

LAND USE COMMITTEE

Council of the County of Maui

MINUTES

July 10, 2018

Council Chamber, 8th Floor

CONVENE: 1:37 p.m.

PRESENT: Councilmember Robert Carroll, Chair
Councilmember Alika Atay (in 1:55 p.m.)
Councilmember Elle Cochran (out 4:32 p.m.)
Councilmember Stacy Crivello (out 4:32 p.m., in 4:40 p.m.)
Councilmember Don S. Guzman
Councilmember Kelly T. King (in 1:40 p.m., out 4:32 p.m.)
Councilmember Yuki Lei K. Sugimura
Councilmember Mike White (in 3:40 p.m.)

EXCUSED: Councilmember Riki Hokama, Vice-Chair

STAFF: Alec Wagner, Legislative Analyst
Raynette Yap, 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.: David Galazin, Deputy Corporation Counsel, Department of the Corporation Counsel
Michele Chouteau McLean, Planning Director, Department of Planning
Joseph Alueta, Deputy Planning Director, Department of Planning
David Goode, Director of Public Works, Department of Public Works

OTHERS: Hugh Starr (LU-5)
Bobbie Patnode (LU-5)
William Jacintho, Maui Cattlemen's Association (LU-5)
Warren Watanabe, Maui County Farm Bureau (LU-5)
Lawrence Carnicelli, REALTORS® Association of Maui (LU-5, LU-30)
Rory Frampton (LU-5)
Tom Croly (LU-5, LU-30)
Robert Stephenson, Molokai Council Office (via telephone conference bridge) (LU-30)

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Bridget Mowat, Molokai Council Office (via telephone conference bridge) (LU-30)
Mahina Poepoe, Molokai Council Office (via telephone conference bridge) (LU-30)
Faye Liko Wallace, Molokai Council Office (via telephone conference bridge) (LU-30)
Faye Pacheco, Molokai Council Office (via telephone conference bridge) (LU-30)
Gladys Leialoha Naki, Molokai Council Office (via telephone conference bridge) (LU-30)
Louise Mililani Hanapi, Molokai Council Office (via telephone conference bridge) (LU-5, LU-30)
Raymond Leimana Naki, Molokai Council Office (via telephone conference bridge) (LU-30)
Cora Schnakenberg, Molokai Council Office (via telephone conference bridge) (LU-5, LU-30)
Judy Caparida, Molokai Council Office (via telephone conference bridge) (LU-30)
Kadi Manaois, Molokai Council Office (via telephone conference bridge) (LU-30)
Palmer Naki, Molokai Council Office (via telephone conference bridge) (LU-30)
Keani Rawlins-Fernandez, Molokai Council Office (via telephone conference bridge) (LU-30)
Kua Lopes, Molokai Council Office (via telephone conference bridge) (LU-30)
Lori Buchanan, Namahana Buchanan Estate, Molokai resident (LU-30)
Bill Greenleaf (LU-5)
Albert Perez, Maui Tomorrow (LU-5)
(5) additional attendees

PRESS: *Akaku: Maui Community Television, Inc.*
Melissa Tanji, The Maui News

CHAIR CARROLL: . . .(*gavel*). . . This is the Land Use Committee meeting of July 10, 2018 will come to order. I'm Councilmember Robert Carroll, Chair of the Land Use Committee. May I, first, may I please request if anybody has anything that makes noise, please silent it or turn it off. With us this afternoon, the Committee Chair [*sic*], Mr. Hokama is excused. We have Don Guzman.

COUNCILMEMBER GUZMAN: Good afternoon, Chair.

CHAIR CARROLL: Elle Cochran.

COUNCILMEMBER COCHRAN: Aloha, Chair.

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CHAIR CARROLL: Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: Good afternoon, Chair.

CHAIR CARROLL: And Stacy Crivello.

COUNCILMEMBER CRIVELLO: Aloha, Chair.

CHAIR CARROLL: For Department of Corporation Counsel, we have David Galazin, Deputy Corporation Counsel.

MR. GALAZIN: Good afternoon.

CHAIR CARROLL: Administration representatives, we have Michele McLean, Planning Director.

MS. McLEAN: Good afternoon, Chair.

CHAIR CARROLL: Sybil Lopez, Molokai Planning, Department of Planning. David Goode, Director of Department of Public Works. Committee Staff, we have our Committee Secretary, Rayna Yap; Legislