRANCO: I think we should make it easier for people to --

CHAIR COUCH: Okay.

MR. FRANCO: --develop.

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

CHAIR COUCH: How about at the other end, at the Maui Island Plan time district boundary amendments? Which wasn't brought up in there, but I'm gonna bring that up today. District boundary amendments is changing the State district boundary designation. Would you...because in the Maui Island Plan, we say this is where we're gonna do urban growth boundaries so this is where we're gonna do urban growth so automatically comprehensively do a district boundary amendment to say this is where we want urban so let's change it to urban right away.

MR. FRANCO: I'm not sure how to answer the question.

CHAIR COUCH: Okay.

MR. FRANCO: I know when I was on the GPAC we had certain proposals and was changed along the way. So, you know, I have not looked at that for a while. So I cannot really respond to the question.

CHAIR COUCH: Okay.

MR. FRANCO: I'm sorry.

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

MR. FRANCO: Thank you.

CHAIR COUCH: Next up is Cassandra Abdul and then we'll go to the District Offices.

MS. ABDUL: Good morning, Chair --

CHAIR COUCH: Good morning.

MS. ABDUL: --and Members. We're here just to generally support what you're doing. Na Hale O Maui is a 501(3)(c) [sic] nonprofit organization. And we support all efforts to increase inventory of affordable housing in Maui County. We were created to secure and preserve a permanent supply of affordable housing alternatives for low and moderate-income households in Maui County. Therefore we strongly encourage affordable housing in perpetuity. We appreciate the Department, the Maui County Planning Committee, and its TIG, for their willingness to think outside the box while identifying housing solutions, barriers to increase housing, and what steps the County could take to take to facilitate the development of housing. We look forward to learning more about the prioritized list of findings and recommendations outlined by the TIG Chair Cochran, in her October 6th transmittal. We are especially heartened that these recommendations will be referred out to the appropriate committees and departments, to eventually be implemented with the goal of increasing the inventory of housing in Maui County. Na Hale O Maui strongly believes that affordable housing in

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

perpetuity can be a vital part of our housing strategy. We want to be an active contributing member of Maui County's affordable housing solutions and look forward to continuing opportunities to partner with you to provide more affordable housing in perpetuity for income-qualified families earning less than a 120 percent of AMI. Mahalo.

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

MS. ABDUL: Okay.

CHAIR COUCH: Before we to the District Offices, I want to recognize the attendance of Mr. Guzman. Good morning, sir. Alright, let's go to the Hana District Office. Is anybody there waiting to testify?

MS. LONO: There's no one waiting to testify at the Hana Office.

CHAIR COUCH: Thank you, Dawn. Molokai District Office?

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

CHAIR COUCH: Okay. Thank you, ladies. Members, seeing that there is nobody else in the Chambers that is wanting to testify because there's nobody else in the Chambers, without your...without objection, we'll close public testimony.

COUNCILMEMBERS: No objections.

CHAIR COUCH: Okay, public testimony is closed.

. . . END OF PUBLIC TESTIMONY . . .

CHAIR COUCH: Thank you, ladies.

PC-28 AMENDING THE COMPREHENSIVE ZONING ORDINANCE TO ESTABLISH AFFORDABLE ACCESSORY DWELLINGS AS A PERMITTED USE IN THE RESIDENTIAL ZONING DISTRICT (C.C. 15-196)

CHAIR COUCH: Okay, Members, first up on the list, is PC-28, Amending the Comprehensive Zoning Ordinance to Establish Affordable Accessory Dwellings as a Permitted Use in the Residential Zoning Districts. You have before you a proposed bill to establish affordable accessory dwellings as a permitted use in the Residential Districts. In addition to the bill referred to in the Planning Commission...to the Planning Commissions by the Council, the Department of Planning prepared a separate proposed bill on the same subject at the request of the Office of the Mayor. On your

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

tablet, you will find the proposed bill transmitted by my correspondence dated June 23, 2016. The attachment is called proposed bill from Council...Committee...from Committee Chair Couch 6-23-2016. So if you take a look at that on the Granicus that's...we're gonna look at that bill. You will also find the Department's version in the Planning Director's correspondence dated January 8, 2016. And both versions of the proposal were reviewed by the Planning Commissions. Planning has summarized their comments on a chart comparing the differences between the two bills. The chart is located on the fourth page of the document labeled correspondence from Planning dated 1-8-2016. So, you might want to grab that one. And this is just an editorial note, this is one of the reasons why the internal workings of Granicus isn't all that good. Because we have to go back and forth between two documents and it's gonna be cumbersome. Alright, Members, I'd like to work through the chart on that document from the Department of Planning, the fourth page. And then want to get your recommendations for getting these bills all set. But before we go, let's start with the Department to see if they have any questions or comments...any further questions or comments.

MR. SPENCE: Thank you, Mr. Chairman. First off I'm...you're referring to...the letter I have is from December 1, 2015. That's the transmittal to...

CHAIR COUCH: Correct, it's attached to a letter dated January 8th. So yes, it's the December 1st one. Yeah.

MR. SPENCE: Okay, great. Okay. Want to --

CHAIR COUCH: And it's Page 2 of that.

MR. SPENCE: --make sure we're all looking at the same thing.

CHAIR COUCH: Okay.

MR. SPENCE: Okay. So the table that I'm looking at is on Page 3 of a December 1st memo to the Planning Commissions.

CHAIR COUCH: Okay.

MR. SPENCE: Comparing the different things. Okay, so we have two, as you said, we have two bills. The first one is Resolution 15-112, authored by Mr. Carroll, that would allow units on lots...accessory units on lots less than 7,500 square feet down to 5,000 square feet. And he gives some sizes of units that we could have. We're generally in support of the bill, the primary issue is going to be enforcement. I'm not...and I should say in terms of the affordability requirements and the...and/or, you know, the person being a relative. So, you know, the enforcement falls to the Planning Department. We perceive some difficulty with doing that. We can talk about that a little bit later if you want. And then of course the Mayor's proposal, really what it would do is...the primary thing it would do would be allow ohanas...two ohanas on

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

lots larger than 12,000 square feet. And that would include the Rural districts. In...we have a fairly significant amount of Rural within the County. The...we also propose some modifications to the existing accessory dwelling bill to just clarify something regarding whether it's a covered lanai, an uncovered lanai, et cetera. And we can go over those things when that time comes. We also have...we'll also have a few technical clarifications.

CHAIR COUCH: Okay.

MR. SPENCE: When we get down to that.

CHAIR COUCH: Alright. And I'd like to recognize the presence of Ms. Cochran. Good morning.

COUNCILMEMBER COCHRAN: Good morning, Chair.

CHAIR COUCH: Okay. Members, so the bill in Resolution 15-112 is that that's the other document, I believe. And then the bill, the Mayor's proposal is on Exhibit 11 of this same document of where this chart is. So we're gonna have to go back and forth between all of these documents. And I actually think that if you guys need to get them printed out, maybe we should do a quick recess and get you guys to print out your copies, because we are gonna have to go back and forth between these documents. Is that something you guys want to do?

COUNCILMEMBER BAISA: Yes.

VICE-CHAR CARROLL: Yes.

CHAIR COUCH: Okay. I hate to waste the paper but I think we're gonna need to do that in this case. So, we'll do a short recess to the call of the Chair so we can get these documents printed out.

COUNCILMEMBER BAISA: Good.

CHAIR COUCH: This meeting...

RECESS: 9:23 a.m.

RECONVENE: 9:31 a.m.

CHAIR COUCH: . . . (*gavel*) . . . Will the PC Meeting of October 20, 2016, please come back to order. Members, while we're waiting for the printout, there are some discussions we can have so, I'm just gonna make some comments, a little bit. You know, the intent of the bill is just to allow owners, who have homes, to...especially smaller lots, 70...5,000 to 7,500 square feet to build an ohana unit for affordable purposes only. And I know that the Department has some concerns about the enforcement of that, we can

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

discuss that when it gets out there. Obviously we all know with the TIG and everything, that there is a dire need of affordable housing. This is another way that we can allow for folks to get affordable housing. Many communities around the country are now going to accessory dwellings to supply affordable housing. You got San Antonio, Seattle, Minneapolis, Vancouver, Austin, Santa Cruz, and San Francisco have adjusted their land use requirements to accommodate more affordable housing. We've had ohanas for a while, so that's nothing new to us. Some interesting points of fact, San Antonio states in their municipal code that accessory dwellings have become an important method to permit families to remain in their homes, while the...at the same time providing affordable housing for the elderly, single-person households, students, and other needy populations. That sounds just like us. But they've actually have that in their code. Seattle has a guide to building a backyard cottage, notes that backyard cottages can create attractive and affordable rental opportunities for Seattle residents. I think this is something that we can do and get done with the assistance with the Department and then we also have the little extra added Mayor's proposal to, if you have more than 1,200...12,000 square feet then you can have a second dwelling unit. It doesn't have a...the Mayor's proposal doesn't have, and we'll find that out, an affordable requirement...affordability requirement. But the issue is still there. It's another opportunity for more rentals to get built that the County doesn't have to build, that a nonprofit doesn't have to build, that somebody who has the opportunity to do that to build that. Those are some of my opening remarks. If you guys have anything to say about this bill, I know Mr. Carroll, this is based on your original bill. But, Members, if you have any thoughts or comments, while we're waiting, I'd like to hear them. Mr. Carroll?

VICE-CHAIR CARROLL: Thank you, Chair. This has come about because we've been, ever since I've been on this Council, we've been trying to address affordable housing. And it's been really difficult. This is not gonna solve all affordable housing. We're gonna have to do many things to end up with the regulations and the things that we can do to encourage affordable housing. This one is very nice in one way because it doesn't cost government anything. And that is one of the big advantages. All the affordable housing now that we manage to get out, we pay for it. It's all subsidized. Jo Ann Ridaio, well before she left, when I met with her, noted that 43 percent of...only 43 percent of families with Section 8 vouchers can find dwellings to live. There is literally hardly anything out there. This would allow them to, on the Section 8s, I'm sure that quite a few would sign up for that if we pass this bill and get it out. And also if we know how stressed the housing is, where we have two or three families in a house. This would have less impact on the infrastructure than having, in Kahului, where we have all these multiple families. That is more of an impact on our structure than this...the proposal we have before us. And I see they're distributing this so I think we can look at it. Thank you, Chair.

CHAIR COUCH: Great. Members, any other comments? Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair. You referenced the Mayor's proposal. Which proposal's that?

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

CHAIR COUCH: You're being handed out three documents. One is the chart that's printed on both sides. Next is ordinance, it's labeled Exhibit "1" down below. That is Mr. Carroll's bill, I believe.

COUNCILMEMBER GUZMAN: Okay.

CHAIR COUCH: And then, the Mayor's bill is Exhibit 11, its labeled Exhibit 11. So you have three documents.

COUNCILMEMBER GUZMAN: Okay.

CHAIR COUCH: So we referred to, basically the Exhibit "1" bill, is our...as our base document. We can add some of the Mayor's stuff and the comments from the Department as well.

COUNCILMEMBER GUZMAN: Chair?

CHAIR COUCH: Yes, Mr. Guzman?

COUNCILMEMBER GUZMAN: Exhibit "1" is your revised proposal from, stemming from Mr. Carroll's proposal?

CHAIR COUCH: This is what we sent...I believe this is what we sent to the Planning Commissions and they made their comments. And then, this is where we're at. Greg?

MR. GARNEAU: Yes. Councilmember Guzman, to answer your question, the...what we just passed out is the, identical to the one that was sent by Chair Couch. There have been no changes so far. So, the one that was sent to the Commissions was attached to originally to a resolution. And so we sent a standalone bill, by the correspondence in June. But they're identical. So the one you have in front of you, our copy is the same.

COUNCILMEMBER GUZMAN: Okay.

MR. GARNEAU: And there have been no revisions to date.

COUNCILMEMBER GUZMAN: Okay.

CHAIR COUCH: Okay? Yes, sir.

COUNCILMEMBER GUZMAN: Before we begin, just for my understanding. So the range that we're talking about is between 5,000 and 7,500 square feet?

CHAIR COUCH: Yes.

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

COUNCILMEMBER GUZMAN: So anything more than 7,500 or less than 5,000 is not applicable to this ordinance?

CHAIR COUCH: To this ordinance, there are, current Code exists that says if you have 7,500 square feet or more you can have --

COUNCILMEMBER GUZMAN: Right.

CHAIR COUCH: --an accessible...an accessory dwelling. It doesn't have to be affordable. This bill says anything from, if you want to add it from 5,000 to the 7,500, it's gotta be affordable in perpetuity.

COUNCILMEMBER GUZMAN: Yeah.

CHAIR COUCH: Okay.

COUNCILMEMBER GUZMAN: I get that part of it.

CHAIR COUCH: Okay.

COUNCILMEMBER GUZMAN: However, wouldn't it be, I mean, I guess more reasonable to just reference the, I guess the appropriate other ordinances that apply to the 7...more than 7,500? Because those ordinances could change one day on the range itself. So, then you would have to come back and amend this section. I'm just, instead of having to...

CHAIR COUCH: This changes those sections in the Code.

COUNCILMEMBER GUZMAN: Sections. Okay.

CHAIR COUCH: Yeah. Yeah.

COUNCILMEMBER GUZMAN: Okay.

CHAIR COUCH: So those sections in the Code are there and this just changes, allows for additional things in the Code. Does that make sense?

COUNCILMEMBER GUZMAN: Yeah. Yeah, I think so.

CHAIR COUCH: Okay.

COUNCILMEMBER GUZMAN: Thank you.

CHAIR COUCH: Okay.

COUNCILMEMBER GUZMAN: Thank you for clarifying it.

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

CHAIR COUCH: Members, if you've got all the stuff, let's start. And the first thing is as we were just talking with Mr. Guzman, the new lot sizes are from 5,000 to 7,499 square feet. The current Code only says anything 7,500 square feet or more is when you can have an accessory dwelling. So in the Mayor's proposal, it's...the point is moot in this instance for the new lot sizes. So we don't have to worry about that. The size of the accessory dwelling in the, Mr. Carroll's original proposal, if the size of the dwelling can be no more than 400 square feet on lots between 5,000 and 5,999 square feet. And then 450 square feet on lots between 6,000 and 7,499 square feet. So that limits the size. Now I have...you know, it may be a situation, and, Planning, maybe you can help me out on this. I'm fine with all of this, the only issue is generally on a 5,000-square-foot lot, the house is built like right in the middle. So to put another detached unit, you probably won't be able to. So, just the logistics of that, will force it to be an attached ohana. Which can happen right? I mean, with this, it can be attached ohana, as long as it's not, there's no internal connection between the house and the accessory dwelling. Is that correct?

MR. SPENCE: That's correct.

CHAIR COUCH: Okay. So does that make sense? It's a...there...I've seen many places that have an attached ohana. And you can't have an internal connection between the house and the ohana. And the reason for that, generally is that means if you have that connection, then that means it's a single unit. And therefore you'll have two kitchens. And you can't have two kitchens in a single unit. Yes, Ms. Baisa?

COUNCILMEMBER BAISA: You know, I'm glad you bring that up. Because I'm getting people calling me still about that kitchen business. And I think that as we decide this, we better pay attention to that.

CHAIR COUCH: Yes.

COUNCILMEMBER BAISA: Because that might save having to build another housing if we just allowed them to have that second, whatever we want to call it, wet bar or kitchen or whatever.

CHAIR COUCH: Right. We brought that up in one meeting, I can't remember which. And there was a testifier who does mortgages and said that there's a national, you know, to give out a mortgage for a single family dwelling, there's a national definition that says you can only have one kitchen. So we were admonished, not admonished, but advised to pay very close attention to that, because people would not be able to get a loan or refi on their houses, if it has two kitchens.

COUNCILMEMBER BAISA: Did we get documentation of that?

CHAIR COUCH: We asked for it. I'm not sure if it got received, 'cause that's not an item that we have. That isn't on the agenda right now. I can look it up and see if we got the...

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

COUNCILMEMBER BAISA: I would like us to look into that, because, you know, we all know that it's happening.

CHAIR COUCH: Yes.

COUNCILMEMBER BAISA: Well, I mean, let's not lie about what's happening. We know. There are these second kitchens everywhere. I think we ought to deal with it.

CHAIR COUCH: Okay.

COUNCILMEMBER BAISA: And if it's a mortgage problem, well then we're gonna have to...people will have to realize that that's the problem they're creating if they want it. But if they don't, well that's okay too. Maybe they don't need a mortgage to do the legitimate second kitchen.

CHAIR COUCH: Okay.

MR. GARNEAU: Chair Couch?

CHAIR COUCH: Yes?

MR. GARNEAU: If I could just address briefly Chair Baisa's question. Chair Couch, just recently, I think within the last week opened a PAF that was assigned to me. So we're going...it's on this whole issue of kitchen and what is the applicable rules and regulations that apply. We don't have an item in Committee. So as soon as I complete that PAF, then we'll transmit and that will be done. So, Chair Couch is aware of it and has asked for that from me.

COUNCILMEMBER BAISA: Okay.

CHAIR COUCH: Yeah. We had that discussion on the wet bar thing and we're gonna open up a new item for two kitchens. Yes, Ms. Baisa?

COUNCILMEMBER BAISA: I have another question. And I don't know if I can ask it now. But it's not on kitchens. But it's about this table where we have the size of the allowable accessory dwelling. How did we come up with these limitations? And particularly, while I'm looking at the current Code, and if you got a humungous lot, why do we have these limitations. I mean how did we develop them? What are they based on?

CHAIR COUCH: That's a good question, there is yet another item in our Committee. We're waiting for some correspondence from the Department. It's called the, it's revamping the whole residential code. This is a part of the residential code. And that's been around for a long time. I don't know, probably when Mr. Spence was actually an employee of the Planning Department, I mean a Planner instead of the Director, that

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

probably came around, or even before that. Mr. Spence, any history on that? Why that...those numbers are there that way?

MR. SPENCE: No. I honestly don't know where these numbers come from. It makes intuitive sense that if, you don't want to crowd the lot too much. So if you have between 7,500 and 10,000 square feet, you don't want to put another 1,000-square-foot building on that property. It's gonna...you're gonna have almost no room to breathe. But beyond that, I can't give you the rationale or...we can certainly do the research and find out where that, those sizes come from.

COUNCILMEMBER BAISA: Let me tell you why I'm asking this. I make full disclosure. My lot is a quarter of an acre with a permitted accessory...at the time we built it, we built a workshop. It is about 40 square feet bigger than the 800 square feet. And we wanted to turn it into an ohana. And we couldn't get it. Because they said it's too big. But it was permitted, it was built there. It's been there for 40 years. What we want to do is not gonna change the footprint, it's not gonna affect our neighborhood in any way. It's there; it's been there for 40-some years. But it can't be done. And we could build an affordable unit very quickly because it's already there. So, I think we need to look at some of these things and do they make sense?

MR. SPENCE: Okay. Yeah. I understand.

CHAIR COUCH: And, Mr. Spence, and, you know, this was gonna come up when we did the residential stuff, you know, when you get down to 87,000 square feet, that's a 2-acre lot. And to only have a 1,000 square feet of a accessory dwelling is kind of small.

COUNCILMEMBER BAISA: Yeah.

CHAIR COUCH: I think...I understand, you know, what the probable intent was. But we're having some issues now. I mean, that can be resolved by maybe changing those numbers. Fortunately, in this bill, we have the ability to change those numbers. But we'd have to do some really good discussion with that. And I don't know if that would kick it back to Planning Commissions. I'd rather stick with, the accessory dwellings in the smaller lots at this point. And then if we get some, you know, some decision from Corp. Counsel whether or not this has to go back. And we can also ask Mr. Spence to comment on potentially raising those sizes of the accessory dwellings.

MR. SPENCE: Okay.

CHAIR COUCH: We can do that.

COUNCILMEMBER BAISA: Chair, my only concern with that is, you know, we sit here talking about what we have to check and what we have to look at.

CHAIR COUCH: Right.

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

COUNCILMEMBER BAISA: And an opinion we need from God and whatever. Meanwhile the clock runs.

CHAIR COUCH: Right.

COUNCILMEMBER BAISA: I've been here ten years. I have exactly less than two months of work here. And I don't think it's a good idea that we keep on saying, later and later and later. We need to deal with some of this.

CHAIR COUCH: Well, that's why I want to get the affordable accessory dwellings out. This other thing is a new request. And the new request, it hasn't been, you know, even discussed with the Department or anything like that. We certainly have the ability to do that but we don't want to just go change code, where we don't know what the ramifications are. I want to stick with the affordable accessory dwellings, at this point. And we have another item in Committee that can address this.

MR. SPENCE: And...

CHAIR COUCH: Yes, Mr. Spence?

MR. SPENCE: Yes, Mr. Chairman, if...I know this is...we haven't gotten to the Mayor's proposed bill yet, but it's, there's also an addition to this section of code that would allow for exterior lanais...covered lanais that would actually...I mean it doesn't exactly address larger floor spaces but that you could have a covered lanai on your house, that is in excess of that 1,000 square feet. That's something completely new. And it kind of reflects some of the things that we see happening out in the community, anyway.

CHAIR COUCH: Ms. Baisa, then Ms. Cochran.

COUNCILMEMBER BAISA: Well I'll get off of trying to make a miracle here. But in working with the small lots and the accessory dwellings, I think that, you know, the TIG met and we know that we have to do something.

CHAIR COUCH: Right.

MR. SPENCE: Correct.

COUNCILMEMBER BAISA: And we have to do something that can happen very quickly.

MR. SPENCE: Correct.

COUNCILMEMBER BAISA: Because we don't have time to sit here talking about this. We need to pass it so things can happen. People need houses. So I can support this.

CHAIR COUCH: Okay.

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

COUNCILMEMBER BAISA: And I support it with reservations. And the reasons I support it with reservations is, I have concerns about too much density. I saw a neighborhood that I bought into change from a very lovely neighborhood, into...it's crazy now. But that's just a natural result of how our population has grown. There isn't a whole lot of options. So people just build and put stuff wherever they have to. My real concern with the little, the dwellings is this idea of it having to be a relative, because I can go up and down the streets that I know, and I cannot find relatives in those cottages. But then also, is that a problem? If Mr. Couch's son lives in my accessory, what's the problem? You know, I'm providing a house for him.

CHAIR COUCH: And that...the restrictions in this bill are, if, it could be any price, if it's a family member. If it's not a family member then it has to be affordable.

COUNCILMEMBER BAISA: But you can't regulate that, Don. Nobody's gonna be knocking on the door to see who's in the bed. It's like, you know, it's...we've done this before. You and I have done this with the B&B and TVR things. We can make all the laws we want, but it's having the people that have the time and the ability to go knocking on everybody's door. We can't do it. So, I'm not into requiring that it be family 'cause it's not gonna happen.

CHAIR COUCH: Okay. We have Ms. Cochran, and then Mr. Carroll, and then Chair White. Good, we got good discussion now.

COUNCILMEMBER COCHRAN: Okay. Thank you, Chair. And so accessory dwelling is...strictly means unattached? Is that right? No.

CHAIR COUCH: No

MR. SPENCE: No.

COUNCILMEMBER COCHRAN: Okay, so because mister...Director Spence mentioned about these enclosed lanais and whatever. I'm looking at a issue where a person wants to enclose their lower level and create an ohana, of sorts but it's not in...so it's part of the, still the original footprint of the main home. So it's not changing that whatsoever but it's the square footage --

MR. SPENCE: Right.

COUNCILMEMBER COCHRAN: --of that area down below that exceeds the number here. And so cannot be permitted to do. You know, to me, that's one of those things where it's not affecting the, you know, the yard, the setbacks, or whatever because it's already built underneath the existing footprint. So how is something like that addressed here, if at all?

MR. SPENCE: Okay.

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

CHAIR COUCH: I can comment and so can you. Mr. Spence, go ahead.

MR. SPENCE: Okay. The title of the section of Title 19 is Accessory Dwellings. They're supposed to be...you're supposed to have...this I do know about this ordinance, this part of the Code. You have your regular house, your primary house. These are accessory to...this section of Code covers dwellings that are accessory to the main house. So the...it really was originated with the idea of ohana living in them. So you have your parents or your grandparents or whatever living in this house. And of course it has morphed over the decades into a huge part of our affordable housing stock. Or in some cases, not so affordable. But it was the intent back when, where they come up with these numbers I don't know, but the intent was that, you know, your parents, or your son, or your cousins, or whatever don't need a huge amount of space to live in. If you start talking about duplicating the size of a house on the bottom floor, then you're talking about a duplex. And that's different.

CHAIR COUCH: Why I think her comment was a lanai covered, it was just a portion of the bottom floor. Is that right, Ms. Cochran?

COUNCILMEMBER COCHRAN: Yeah. I don't know the actual layout.

MR. SPENCE: There's ways that they could, there's ways they could design it so it could do...it could happen. It just wouldn't...you just couldn't match the full...

COUNCILMEMBER COCHRAN: Be the full underneath footprint of the existing dwelling.

CHAIR COUCH: And, Members, keep in mind that this is Residential District which is single-family dwellings.

COUNCILMEMBER COCHRAN: Right.

CHAIR COUCH: If they wanted, if we wanted two homes, full-size homes on a lot, then that would be multifamily or I mean which is allowed in A1 and A2 District. You can have two full-size homes or depending on the size. Right, Mr. Spence?

MR. SPENCE: Yeah. Those would be --

CHAIR COUCH: Yeah.

MR. SPENCE: --duplexes.

CHAIR COUCH: Yeah.

MR. SPENCE: And we have a separate zoning district for duplexes.

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

COUNCILMEMBER COCHRAN: Right. Okay. So, these numbers in that...in our current Code, it says 10,000 feet to 21,779 square feet, 600 square foot is allowed. So is that actually 600 to 699 square foot or it's just straight 600?

MR. SPENCE: Straight 600.

COUNCILMEMBER COCHRAN: Then it, boom, it jumps over to 700.

MR. SPENCE: It's straight 600.

COUNCILMEMBER COCHRAN: So you can't have a 650, can't have a 675.

MR. SPENCE: No.

COUNCILMEMBER COCHRAN: You can't have a...

CHAIR COUCH: Not in that category. If you have it at 21,000 square feet.

COUNCILMEMBER COCHRAN: Why not?

CHAIR COUCH: That's a maximum.

COUNCILMEMBER COCHRAN: I mean we're, I'm just saying. I mean...

CHAIR COUCH: That's a maximum number not a only.

MR. SPENCE: Right.

COUNCILMEMBER COCHRAN: I know but, so max to 6 but then you got a...now from 6 to 7 a blank. So if someone, we have a 625...no, it's 625.

CHAIR COUCH: No it's at...then you...

COUNCILMEMBER COCHRAN: Now you gotta jump...

CHAIR COUCH: Your lot size has to be 21,780 feet.

COUNCILMEMBER COCHRAN: Your lot needs to be bigger, anyways.

CHAIR COUCH: Yeah.

COUNCILMEMBER COCHRAN: I'm just saying 'cause at the reso...you know what I mean, we're going 5,000 to 7,499 because at 7,500 that's a whole other bracket. You know, we're not going 5,000 to 6,500 a blank and then jump into 7,500 or more. That's what I'm just looking at those square footage numbers too. Which seem, I don't know, very restrictive. But anyhow, and then jumping into this question in regards to this 7...this

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

5,000-square-foot lot and you're gonna add on another dwelling. Is there gonna be enough, you know, room for infrastructure? Such as septic, leach fields, and then water pressure. I'm seeing a major drawdown on pressure in these subdivisions that have multiple multiples. And I'm...legal or not legal, whatever, there's people, built and living in all these units, up and down the street. And I'll tell you what, water pressure is dismal. And that's just an everyday occurrence, not...so infrastructure wise --

MR. SPENCE: Okay.

COUNCILMEMBER COCHRAN: --how does all this relate, into lot size --

CHAIR COUCH: Mr. Spence?

COUNCILMEMBER COCHRAN: --and dwelling allowed?

MR. SPENCE: Okay. I can't...I'll just tell you that we have different agencies for a reason. For instance Department of Health requires at least a 10,000-square-foot lot to have septic. So pretty much anything under 10,000 square feet, unless it's the property like so many in Makawao are so small they were...they existed pre Department of Health standards. Pretty much all your smaller lots are gonna be connected to sewer. When we...when somebody processes building permits, say to add 450-square-foot ohana, they're going to...that's gonna go to the Water Department. They're going to look and see, okay how many fixtures, what are the conditions there, that kind of stuff. The Planning Department is gonna, you're required to have an additional parking stall for your ohana. In the Mayor's case we would actually have two, if you're gonna add a second ohana. And so we're gonna be reviewing all those things. We have to make sure it meets setbacks and all that stuff. Rowena was here. Public Works is gonna make sure it meets all of their codes. In an unsewered area, it would be sent around to, like I said, to Department of Health. Make sure there is...if it's not on a sewer property, they would make sure that the septic system has capacity. So there's a lot of review that goes into this. It's not automatic that you want to add an ohana, you can do it. You have to have room on your property to accomplish all these things. And it's on a case-by-case basis.

COUNCILMEMBER COCHRAN: Okay. No, I mean, I just thought it's the thought of adding, adding and then not expanding infrastructure.

MR. SPENCE: Yeah.

COUNCILMEMBER COCHRAN: You know, when certain residential areas were built, it was collectively, this is the output, input, whatever, to our water, sewer, and things of that nature. But then now, we're adding onto that original footprint --

MR. SPENCE: Right.

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

COUNCILMEMBER COCHRAN: --so to speak and can it all handle and take it all?

CHAIR COUCH: In order to get a building permit, you have to meet --

MR. SPENCE: You have to meet all these different codes of all these different agencies.

CHAIR COUCH: --the...it goes through all those Department requirements.

MR. SPENCE: And I share the concern that some areas are already, I mean, we are, you know, we all understand the reality out there that a lot of places have already been converted or added to and everything. And we see the effects on infrastructure. There isn't enough parking. You're mentioning the water pressure, et cetera. So, you know, that's a consideration when we're talking about adding additional units.

COUNCILMEMBER COCHRAN: Okay.

MR. SPENCE: But we will...the different County and State agencies who review building permits, will take all these things into account.

COUNCILMEMBER COCHRAN: Alright, very good. Thank you, Chair.

CHAIR COUCH: Okay. Mr. Carroll?

VICE-CHAIR CARROLL: Thank you, Chair. The biggest concern I've had from everybody was what Ms. Baisa brought up. Is how do we enforce this? And we gave it a lot of thought. And I worked with the Housing Human Services with Jo Ann for a long time and other people. Department of Housing and Human Concerns would be required to develop an agreement or a covenant with the property owner. And this...in this agreement, it would be only used for family or for affordable rental. Affordable rental, if it's Section 8, well already you have the oversight. If it's for family, or affordable, somebody that doesn't use a Section 8, which I can't really imagine happening. We'll have a section inside there, like Section 8. So if it's a family member inside there, like Section 8, every six months, the Housing and Human Services goes by. The same thing that they do with the Section 8 program, check to make sure that the Code is being made. The electric, everything works. There's no...the health standards are met. And they sign off on it. And they only do that when the owner is present. Now this is not something that is difficult to do. It's not something that hasn't been done. We do it with Section 8. We already have that in...Housing and Human Services already has that down really pat, how to go about it with being sensitive to the people that are living in the home. The agreement is submitted before occupancy is permitted. And of course, they're the only organization we have that could really do this. And the agreement covenant needs to be executed before occupancy. In other words, nobody can live into that unit before they have that agreement. Now I realize nothing is perfect, but this is the best we could come up with to have some assurances that the units are being used in the appropriate manner. And also, when these units are built, this goes with the land. The owner sells, the same restrictions still apply.

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

So anybody that does this, is really motivated to take care of their family. If they're putting their family inside there. Or they really feel that they're helping the situation on Maui with our low-income people that have a hard time finding a home. So you going have people that are really concerned. And those are the ones that are gonna be doing this. The other thing is, a lot of these over there that have that happening, you already have two families in the house, even on those small lots. So the infrastructure...the strain on the infrastructure would be zero in those cases. Because they're already have that other family in there. They're just moving into someplace where their quality of life could be greatly improved. And any other questions anybody has on that, that's basically how we see it set up.

CHAIR COUCH: Okay.

VICE-CHAIR CARROLL: And we have from the different locations in the mainland and other places that have done it, we have a lot that we can work with over there to make sure it's effective.

CHAIR COUCH: Okay.

VICE-CHAIR CARROLL: Thank you, Chair.

CHAIR COUCH: Thank you, Mr. Carroll. Mister...Chair White.

COUNCILMEMBER WHITE: Thank you. Thank you, Chair. On the Mayor's proposed bill, on Page 4 there's an additional section, B, covered decks, walkways, patios, lanais, or similar structures shall not exceed the following respective cumulative total areas. And it says up to 9,999 square feet. The maximum of walkways, patios, et cetera, cannot be more than accumulative 500 square feet. Does that mean that, that combined with the allowable maximum covered floor area is now doubled?

MR. SPENCE: That would be correct.

COUNCILMEMBER WHITE: Okay.

MR. SPENCE: Whereas...I'm sorry, we do not have anything right now in our Code to cover, no pun intended, to address covered lanais. So this would be an addition.

COUNCILMEMBER WHITE: Okay. And so, is it your consideration that that change need not go through the Planning Commissions?

MR. SPENCE: It did.

COUNCILMEMBER WHITE: It did go?

MR. SPENCE: Yeah. This entire bill from the Mayor did go to the --

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

COUNCILMEMBER WHITE: Oh okay.

MR. SPENCE: --Commissions.

COUNCILMEMBER WHITE: Okay. 'Cause I agree with Ms. Baisa that some of these things need to be reconsidered. And if we are now suggesting that the Planning Commissions have gone along with the proposal that you can have 500 square feet of interior space and 500 square feet of covered walkways, patios, et cetera, we've essentially doubled the size of the unit. And we've doubled the size of the unit in the all the other categories as well. So that now, instead of a 1,000-square-foot structure in something 2 acres or larger, it's actually a 2,000 square foot --

MR. SPENCE: Right.

COUNCILMEMBER WHITE: --parcel. I mean a square foot structure. And I think we all know that once the authorities leave, if you've got an extra 1,000 square feet of covered space, it's probably gonna be enclosed and dealt with however they want to. But I think what the point Ms. Baisa was suggesting is, why are we limiting the numbers? I mean, I agree with the expansion of the numbers. But if that's already been cleared, I'm kind of wondering why we don't just say, either or.

MR. SPENCE: Okay.

COUNCILMEMBER WHITE: You can get up to 2,000 either covered or, you know, covered and enclosed or just a combination of covered and...covered...opened and enclosed. Because what, I guess if it's my property and I want to build something that's 1,200 square feet for my family because that's what works for my...to allow my kids to move in with their kids. Why should we be saying, well sorry you can't do that. You can build a 1,000-square-foot house, but you can't build 1,200. Using this example, where we've now gone from a 1,000 to 2,000, which I think is great. But I don't really understand why we feel we have to be in the business of saying, if it's your property it's still our decision. So maybe you can help us.

MR. SPENCE: Okay. Well, let me address the covered decks first. And then we'll go into a little more philosophical discussion on zoning controls anyway. The covered decks provision is meant to address some of the, quite honestly, some of the abuses that we see. And my apologies to anybody from Launiupoko who is watching on TV. But it goes back to everybody's poster child of you have two-acre lot with an expansive house worth several million dollars. And then you have the workers' dwelling that is a 1,000 square feet of enclosed space plus they add on a 2,000-square-foot lanai that is, you know, has a cover on it. So you're effectively turning that 1,000 square feet into, you know, like 3,000 square feet. Or you have the exterior bathroom with...that's surrounded by lava rock walls and they're beautiful and ornate and everything. But your 1,000-square-foot house is no longer a 1,000 square feet, it has morphed into something else with the infinity pool, et cetera, et cetera. So this is, part of what this is for, is to address that. We're not...we're saying...we're not telling people you can't

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

do this. But we're saying, okay you can do it with some limitation. To try to accommodate a, you know, a certain, being able to do something with your property. But not to an extreme where it becomes, quite honestly absurd that this is a agricultural worker's house.

COUNCILMEMBER WHITE: Well let's use a smaller lot then. So that we...

MR. SPENCE: Okay.

COUNCILMEMBER WHITE: Let's use Ms. Baisa's lot.

MS. SPENCE: Okay.

COUNCILMEMBER BAISA: A quarter acre.

MR. SPENCE: This...

COUNCILMEMBER WHITE: I mean, from a philosophical standpoint, why is it that we feel comfortable setting limitations as to what she can build for her family?

MR. SPENCE: Okay. Well, the origins of zoning and, you know, part and, I'll give the caveat, that part of the zoning audit that we came to Council for is to take a good hard look at our Zoning Code and why we're doing certain things and all this. But right now what we have is a, what they refer to as a Euclidean code that dictates lot sizes, uses, heights, setbacks, all that. And the origins of that are to be able to separate different uses from each other. And to create, somewhat uniform areas of development. So when you move into a single-family neighborhood, you know what you can expect. So, we...there are by...in all of our districts there are limitations on sizes, and heights, and all those things. If we don't have those things, you're losing that aspect of the, you know, what you're expecting within a certain area, within a single-family district. We have the whole argument, if we're gonna say who are we to say what somebody can do with their lot, and what they can or cannot build for their family, you know, we start getting into uses. That's the whole argument with short-term rental homes. Oh, I don't like not knowing who my neighbor is. If we get into sizes of homes and setbacks and stuff, you know, can we not anticipate what going to go into next door to me. Is it gonna be...are they gonna have two large homes on that lot? Or is it just going to be one or...so there's something of an anticipation in zoning that this is what an area is for and this is how it will be developed out.

COUNCILMEMBER WHITE: Right but I would assume that those decisions are based on scale of the neighborhood and based on availability of infrastructure. But there are...there's a point at which...like in Ms. Baisa's case, where she has the room and the infrastructure's there and it doesn't fight with the scale of the neighborhood, changing it from...what was it? I can't remember what the size was that you were allowed.

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

COUNCILMEMBER BAISA: I think it's 40 square feet too big, whatever we have built.

COUNCILMEMBER WHITE: Yeah. So, you know, is 40 square feet worth arguing over? I mean what's the difference between 1,000 and 1,200 square feet?

MR. SPENCE: And...I would, I agree with you. I mean, what's the difference gonna be with 40 square feet?

COUNCILMEMBER BAISA: Nothing.

MR. SPENCE: Nothing. But if, okay, so if 40 square feet is okay, should 60, 100, 200, 300 square feet be? You know, the...should there be a line drawn somewhere or shouldn't there be? That's part of this discussion. And I promise if this doesn't pass out today, we will do the research and we'll find out where these numbers come from, where these sizes come from. And if they just come from somebody pulling them out of the air, you know, I'm...we're happy to say that as well. But...

CHAIR COUCH: Well, regardless if it passes or not, if we get it before first reading, that would be nice.

MR. SPENCE: Okay. Yeah, if you want to do that we're happy to report on that as well.

CHAIR COUCH: Before I recognize Ms. Baisa, one of the other things that I seem to recall is that, if you add say, another 100 square foot, that that's another bedroom, so that adds more people there which means more car or more use of the...you know, water.

MR. SPENCE: Right.

CHAIR COUCH: That that's the whole part of the limitations as well. I mean, the bigger you get, the more people can be in there. And the more people can be in there, is it now a multifamily home situation or, you know, it's...that's part of the thing, you know, Ms. Cochran brought up the whole infrastructure. And that's what's happening in some of the areas both in her district and mine, is that they're doing that anyway. And the water pressure goes down. And then we get the complaints for that or certainly, as you...in all of our districts, there's the excess parking all over the place, 'cause there's so many cars. Because there are so many people in the home, so I think that's one of the other reasons I recall, that they restricted the sizes. Ms. Baisa?

COUNCILMEMBER BAISA: You know, we can sit here and argue this ad nauseam.

CHAIR COUCH: Right.

COUNCILMEMBER BAISA: But the reality of it is, if we were to pass this, and my neighbor built an ohana, that would be...have a much larger impact on our neighborhood than my converting this building that is already there, that's been there for over 40 years. We're not gonna change the footprint, we not gonna do anything but, you know, we're

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

gonna allow that ohana. But we wouldn't allow me to convert my building without going through some crazy process. When they gave me the pack of material, I'd need to go to BVA, I turned purple and said no thank you. Because, you know, I don't have either the time or the money to have somebody do it for me, to deal with that. And I don't know why it has to be that way. I think that we ought to be giving the Department some discretion. That's why we have a Director, and he can take a look at this and say this is real and this is ridiculous. And I'm willing to give him that authority. I think it would save everybody a lot of time and grief and money.

CHAIR COUCH: Okay. Members, let's move on this. We'll...we can come back, let's try and get through this. And then if we want to come back to the lot sizes or figure out wording to give the Director a little bit more discretion, we can do that. So are there any other concerns, as far as certainly in the Reso 15-112 the 400 square feet on lots between 5,000 and 5,999 and 450 square feet on lots between 6,000 and 7,499? Okay. Down, the next tough one is gonna be affordability requirement. Mr. Carroll's bill has that affordability requirement. And it's...he's explained that the Department of Housing and Human Concerns does that kind of thing already with Section 8. And apparently, if I understand your comments and we're gonna ask the Director about that after this, if she can't come down, or up. Your understanding is that it's something that can be done fairly easily with an existing process that they already have?

VICE-CHAIR CARROLL: Yes, Chair. But I haven't talked to the current, Carol Reimann. I have not gone over this with her, though.

CHAIR COUCH: Gotcha. Okay. So there's an affordability requirement in Mr. Carroll's bill. And I think it's a good requirement. The enforceability we'll discuss in a little bit, but I think it is important. Otherwise you're gonna get more people saying, oh, especially in the times like now where there aren't that many rentals, that I can get another extra \$1,000 for my unit that I'm gonna put on there. So why give it to somebody at an affordable rate, when I can get a lot more? So I think that restriction is necessary, in my opinion. That would be my recommendation. But we'd like to hear your all...all of your comments. Are we okay with that restriction? Mr. Garneau, you have comment?

MR. GARNEAU: I do, thank you, Chair. You'd ask me, just I know it's late, but you asked me to see if someone from Housing could come. So I called the Housing Director's office, Buddy Almeida's office. He's actually out until Oct 26th. So I was able to speak with the Assistant Housing Director, Linda Munsell. She said she normally defers to Buddy on these type of things but she did offer that, yes they do agreements on other, you know, affordable housing...affordable agreements on other properties that they do record against the property. But she said that having someone monitor is the key. That it really becomes a staffing issue as to the implementation and enforcement. And she also said that they can attend a later meeting of the Planning Committee if we would like them to and discuss it further.

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

CHAIR COUCH: Okay. Alright, so any other comments on that, Members? I think the affordability requirement at this point is doable. If there's an issue with enforcement, that can be brought up at that time.

MR. SPENCE: Mr. Chairman?

CHAIR COUCH: Yes. Mr. Spence?

MR. SPENCE: Just again a comment. This, and this comes from, Mr. Rapacz, who heads up enforcement. They are unfamiliar and I am unfamiliar with what happens with Department of Housing and...so what if they find that they're charging somebody more? They get a Section 8 thing or they get a...they build this ohana, they record something against the deed that says this will be recorded in perpetuity or it will be rented out only to a family member. And we see example after example of people who violate those kind of things. I mean, that's what we deal with, with zoning codes, every single day. So I'm not familiar with whatever enforcement authority the Department of Housing and Human Concerns has. So we are very concerned it falls to us. And so how are we going to prove that this person is not a family member? I know that when we go out and enforce sometimes on vacation rentals, we will have an Asian couple staying in somebody's house that goes, oh yeah, I'm Mr. Smith's cousin. You know, and it's so obviously not true. But how do we prove that? Or someone where English is obviously a second language. You know, it just, it's not unusual or, you know, I don't know. They're very concerned of how we're going to prove these things. We're gonna start requesting copies of lease agreements, you know, to prove that it's at an affordable rate. You know, produce your papers. And that's...it's, we're getting into more than just zoning issues. We're getting into people's finances and relatives, and that's very uncomfortable for us. I'm just gonna tell you flat out. We're not comfortable doing this, so.

CHAIR COUCH: The question I would have, maybe for Mr. Hopper is, is there anything in the Code that prohibits another Department from doing...I mean, apparently they do enforcement of Section 8 and other agreements, affordability agreements. So is there anything in the Code that would prohibit them from enforcing this portion of the Code?

MR. HOPPER: Well, Mr. Chair, the potential problem is this is part of the Zoning Ordinance and the Charter says that the Planning Director enforces the Zoning Ordinance. If there was a consideration of putting this under maybe 2.96 or something like that. Maybe, that could be changed. Of course, I would need to get the comments of the Department of Housing and Human Concerns as to whether or not they believe they could enforce these restrictions. How similar they are to anything that they currently enforce and what the penalties would be, you know, because the dwelling is apparently not allowed to exist unless it meets these requirements. So, if there's a breach, is the remedy to require that the dwelling be torn down and the family that's living there be evicted? That's a bit...it's gonna perhaps be difficult after the fact. So that's another issue with enforcement, potentially. But the enforcement question, in

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

general, that the problem would be that this is under Title 19, which the Charter says that the Planning Director would generally have to enforce. So I think putting it under 2.96 would maybe make that clearer.

CHAIR COUCH: Okay. Comments, Ms. Baisa?

COUNCILMEMBER BAISA: Yes, about this idea of affordability. You know, I know that the need is for affordable housing. I'm very straight on that and have lots of people that I know and care about that are looking for homes and they have to be affordable. But, yeah but, I'm concerned about when this hits the public that we're trying to say okay you can build an ohana but only your relative and you have to make it affordable. What is the reaction from them, are they gonna say, it's my house. It's my land and how dare you be telling me what I can do with my ohana. And why don't you go after the people that are already abusing ohana by using it as vacation rentals. You know, what I mean? We gonna create a whole storm here of picking on folks and taking away their rights and government interfering. And so, I just want us to be aware of that. I understand that our intent is very altruistic. But will it work?

CHAIR COUCH: Comments from the Members? Yes, Ms. --

COUNCILMEMBER COCHRAN: Chair?

CHAIR COUCH: --Cochran?

COUNCILMEMBER COCHRAN: Well, I think Mr. Hopper brought up a good point. We have affordable units and it is monitored in a certain way and things of that nature. So I think Housing and Human Concerns ought to be, you know, I mean this is why departments get paid the big bucks and we don't. To do that type of, not so fun enforcement, and yeah, monitoring and trying to figure out...but yeah, this is a big can of worms in a sense. 'Cause we already have existing things going on that aren't being enforced. So no, there's no simple answer to all of it. But I think start somewhere, into capping this...you know, containing this affordability somehow for the people. And I...yeah, there's no quick answer here for that, Chair. But again, I think we have to start somewhere. So I...as much as we all never ever, ever like putting things out there that's really has questions about enforceability, we do and we hope for the best and try and guide and create, you know, ordinances, laws, codes and whatever it is to make it happen. But it's the boots on the ground and the people in the seats that can get all that info in order to enforce and make it work. Education of community also. Yeah, we want feedback definitely. But also people who are doing the right thing also want to make sure the others are following suit and not doing something illegal. But then not being called on it. And being reprimanded for it. So all of those factors come into play here. And yeah, again, I don't think there's a quick fix, but I like the idea, definitely, so.

CHAIR COUCH: Yeah. I like the idea and just for...I want to remind the Members, it says, you know, it's family and it lists what we define as family, relatives. If you will. Or

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

somebody who's is not a relative. And then if it's somebody who's not a relative, it must be low income or affordable. Okay? So and I understand Mr. Spence's concern and maybe moving portions of that to 2.96 will help. You know, since they're doing it already in other portions of 2.96. We'll...maybe that will work. The concern is a little bit, okay if it's not family then it's affordable. But there's an agreement that goes with the land. But is the agreement for both affordable or family or I'm not quite sure how that would work. And it can be done. I mean the lawyers can figure out, okay you're either family or affordable. You agree to that. You know, I think that can work. Yeah. As far as the enforcement, I think, you know, we'll see how HH...Housing and Human Concerns, deals with enforcing that. Yes, Mr. Carroll?

VICE-CHAIR CARROLL: Thank you, Chair. Enforcement was the biggest thing that when we started this, that we were worried about. Because it really, really is difficult. There will always be people that will be dishonest and cheat. We can't catch everyone. But I hate to see this go by the ways for all the people that it can really help because we know that few will slip through.

CHAIR COUCH: Yeah.

VICE-CHAIR CARROLL: So I would hope that we can keep that in mind if...we will make it as tight as we can, the best we can, but we can't do any more.

CHAIR COUCH: Yeah. And, Members, remember too, that this is for anything less than what we already...what already exists. So anything less than 7,500 square feet, we're making a special exception for affordable or family people. Anything over 7,500 square feet it's open to anybody. Or the second, in this case, if we go with the Mayor's thing too, the second accessory dwelling's open to anybody. And that, you know, both of those are important to note that it will be adding more places for people to live and getting more and more people able to live somewhere as opposed to all bunched up, you know, in a single unit. So, Chair White?

COUNCILMEMBER WHITE: I think the reality is we're kidding ourselves to say that we're gonna have something that's enforceable. Look around Kahului, look around a lot of neighborhoods. There's lots going on that we've not been able to enforce in 20 or 30 years. We're expecting too much of the Department. So, to put this affordability in I think is...we had a discussion yesterday; we were talking about the fact that we shouldn't pass laws that are unenforceable. Well, I think this falls into that category. So I don't think we should kid ourselves. I think the Mayor's version takes out the affordability and allows it up, you know, and changes the wording up to 99 and then adds a second dwelling. I'm not so sure about the second dwelling but I just...I think by putting the affordability thing, it sounds good and it plays well. But realistically it's a boondoggle. It's something we're gonna be able to do. We're not...we're gonna have to staff up either Planning Department or DHHL.

CHAIR COUCH: HHC.

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

COUNCILMEMBER WHITE: Yeah. HHC, sorry about. Anyway we're gonna have to add staffing. What's the return on that investment? I'm not sure there is a return, other than getting people all upset because they've, they're just doing what everyone else has been allowed to do for years and years and years. I think Ms. Baisa's got a really solid point.

CHAIR COUCH: So the question I would have then, and before I recognize Mr. Carroll, is there's two issues here. One, there is, do we allow for ohana units less than 7,500 square feet? Do we want to do that? If we say yes we want to do that, then the next question is, is it open to whatever, whoever can do it? Or do we want to restrict it to families and affordability? So those are the two issues. Mr. Carroll?

VICE-CHAIR CARROLL: Thank you, Chair. And I agree with Mr. White, I don't want to pass out anything for any law that we cannot enforce. I would also remind everyone that Housing and Human Services, the Section 8 program, is successful and it is always enforced. Because we have been unsuccessful so far, doesn't mean we should try to give up and not try to make something that works. If we can craft something with our attorneys, with Housing and Human Services, and with Planning, that is enforceable, it might go a long ways in addressing what Mr. White brought up first time. Because we're not having enforcement out there, doesn't mean we should say well, you know, we can't do it, let's forget about it. I think this is a good chance to go over there and see what we can do. And how working with the different departments that we might be able to put something together that is enforceable. And I would say at this point that, that would be the key to working that out if we were going to have that for family members or low income. If we can't work that out then we would have to have it to where you could just without the restriction. Thank you, Chair.

CHAIR COUCH: Okay. And, Ms. Baisa?

COUNCILMEMBER BAISA: I think one of the things that's confusing here is the difference between affordable housing projects or buildings that we're involved in doing. And we call them affordable, we give them all kinds of breaks and we get into it, because we're helping with the building or the funding or whatever. In this case we talk about a private unit that an owner is gonna build. What about, since we worried about enforcement, my mind is swirling here while we talk about all this, some kind of maybe a tax incentive to a landlord who can come and say, I built this and it's affordable and I have documentation that it is that I'm renting it affordably. And so give me some kind of a tax break on this. That you could easily verify based on rental receipts or whatever. But this other thing, I think we creating a nightmare.

CHAIR COUCH: And I agree with potential tax incentives, the big issue there is there a lot of incentives when you already have the homeowners rate and homeowners exemption. So you're not paying much taxes at all.

COUNCILMEMBER BAISA: You're paying enough that even 50 bucks would make a difference, or 100 bucks. I know what I'm gonna be paying on my home when I live in

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

it compared to now that I don't live it and I have to pay full for the full freight. It's a big difference.

CHAIR COUCH: Okay. You know, I have such a crack Staff here. I have a list and maybe I'll make a copy of this and send it out to everybody. But here's a recent rentals on Craigslist. We have a studio that's 2,500 square feet, \$1,200 in Makawao, for a studio. Napili studio 3,800, \$1,200. A one-bedroom in Honokowai for 525 square feet, \$1,550, rental. These are all on Craigslist. A --

COUNCILMEMBER BAISA: Can you please, Chair...

CHAIR COUCH: --bedroom in central Kihei 500 square feet, \$2,200.

COUNCILMEMBER BAISA: Chair, can you back up to the first one, we kind of got confused?

CHAIR COUCH: Yeah. Okay. Makawao a studio 250 square feet...

COUNCILMEMBER WHITE: Oh, there we go, you said 200...you said 2,500.

COUNCILMEMBER BAISA: You said 2,250.

CHAIR COUCH: Oh I'm sorry. No 250 square feet, \$1,250.

COUNCILMEMBER BAISA: Okay. Okay. Thank you.

CHAIR COUCH: Five hundred square feet at \$2,200. If...and these are all, you know, maybe some of them aren't even legal. So if we don't have some sort of affordability requirement that we could actually say, hey, you know, even if somebody, you know, says I want to do it and somebody complains. It's to start the enforcement issue. I understand why...how it's gonna be difficult to do, but you can see already that these small units are just going astronomical rates. And if we don't have some kind of restriction, we...we'll just be opening up to this some more. I, you know, I don't know. I'll pass this out. I appreciate my staff getting this for us. It's just --

COUNCILMEMBER BAISA: Chair?

CHAIR COUCH: --we really have to think about the affordable. And I understand the enforcement capability. And usually the reason we have enforcement issues...or wait, provisions is because 10 to 15 percent of the people aren't gonna follow the rules. The other 85 percent usually follow the rules, in my opinion. But I may be mistaken on that. Ms. Baisa?

COUNCILMEMBER BAISA: Mr. White is trying to get your attention.

CHAIR COUCH: Oh. I'm sorry I thought it was you. Sorry. Mr. White?

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

COUNCILMEMBER WHITE: I forgot what I was gonna say. No I know what it was. The key to affordability is supply. The reason we have such high rental rates is because we don't have any rentals. Because we're not building houses of any kind. This is just one piece of the puzzle. The challenge that I have is that we place so many restrictions on things at every level, that we're stymied from moving anything forward. And we're not gonna approach affordable rentals, we're not gonna approach affordable purchases until we increase supply to the level necessary to bring the prices down. And that's one of the reasons why, you know, I'm concerned about the, you know, the workforce housing law because something done by the UH and UH is very liberal. But their study says these, I can't remember whether the term is exclusionary or inclusionary zoning but --

CHAIR COUCH: Exclusionary.

COUNCILMEMBER WHITE: --it doesn't work. It doesn't provide greater, you know, greater numbers of housing and lower prices. And I believe any more than 13 out of the 18 municipalities in which they studied the results. So we need to focus on making it easier for people to do whatever they feel is appropriate for their families. We need to make it easier to move through the process. And my sense is that if we start messing with this, trying to force the affordability on it, we're gonna end up with less people doing it and we're gonna end up with a continuing upward spiral of rental rates, because we're not addressing the supply, but...

CHAIR COUCH: Mr. Spence?

MR. SPENCE: Chairman, I just have two other comments and then...I understand the Committee is gonna vote the way it votes and that's fine. I feel the need...one, two comments. One, I agree with Mr. White. If you have...that's basic macroeconomics, supply and demand. It's taught across the country as a basic principle. That if you have only one of 1 thing and 20 people want it, it's gonna be very expensive. We don't have a supply, that's the reason why prices are so high. Passing a bill that will allow additional units in any form, that's gonna increase supply. Okay. So that's said. The other comment is, in...because I see this bill, this bill's gonna get passed one way or another. And I just need to say one more thing on enforceability is, you know, I talk to most of you, or get e-mails from constituents that are CC'd to you, regarding enforcement. And most of those emails are saying, how dare the Planning Department do this. How dare, you know, what...by what authority are they doing this? Aren't you they being too strict on me? Of course the other side is that, you know, they don't do enough. But, you know, you get complaints about how we enforce things. And when we start reaching into how dare the Planning Department ask if this is my relative and provide me with proof of this relationship, or proof of, that this is being rented at an affordable rate. I mean, you will receive those e-mails. Maybe not necessarily as units are built. But and maybe future Councilmembers, but I really want this as research is done, ten years from now and they look back on this and they go, wow the Planning Director warned everybody about this. That this is gonna be a problem. So that said, I just wanted that on the record, thank you.

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

CHAIR COUCH: Thank you, Mr. Spence. And thank you, Mr. White. So, Members, let us see if we can get the rest of the bill and we'll come back to the affordability, so we can...you know, and if we're in agreement on the rest of the bill then we can deal with the affordability question. Do you need any breaks right now? Okay good, nobody's saying that they need to go out of the room here for a minute. So the next one that isn't as...I don't think it's gonna be controversial, is the second accessory dwelling over 12,000 square feet. You know, it's kind of combined with either do we allow a second accessory dwelling or do we make the sizes bigger or do we do a little bit of both? I'm not sure. So any thoughts and comments on that one? Mr. White?

COUNCILMEMBER WHITE: So, Chair, are we working off of the Mayor's proposal?

CHAIR COUCH: No we're working off the, Mr. Carroll's proposal. But we want to know if we want to add that, allow a second.

COUNCILMEMBER WHITE: Okay so just so that I'm clear, since we moved past the 5,000 are we going with the Mayor's proposal to increase...to say up to 9,999?

CHAIR COUCH: Which portion? Where are you looking at?

COUNCILMEMBER WHITE: On the Mayor's proposed bill.

CHAIR COUCH: Okay.

COUNCILMEMBER WHITE: Instead of...

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

COUNCILMEMBER WHITE: Instead of saying from 5,000 to 7,499.

CHAIR COUCH: In my opinion, if you look at the affordable...Mr. Carroll's document, you go 5,000 to 7,499, we're allowing more. And you're saying the Mayor...and then we also cut the, you know, you get 400 square feet and 450 square feet. Anything below the 7,500. So, I would like to keep it where it's 5,000 to 7,599. To have the smaller units. Just I, you know, if we expand to the borders of the property, I don't know. It's up to the will of the Committee, I guess.

COUNCILMEMBER WHITE: The difference is 100 square feet.

CHAIR COUCH: Yeah. That's a room.

COUNCILMEMBER WHITE: Yeah.

CHAIR COUCH: Another maybe two bodies.

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

COUNCILMEMBER WHITE: That's my point.

CHAIR COUCH: Possibly two cars.

COUNCILMEMBER WHITE: You know, just to put it in prospective my...I think I shared with this in maybe this Committee and maybe some other committee, but my brother-in-law lives in a house on Oahu, that's on a 2,500 or 2,600-square-foot lot. And it's worth 800 and something thousand dollars. So that's where we're headed. That's why I say, you know, if the supply doesn't keep up with the demand, that's where we're headed. And I don't even know what the hell the rent would be on his house. You know, thankfully he got it at a lot smaller amount than that, but that's what it's worth now in Kaimuki. So, you know, supply unfortunately is the key. And we're not good at supply, so.

CHAIR COUCH: So you...

COUNCILMEMBER WHITE: I'm in favor of the Mayor's changes because I think it allows for some expansion of the size of the units. And I think that's, you know, and of course I'm hoping that the Department between Planning and Public Works will make sure that they're allowing it, because we've had the discussion. There are certain neighborhoods where it shouldn't be allowed, because of infrastructure, because of parking, you know, street width and so forth. So I'm assuming that the Departments are gonna be able to say no in certain areas that they don't feel are compatible. But I'm not sure about that either.

CHAIR COUCH: So you're saying, even below 5,000 square feet then, essentially? The Mayor's proposal --

COUNCILMEMBER WHITE: Right, I don't...

CHAIR COUCH: --says below 5,000 square feet so you can have...

COUNCILMEMBER WHITE: Well what I like about the Mayor's thing is the larger, you know, the larger structure sizes. So actually from...but maybe after hearing Mr. Spence's description of Launiupoko, maybe that's already allowed, under the...

CHAIR COUCH: I'm fine again whichever way the Committee wants to go. I mean if you want to go...Mr. Spence, any concerns with the up to 7,499? Or I'm sorry, 9,999?

MR. SPENCE: Is this on...

CHAIR COUCH: It's on the Mayor's proposal, Page 3. It says...it replaces 75,000, lot area, 75,000.

MR. SPENCE: Oh just a straight 500 square feet rather than the 400 and then 450.

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

CHAIR COUCH: But, keep in mind that this says anything up to 10,000 square feet. So if it's 2,000 square foot for the lot, it allows for a 500 square foot, if it would fit.

MR. SPENCE: Yeah. That's the thing is it would still have to fit.

CHAIR COUCH: You have any concerns with that? If you don't have concerns, I'm fine with changing it to up to.

MR. SPENCE: It's a lot easier to just say, you know, 500 square feet for lots up to 10,000 square feet.

CHAIR COUCH: Okay.

MR. SPENCE: I don't...the...being able to deny a building permit based on infrastructure...if it's based on a regulation, that's the easiest, to say you don't meet setbacks, you don't have room, you don't have a space for a parking stall, that's pretty easy. To say, wow this neighborhood is already really over taxed and everything so I'm gonna deny your building permit, that's hard to do. And that's where challenges come from. I don't think I have that kind of discretion, or the roads too narrow. I mean, I know the Councilmembers have been on site visits to properties where you've seen really narrow roads. I don't know how we would deny just based on administrative staff's knowledge of an area that it can't handle any more. It'd be nice if we had...just, you know, if it's laid out in the law, this is what's allowed, this is what's not. So it's black and white, that's the best for us.

COUNCILMEMBER WHITE: So what are your recommendations?

MR. SPENCE: Well, I haven't thought about this that far.

COUNCILMEMBER WHITE: Well, then...and then I guess the question is, if you have recommendations, do those have to go back to the Planning Commissioner for review? Which I...

MR. SPENCE: No, there...well, there's nothing in any of our ordinances that would trigger going back to the Planning Commission. Or, you know, once Council grants zoning, it's anything that you allow under the zoning codes. You know, that's what they can do. When we have certain restrictions like, I mean parking is the easy one, you're not gonna be able to build a unit, one of these units unless you can demonstrate there's enough room on the property for a parking stall. Please?

MR. HOPPER: And just a note that you can see it on Page 5 of Councilmember Carroll's bill, in case you weren't already aware of this, we're discussing this. There's several sections that deal with the requirements, including public facilities required, so disposal system adequacy, adequacy of water supply, fire protection, and street adequacy. So those are all in there for generally the Department of Public Works to look at or Environmental Management to verify in each case where there's an ohana

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

unit. So that's just for information. That's the current standard that we have. Now that I don't think other than some formatting changes, that there's proposals to change those substantially. Just wanted to note that for the Committee.

MR. SPENCE: Sure. And those are...those, as previously said, we can base a denial on inadequate fire protection, you know, those kinds of things. You know, adequacy of sewer, we can deny based on those things. But not just my observation that it's too crowded. So I would say though, this bill and even the Mayor's bill, it would help rectify some of the conversions that we've seen or additions. You know, it would help legitimize some of the...they'd still have to come in for after-the-fact building permits and stuff but there will be a number of cases where it will, these will legitimize what people have constructed without permits. So, I would consider that a good, positive thing.

CHAIR COUCH: Okay. So I'm fine with going up to 7,500 square feet. And then it'd be 500.

COUNCILMEMBER WHITE: Well, because the setbacks will still apply.

CHAIR COUCH: Setbacks will apply.

MR. SPENCE: Correct.

COUNCILMEMBER WHITE: Right.

CHAIR COUCH: And...yeah.

MR. SPENCE: Setbacks still apply, height limitations, those kinds of things.

COUNCILMEMBER WHITE: Right.

CHAIR COUCH: Okay. So, Members, without objection, we'll make the size up to 99,000...909...9,999 square feet.

COUNCILMEMBER COCHRAN: For the allowance for second accessory?

CHAIR COUCH: No this is for --

MR. SPENCE: Lot size.

CHAIR COUCH: --in general. You can...the lot size. You can have an accessory dwelling on anything up to 10,000 square feet, the size of 500 square feet. So we're not putting that, basically we're taking the 5,000...

COUNCILMEMBER COCHRAN: Wait, isn't that in a current Code already?

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

CHAIR COUCH: No. Current Code says 7,500 to 9,999. Four nines. Okay? So we're changing the 7,500 to say up to. And that what...that differs from Mr. Carroll's bill in that Mr. Carroll had a floor of 5,000 square feet and we're saying there's no minimum lot size requirement.

COUNCILMEMBER COCHRAN: For the 500?

CHAIR COUCH: For a 500-square-foot unit. There are setbacks and other issues that would restrict. But as far as if it fits, it doesn't...it can be less than 5,000 square feet. Any objections to that?

COUNCILMEMBER COCHRAN: Fine.

COUNCILMEMBERS VOICED NO OBJECTIONS

CHAIR COUCH: Okay. Good, we'll...Staff, you got that?

MR. GARNEAU: Yeah. Yes I do, Chair. Thank you.

CHAIR COUCH: Okay. So then that means that the 500 square feet is the...there's no 400 or 450 square foot maximums. Okay? We still have to think about the second dwelling on something over 12,000 square feet. Any...as Mr. White says, that adds inventory. Any comments, thoughts?

COUNCILMEMBER COCHRAN: Department, what is...

CHAIR COUCH: Mister...

COUNCILMEMBER COCHRAN: I just want to hear Department.

CHAIR COUCH: Mr. Spence, your thoughts on this?

MR. SPENCE: Well, again, that would be...the ability to...granting the ability to build a second ohana on lots of 12,000 square feet or more, that would...it would certainly open up opportunities to build more units. So that's a positive thing. We still have the same limitations, as far as, you know, is there a parking stall on site? Is it connected to sewer or is there room to increase the septic system? You know, you're still limited by setbacks, et cetera. The...so those are gonna be limitations on people. This would not touch the Ag District, and that, because all the homes in the Ag District are technically farm dwellings. They're not accessory dwelling or single, I mean they are single-family residences but they're, according to our Code, they are farm dwellings. So that's a little bit different. But it would include the Rural District. So right now like you have a quite a bit rural up in Makawao, Kula area, some out in Haiku. In, you know, Maui Meadows you would be able to build if you have the room available and your lot is so arranged, you could build a, you know, a second ohana on

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

those. So I think that's...the goal is to increase the number of units and I think this would do it.

CHAIR COUCH: You mentioned rural but this is 19.35. Is 19.35 rural or is that --

MR. SPENCE: No you're...

CHAIR COUCH: --residential?

MR. SPENCE: What you're talking about, being able to do it on larger lots. More than one on 12,000 square feet, correct?

CHAIR COUCH: In 19.35.

MR. SPENCE: Right. The...in Rural district Those, the second dwelling is considered an accessory dwelling. This 19.35 covers up to the Rural District but does not cover the Ag District.

CHAIR COUCH: Okay. Okay. That's fine. Mr. White?

COUNCILMEMBER WHITE: But this discussion generates another inconsistency because on lots, you know, we're talking about adding a second dwelling on anything over 12,000. On...we've got on lots from 10,000 to almost 22,000 square feet, you can have 1 house at 600 square feet. But if you have a 12,000, we're now gonna be able to do, I guess that means, 2 of these. Right? So you're gonna be able to do 1,200 square feet. I'm not sure 12,000 is the right number. Maybe something a little bit larger. Any suggestions? Are you comfortable with the 12 or should that be...

MR. SPENCE: I don't...intuitive seems to be my word of the day. Intuitively I agree with you that a larger lot would be able to...I think of the half-acre lots we have in Makawao and I see so many of those have lots of room on them that they could accommodate a second ohana, pretty easily.

COUNCILMEMBER WHITE: Right.

CHAIR COUCH: Just for Members' clarification, half an acre is about 23,000 square feet or 22.

COUNCILMEMBER WHITE: It's 43,560 is an acre.

CHAIR COUCH: Is an acre so half of that is...

COUNCILMEMBER WHITE: So this 21 is close to it.

CHAIR COUCH: Twenty-one is close Yeah.

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

MR. SPENCE: So I think 12,000 would be a little tight. But I also look at some of the issues like around Mr. Guzman's district where you have multiple units already constructed. That would help resolve some of the units that have been built without permits. It would actually allow people to expand what they...if they already haven't built out, it would allow them to expand what they have. And I know Kahului is very tight as far as unit counts.

COUNCILMEMBER WHITE: I don't remember seeing too many lot sizes of over 10,000 in Kahului, maybe in Maui Lani.

MR. SPENCE: There aren't a lot.

COUNCILMEMBER WHITE: Yeah.

CHAIR COUCH: I'm fine with moving that to 15,000 because that's actually 3,000 square feet which you can get some good setbacks and whatnot. I would say. Are you okay with that?

COUNCILMEMBER WHITE: I'm okay with that.

CHAIR COUCH: So you would be okay with a second accessory dwelling on larger lots?

MR. SPENCE: Mr. Chairman?

CHAIR COUCH: Yes?

MR. SPENCE: I'm looking at a GIS map; I believe we transmitted this to the Council. And I'm looking at Kahului and there just aren't that many lots with more than 12,000 square feet. Most of them, ironically, like schools are zoned Single-Family Residential so we looked at residentially zoned lots larger than 12,000 square feet. There just aren't that many. There's a few in the Sandhills and a couple in old Wailuku Heights. But that's about it.

COUNCILMEMBER WHITE: Yeah.

CHAIR COUCH: Yeah.

COUNCILMEMBER COCHRAN: Wahikuli, Lahaina. The old side.

CHAIR COUCH: Yeah. There are. Oh, wait, Wahikuli is...

COUNCILMEMBER COCHRAN: The...towards the post office side. Towards Leialii side. Not Wahikuli Terrace but the other side.

CHAIR COUCH: Yeah. Looks like there's --

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

COUNCILMEMBER COCHRAN: There's some large lots --

CHAIR COUCH: --quite a few, yeah.

COUNCILMEMBER COCHRAN: --in there.

MR. SPENCE: Yeah. There are quite a few up in Wahikuli.

COUNCILMEMBER COCHRAN: That are 12,000.

MR. SPENCE: That are 12,000 or more.

CHAIR COUCH: Yeah.

MR. SPENCE: That's also all on septic.

COUNCILMEMBER COCHRAN: That's right.

MR. SPENCE: And I know, actually when I say septic I know that area's a lot on cesspool. So that would...adding a unit in that area would trigger improving that lot from cesspool to septic system. I don't know if a lot of those lots have that kind of room. And the...an additional large expense to be able to add a unit.

COUNCILMEMBER COCHRAN: Yeah. Okay.

CHAIR COUCH: Okay. So we're saying 15 then?

MR. SPENCE: If that's the Committee's pleasure.

CHAIR COUCH: You're okay with that, Members? No...

COUNCILMEMBER COCHRAN: Where did the 12...is this just the Mayor's proposal, the 12?

CHAIR COUCH: Yes.

MR. SPENCE: Yes.

COUNCILMEMBER COCHRAN: Came from him?

CHAIR COUCH: Yeah.

MR. SPENCE: I'm not...

COUNCILMEMBER COCHRAN: Came from your Director...your Department actually, or?

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

MR. SPENCE: We worked with the Mayor on this. And the thought was is that, yeah, 12,000 would be large enough, you could add an additional ohana. And as stated several times, it's gonna be on a case-by-case basis. Do they have the room? The way that, you know, if, I assume a lot of these lots already have one accessory dwelling on them. Is that lot situated, is it arranged that there is even room for a second one? I don't know. We'll see how that goes. I think there would be enough limitations on 12; I don't think you would...the way that the lots already built out. I don't think you're gonna see a slew of properties of around 12,000 square feet come in for second ohanas. I think it would be more the 15 or half acre. I think that's where you would see the most increase.

CHAIR COUCH: What's the pleasure of the Committee? Twelve or 15?

MR. SPENCE: Up to you.

CHAIR COUCH: Fifteen. We have a 15. Do I hear 12?

COUNCILMEMBER COCHRAN: Fine. We can . . .*(inaudible)*. . . with that.

CHAIR COUCH: Fifteen is fine. Okay, let's go with 15,000 square feet. Alright, I don't think anybody will have any issue with the next one. It's restricting accessory dwelling to long-term rental occupancy only. In Mr. Carroll's bill, it restricts the new affordable accessory dwelling but does not limit existing accessory dwelling. So in his case if you do this affordable...

COUNCILMEMBER WHITE: Can you explain that again?

CHAIR COUCH: In Mr. Carroll's bill it allows for...

COUNCILMEMBER COCHRAN: Short term.

CHAIR COUCH: No, it allows for accessory dwellings less than 7,500 square feet. But only if they're affordable and we have to discuss that there. But it's allowing for smaller than 7,500 square foot to have accessory dwellings. And in there it limits, restricts...his bill restricts them to affordability. So you can't short-term rental --

COUNCILMEMBER WHITE: Right.

CHAIR COUCH: --them out. But it doesn't affect the 7,500 and up, in his bill. On the Mayor's bill...

COUNCILMEMBER WHITE: Okay. That was a...I think that was what --

CHAIR COUCH: Okay.

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

COUNCILMEMBER WHITE: --Ms. Cochran and I reacted to. When you said it doesn't affect existing. But there aren't supposed to be any existing on this...

CHAIR COUCH: Under 7,500 square feet but there are existing above 70...all right. Okay. And the Mayor's proposal says, yes it restricts it to long term only to those units that have received...except for those that have already received STRH and B&B. So no new ones can be used. Any concerns with that? Mr. Spence? Mr. Hopper?

MR. HOPPER: Well, I'm not sure how many there are existing. The one question would be do you also have to change 19 point --

CHAIR COUCH: Six-five and 67.

MR. HOPPER: --64 and 65. And is it the case where those that have permits. I mean permits are not permanent. So the permits will expire or have to be renewed at a certain point. Does the Committee, A, want to, I guess no longer allow those uses, period, on accessory dwellings. And because I don't know how many B&Bs that would affect. And B, say if they're already existing and already have their permits, are they allowed to continue to renew their permits or to have their permits approved by the Department when they come up for renewal? Or are they going to have to come into compliance with the current law and no longer be able to use their accessory dwelling units for B&B or short-term rental home use? Those would be the, I think the questions for consideration.

CHAIR COUCH: You know, I don't see where it does that, it has that restriction. Oh, in Page 3 of the Mayor's bill. No accessory dwelling shall be used for occupancy for periods of less than six months and shall not be used as a bed and breakfast home or short-term rental. Is that...yeah, that takes them completely out.

MR. HOPPER: So I mean is the issue that if you do your second one, you can't also have that or?

CHAIR COUCH: No second accessory dwelling.

MR. HOPPER: I don't know what the intent was. I wasn't at the Commission meeting. But that might be something for the Department to clarify. Yeah. So I mean, so right now you'd be prohibiting any accessory dwelling for short term rental --

CHAIR COUCH: Right.

MR. HOPPER: --or B&B use.

CHAIR COUCH: Which we currently allow.

MR. HOPPER: Yeah, which is currently allowed.

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

CHAIR COUCH: With permit.

MR. HOPPER: Right. So that's...that would change that. Which the Committee can but I don't know if the intent was to limit it to the new dwellings that would be allowed or just to say this is prohibited for any accessory dwellings. 'Cause that would change things for, at least for new permittees, and potentially for current permittees if at the time of renewal, they would have to come into compliance with the new Code. So those all should be considered, I think by the --

CHAIR COUCH: Okay.

MR. HOPPER: --Committee and the Department.

CHAIR COUCH: Members, I'm fine with saying, in...on the Mayor's proposal Page 3E no second accessory dwelling shall be used for the occupancy. Because we do have that already allowed in the 400 permits that we, you know, the cap. So I don't want to undo what we took 3 years to do.

COUNCILMEMBER COCHRAN: I do.

COUNCILMEMBER WHITE: My sense is that if we are allowing new buildings, then that should, you know, we should not allow. I like the Mayor's wording and leave it that way except for people that have existing permits are okay, they're grandfathered. So when they come in for renewal, they can continue to go.

CHAIR COUCH: Oh, okay. So long as they can come in for renewal. That's fine. Is the language...

COUNCILMEMBER WHITE: Again, this is...the whole focus of this is to provide affordable housing.

COUNCILMEMBER COCHRAN: Affordable.

CHAIR COUCH: Right.

COUNCILMEMBER WHITE: Not affordable --

CHAIR COUCH: Correct.

COUNCILMEMBER WHITE: --short-term rentals.

CHAIR COUCH: Correct. Absolutely.

COUNCILMEMBER WHITE: So I'm fine banning any short-term rentals but allowing those that have already gotten permitted to continue their operations.

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

CHAIR COUCH: Even if it's under the cap that's...that we have?

COUNCILMEMBER WHITE: We're doing something to increase affordable housing.

CHAIR COUCH: That's true.

COUNCILMEMBER WHITE: We're not doing something to increase --

CHAIR COUCH: That is correct.

COUNCILMEMBER WHITE: --rentals for visitors.

COUNCILMEMBER COCHRAN: Short-term rentals.

CHAIR COUCH: Right. That...well that's what I'm saying that's why the second...that's the one that we're allowing a second accessory dwelling. So if we prohibit that from being used as a short-term rental, period.

COUNCILMEMBER WHITE: No but this is not just the second, this is any accessory dwelling.

CHAIR COUCH: Correct.

COUNCILMEMBER WHITE: E is not responding to just the second one, for 15,000 square foot lots and over.

CHAIR COUCH: Right. I understand that.

COUNCILMEMBER WHITE: This is applied to any of the new structures. I would think.

CHAIR COUCH: Yes. It applies to any structures and so you're saying so...

COUNCILMEMBER WHITE: So what I'm suggesting is the wording is fine as it is, but just put in something that if there is an existing short-term rental permit for such an accessory dwelling, on a property with such an accessory dwelling, that it's grandfathered in.

MR. SPENCE: Mr. Chairman?

CHAIR COUCH: Okay. Mr. Spence?

MR. SPENCE: If that passes, we would be...it still seems to...there's contradictory language in 19.64 and 65.

CHAIR COUCH: Yeah. We would have to switch that out.

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

MR. SPENCE: But we would also want to be clear that the people who have applications currently in process, whether they would be prohibited or their applications are grandfathered in as a part of that.

COUNCILMEMBER WHITE: I think that's fair.

CHAIR COUCH: Okay. So we have to reword that to allow for applications in process.

MR. SPENCE: Usually there's a...in this kind of bill, there's another section at the bottom that says, that covers this...covers grandfathering, covers...

COUNCILMEMBER WHITE: Yeah. Things that...applications --

MR. SPENCE: Those kind of things.

COUNCILMEMBER WHITE: --submitted prior to the effective date of this bill.

MR. SPENCE: Correct.

MR. HOPPER: Yeah, you would need to tweak this a bit, I think. Because by itself that section's a little odd because it's just going to be in the Code as has already been lawfully established. But this is going to be, when you read the Code, it will just be along with the rest of the Code which have been adopted at different points in time. So normally when the ordinance that comes in that does the amendment, you would add in a section that says, this ordinance shall take effect upon its approval. It shall apply...it shall not apply basically to short-term rental homes that have, or have permits as of the effective date or that have, I don't know, applications that are deemed complete prior to the effective date of this ordinance.

MR. SPENCE: Sure.

MR. HOPPER: And so then you're only covering these amendments and not the whole Code section. There's a way to go through that. If that's the intent of the Committee, but keep in mind you will be changing the...who can...the accessory dwelling allowance for bed and breakfast homes and short-term rental homes. Into what extent that's, that will, you know, be significant the Department, I think we'd want to take a look at that and be clear that that's an okay impact.

MR. SPENCE: Right, we will take a look at that.

CHAIR COUCH: And the Mayor's bill does in fact change 19.64 and 19.65, in Section 7 and section 8.

MR. SPENCE: Oh, it does? Okay.

CHAIR COUCH: Yeah.

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

MR. SPENCE: Well, there you go.

CHAIR COUCH: Okay so we would just have to change E to say the bit about the applications. You got that, Mr. Garneau?

MR. GARNEAU: Yes, I do. Thanks.

CHAIR COUCH: Okay. Applicable zoning districts.

COUNCILMEMBER COCHRAN: No, wait, wait, wait.

CHAIR COUCH: Yeah?

COUNCILMEMBER COCHRAN: Sorry.

MR. GARNEAU: Chair?

COUNCILMEMBER COCHRAN: So wait what? Okay.

CHAIR COUCH: Yeah?

MR. GARNEAU: I'm sorry, can I just mention one thing? Just to keep in mind that, since these types of permits, short-term rentals and B&Bs are none transferable, what this would also do is that when someone sells their property, the next applicant coming along would not be able to use the accessory dwelling.

MR. SPENCE: Right, that's true.

CHAIR COUCH: Right.

UNIDENTIFIED SPEAKER: Yeah.

CHAIR COUCH: Right.

COUNCILMEMBER COCHRAN: Okay, so...

CHAIR COUCH: Ms. Cochran?

COUNCILMEMBER COCHRAN: So what he's saying's so it's not gonna run with the land?

CHAIR COUCH: No.

COUNCILMEMBER COCHRAN: That permit.

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

CHAIR COUCH: The permit does not run with the land. So if somebody were to sell it, and it had an accessory dwelling that was permitted as a short-term rental, the next person could not get that permit for the short term rental, on that --

COUNCILMEMBER COCHRAN: Okay.

CHAIR COUCH: --accessory dwelling.

COUNCILMEMBER COCHRAN: I guess 'cause we're working off a lot of proposals here and you got your one page with every compilation or proposal going on. And so, I mean, because there are parts of Mr. Carroll's that says, you know, thus far, whatever incorporated will run with the land. So if those kind of things are in here that's why I just questioned that.

CHAIR COUCH: That would be...that's the sticking point is the affordability that runs. Mr. Carroll's one is the affordability portion --

COUNCILMEMBER COCHRAN: Right.

CHAIR COUCH: --that runs with the land. If it's affordable, it's, in Mr. Carroll's, you would not be able to do it as a short-term rental, period, end of story. Because it's the affordable portion.

COUNCILMEMBER COCHRAN: Right. So we're jumping off of that now and determining...

CHAIR COUCH: We haven't determined the whole affordable. There's a huge --

COUNCILMEMBER COCHRAN: Well, I mean, that's where...

CHAIR COUCH: --disconnect.

COUNCILMEMBER COCHRAN: Yeah. It's totally disconnected in my brain. Because I got Department and, you know, saying no short-term rentals but again...and no affordable so what does that leave? That leaves extra inventory and building out of these properties with dwellings that, okay, not short term, but also not affordable.

CHAIR COUCH: Right.

COUNCILMEMBER COCHRAN: So what does that make it? Market.

CHAIR COUCH: Right, and that's where...

COUNCILMEMBER COCHRAN: So I'm like huh? This whole intent of this entire discussion, I thought, was all about creating more affordable inventory.

CHAIR COUCH: Right.

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

COUNCILMEMBER COCHRAN: That was the whole TIG thing. I mean --

CHAIR COUCH: Yeah.

COUNCILMEMBER COCHRAN: --you know, hoping this is going to be some type of maneuver to help assist our let's increase inventory for affordable. And now it's like all tossed up in the air. And --

CHAIR COUCH: Well, that's where we have...

COUNCILMEMBER COCHRAN: --on the floor being stomped on right now.

CHAIR COUCH: We have three Members...two Members that are not...we have three Members so far that have said we wanted to do the affordable. We have a Department that says it's gonna be very difficult to --

COUNCILMEMBER COCHRAN: Well, I don't care.

CHAIR COUCH: --enforce. So that's why we're coming back to the affordable. I agree with you, this is supposed to be for affordable units. That's the whole reason and it's from the TIG. So let's get the rest of it done and then get back to figuring out how we can do the affordability because three of us, at least, want to do the affordability. And the other two...we haven't heard from the other one. But the other two are concerned about the enforceability and whatnot. So, that's why I want to get through the rest of this so that we can go back into that discussion.

COUNCILMEMBER COCHRAN: And, Chair?

CHAIR COUCH: Yes?

COUNCILMEMBER COCHRAN: So enforceability, yeah. So it's just as hard to enforce existing the...your short term, your B&Bs, what have you. And it's also just as hard to enforce if it's gonna be affordable or not.

CHAIR COUCH: Right.

COUNCILMEMBER COCHRAN: So, you know, all that other stuff is running rampant around here. And now we're trying to just put some kind of dent in this housing crisis, affordability crisis. And we're getting the same can't enforce, can't enforce. So we better not even talk about it?

CHAIR COUCH: No, we're not saying that. We're saying we're gonna talk about it at the end of this meeting. That's what we're trying to say, we'll get through the rest of this and discuss the affordability, which we just talked about for the last hour almost. And we're gonna have to talk about it some more, because there are a group of us that

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

want it to stay in. And we have to figure out how to make it stay in. So the applicable zoning districts, essentially the Mayor's one allows it in everything up to Rural. Where Mr. Carroll's is Residential only. I'm...generally, do we have Rural lots that are...yeah, we sure do have lots that are pretty small. I'm fine with it going all the way through Rural, not just Residential lots. I'm fine...oh it includes Interim. So even though it's Interim. Any concerns with that concern? Mr. Carroll? Okay. Alright and last, but the covered decks, last but not least, covered deck area. Can you explain that one more time, Mr. Spence?

MR. SPENCE: Again, it's...the purpose of this section is that, people are doing this anyway. But it's...there are no limitations on it right now. So you could have your 1,000-square-foot house and you could have a 3,000-square-foot deck. And that's not considered enclosed area. And that's sort of ridiculous. So...

CHAIR COUCH: So you're limiting the enclosed area?

MR. SPENCE: Yeah. We're saying, yeah this is --

CHAIR COUCH: Okay.

MR. SPENCE: --fine to do. You should be able to have a covered lanai. But it shouldn't be so large as to be larger than the house or, you know, be just an abuse of whatever's going on, so.

CHAIR COUCH: Members, any concerns with that? Okay, without objection, we'll leave that in.

COUNCILMEMBERS VOICED NO OBJECTIONS

MR. SPENCE: Thank you. And that will help us a lot in reviewing building permits.

CHAIR COUCH: Okay. Now this brings us back to the affordability requirement. As I mentioned, there are three of us that have expressed strong desire to keep that in. Two that have some concerns with the enforceability, and we haven't heard from the only other one that's here. Any comments, Mr. Guzman? You're looking, I mean, basically we're stuck at a point where we want to, there's some of us that want to put the affordability, I mean keep the affordability in as Mr. Carroll has it. The Department has concerns as to who is going to enforce. And how they're going to enforce it. And two of our other Members are agreeing with the Department on that. What the Chair would like to recommend on this one is to have our Staff, Mr. Garneau, work with Planning and HHC, Housing and Human Concerns, to come up with the language that, and Corp. Counsel of course, come up with the language that we can do the affordable agreement. Because I'm of the mind that most people are going to follow that. They're not gonna go against it. So, we can figure out a way to enforce on the other people that aren't. If we can figure out a way to enforce on the other people that aren't, then we can put the enforcement provisions in there. If I can

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

get a commitment from Mr. Garneau and the departments to work on that, rather quickly, to see if we can do it. We do it in 2.96 now so maybe we have to change a little bit of 2.96 to allow for the enforceability of the affordability portion.

MR. SPENCE: Okay.

CHAIR COUCH: Yes, Mr. White?

COUNCILMEMBER WHITE: Yeah. The challenge that I see is that through 2.96 we're generally dealing with developments.

CHAIR COUCH: Yeah.

COUNCILMEMBER WHITE: And you've got all the units all in one place. This is not such an animal. We've got units that are potentially all over the County. Spread out all over the place, in people's backyards. I'm just looking at it from a realistic standpoint. It's going to be almost impossible. I would love to have something in there if I felt it was enforceable. My concern is that I don't think it's enforceable. And the more we put qualifiers on this, it's like, you know, we have issues with getting affordable housing developments built because they don't pencil out. Well, I don't know what the impact of imposing affordability on these units might be. If it may...means that they don't pencil out and they don't get built what have we solved? And my focus is on increasing supply. And if we can do that and do the affordability requirement, great. But I'm concerned that the affordability, I don't know, does anybody know what rent would be allowed to be charged, if it's within the scope of what's allowed?

CHAIR COUCH: We don't have those numbers. We can certainly get those --

COUNCILMEMBER WHITE: I think that would --

CHAIR COUCH: --as well.

COUNCILMEMBER WHITE: --help as well because if they're half or two thirds of what is currently being charged, I don't know that we're gonna move the needle much. It's gonna feel good to pass it but if it doesn't pencil out, I don't know what the end result...the end gain is gonna be.

CHAIR COUCH: Oh, so you're saying that no one's gonna be building something that they can't recover --

COUNCILMEMBER WHITE: Right.

CHAIR COUCH: --their rent. In the rent, they can't recover.

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

COUNCILMEMBER WHITE: We may end up having the same challenge we have currently with affordable housing units not being built because they don't pencil out. So, just saying.

CHAIR COUCH: Okay. Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. And I'm, I mean, happy that we're actually starting to break ground in West Maui, in particular, for some affordables. I understand one that's been sitting idle, has gotten a green light for water...his water issues to go ahead with his affordable units. And then out north by Kapalua, the new ownership has taken the lead to want to do affordable rentals. So I see a lot of headway moving in that direction, currently. And for this one, you know, I just can't help but reflect back on every time we sit here and we think...we get new legislation out, new and we always have the...and it's understandable the concerns. How are we gonna enforce this? Are we gonna need more people to do this? We're already strapped for, you know, resources in our departments. We are gonna need more money during budget, we're gonna...you know, and all that stuff is fine. Let's cross that bridge when we get to it and figure it out. But I think something needs to be on the books that is heading in that direction that we all want to see and this community wants to see. And it's affordable inventory. And so if something like this can help assist us in that, great. And we tweak and change things all the time in order to fit the climate of the day. You know, and the needs of the day. So I just really want to see this move. And I'm not sure if Department has really delved into this enforcement portion of it. To maybe hash out, you know, we're gonna need X amount of E/P. It's gonna cost X amount of dollars. It's gonna...so I don't know, does Department have any comments? Did they even go down that road to even start looking into it at all? Or was just hoping, they'd say it's hard we don't want to do it, we can't do it, and please don't put it in here.

CHAIR COUCH: I think some of the issues...

COUNCILMEMBER COCHRAN: I think he's got it.

CHAIR COUCH: Oh, okay go ahead, Mr. Spence.

MR. SPENCE: Oh, again from the Zoning and Enforcement Division, they recommend that we don't do a rent control ordinance through this mechanism. If we're gonna do that, we should do it through something separate. So as far as what are the affordable ranges, I have no idea. It's certainly less than what has been handed out.

COUNCILMEMBER COCHRAN: Right.

MR. SPENCE: And again, I share Council Chair White's concerns that, you know, if you take out a second mortgage that costs you \$1,000 a month. And all you can get is \$800 a month rent on it, that's, doesn't...that's not gonna pencil out. There's no...then there's no reason to even build an additional unit. So where those break points are, and I'm

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

pulling numbers out of the air. I don't really know but, the point is, is that it needs to pencil out for a property owner in order to build a unit.

COUNCILMEMBER COCHRAN: Right. So that, you know, we just had a rally last weekend and they showed one of these tiny home units. And sounds very affordable to build, would those be considered as a addition, accessory dwelling on a property like this?

MR. SPENCE: Yes, they would.

COUNCILMEMBER COCHRAN: Okay.

MR. SPENCE: And everything we've been talking about up till now is the maximum square footage of a unit. We have not talked about, there's essentially no minimums. We've had this discussion with Public Works and the minimum would be like according to some health and safety issues, you need so much square footage for a bathroom and so much for a kitchen, and so much for different uses. It...I...as I recall, it's like 250 or 300 square feet is like a minimum.

COUNCILMEMBER COCHRAN: Yeah. And Mr. Couch was there too and it was quite, very good looking unit. But I actually have some prices on affordable rental guidelines that we had received, we had this during the TIG. And, you know, so 1,500 for the 1-bedroom, 18 2-bedroom, 2,100 3-bedroom, 2,300 for a 4-bedroom. So that would be the HUD affordable rental, I guess, type guidelines currently.

CHAIR COUCH: That seems a bit close to...for one bedroom you said is 15?

COUNCILMEMBER COCHRAN: What they're asking?

CHAIR COUCH: That they can go as high as 15?

COUNCILMEMBER COCHRAN: One bedroom.

CHAIR COUCH: Yeah. Some of these already are in that general vicinity. So it's not that much different. So it is...it...I think it would be feasible to build one. I mean, and it's close to the market now. Okay, that's interesting.

COUNCILMEMBER COCHRAN: And again...and then, sorry. And then again, I mean we're talking about families for families. Right? We...the people have lands that perhaps got handed down through generations and, you know, grandparents or mom and dad spent their whole life to afford this land, built the home, now they want to add. Perhaps kids and the grandchildren move into the main home. Mom, whoever, you know, lives in the addition in the back. Whatever, you know, something, but I think it's the concept is awesome and we all know it's occurring already. But let's make it to, yeah, be legally permitted, all in, you know --

CHAIR COUCH: Sure.

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

COUNCILMEMBER COCHRAN: --our process.

CHAIR COUCH: I think the results of this meeting are that we're good with the second unit. We're good with going down below 7,500 square feet. The issue, if we can work out with the two departments and Corporation Counsel and our Staff, if we can work out some way of enforcing the affordability. I know that City and County has some affordability restrictions in their accessory dwelling units as well as other municipalities. So we can look and see how they do it. And I will, you know, this is number one on our list, on the TIG list. And I think that it's important that we get this so where the departments are all comfortable with the restrictions, if any and the enforceability. And at least come up with something to present to this Committee to say, okay, here's what we all have agreed on and here's where we don't agree. But here's what we can do to fix what we don't agree. I think the very next meeting we'll do that. Hopefully we can get that done before...when's our next meeting? We have a special meeting.

MR. GARNEAU: Right. We have a special meeting, Chair, on the 27th. That might be a little ambitious. But then our next meeting after that, regular meeting --

CHAIR COUCH: Is November 3rd.

MR. GARNEAU: --is November 3rd.

CHAIR COUCH: Okay. So, the 27th, since we didn't even get to talk about the TIG report today, it's getting time. We'll...I would like to defer that other item to the 25th or to 27th.

MR. GARNEAU: Twenty-seventh, that's correct.

CHAIR COUCH: And then we can do that, we'll put that on that. And then the 3rd, we'll come back with, hopefully, a revised bill for some of us, hopefully with affordability that other people can live with. And maybe get that passed out, in November. It would be nice to get that done at this term.

MR. SPENCE: Yes.

CHAIR COUCH: If we get it out November, we might be able to get it. I know Ms. Baisa won't be able to vote at the second and final reading. But if we get it out on the November 3rd meeting, we should be able to pass it this term. And that would be very nice to do that. Members, if you're okay with that and if Staff is aware of what we need to...what we can combine, what we all agreed to, and then, you know, the one sticking point, the one or two sticking points, we can come up with something with the two departments, Housing and Human Concerns and Planning to see how we can enforce an affordability requirement. And my Staff will also help look to see how other entities

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

do it, including City and County. So are we pretty agreeable with that, Members?
Okay. Good.

MR. SPENCE: Mr. Chairman?

CHAIR COUCH: Mr. Spence?

MR. SPENCE: One thing that we discussed at some length was where do these square footages come from.

CHAIR COUCH: Yes.

MR. SPENCE: So what we can do is we will look at the original ordinance and see what...how these square footages came to be. And maybe come up with some alternatives.

CHAIR COUCH: Yeah. And then we might be able to change those at the same time to kill two birds with one stone.

MR. SPENCE: Sure.

CHAIR COUCH: I would think that it didn't, it wouldn't need to go back to Planning Commission --

MR. SPENCE: I wouldn't think so.

CHAIR COUCH: --if we change those numbers. Ms. Cochran?

COUNCILMEMBER COCHRAN: Also, I...isn't Kauai County doing a really great job on their rental inventory right now? Didn't we have a whole article or talk on that during the TIG discussion too?

CHAIR COUCH: Right we had something about Hawaii...Kauai County.

COUNCILMEMBER COCHRAN: He came over here and told us.

CHAIR COUCH: So we'll take a look at that.

COUNCILMEMBER COCHRAN: Yes. So, Kauai, not just City and County, I thought.

CHAIR COUCH: Yeah.

COUNCILMEMBER COCHRAN: Okay.

CHAIR COUCH: Yeah.

COUNCILMEMBER COCHRAN: Great.

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

CHAIR COUCH: Members, any other comments on that? Okay, then without objection, we'll defer this item.

COUNCILMEMBERS: No objections.

CHAIR COUCH: Okay. So that item is deferred.

ACTION: DEFER.

CHAIR COUCH: Now the question I have is we've got about 20 minutes left, that's not enough to even start a discussion I would think, on the TIG report.

PC-37(2) INCREASING INVENTORY OF AVAILABLE HOUSING (MISC)

CHAIR COUCH: The one issue was going to be the one-stop shop, is how we're gonna refer that. We were gonna have Housing...I mean, Public Works and Management were gonna come down. By the time they get down here it's gonna be a quarter till. And we can talk about 15 minutes or do you want to just defer it till the next meeting, the 27th? Yeah. I think we'll defer. So without objection, we'll defer both items.

COUNCILMEMBERS: No objections.

ACTION: DEFER.

CHAIR COUCH: And then with that, I'll just commit to you that we'll work with Staff to...and the departments to come up with some language that will be acceptable to at least the majority of the Members so we can at least pass this out with some affordability requirement. We'll come up with some language and we can discuss on the November 3rd meeting. Hopefully everybody will be here, that's a regularly scheduled meeting. Alright, with that, Members, I want to thank you for a very good lively discussion, we still want to make it affordable as much as possible. The Chairs, anyway, wants to do that. Department, thank you for coming up with what you were able to come up with and we'll come up with a new ordinance for everybody to look at, hopefully before, so we can discuss it rigorously on the floor. With that, Members, this meeting is adjourned. . . . *(gavel)* . . .

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

ADJOURN: 11:40 a.m.

APPROVED BY:

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

DON COUCH, Chair
Planning Committee

pc:min:161020:td

Transcribed by: Tiare del Castillo

PLANNING COMMITTEE
Council of the County of Maui

October 20, 2016

CERTIFICATE

I, Tiare del Castillo, 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 14th day of November, 2016, in Pukalani, Hawaii



Tiare del Castillo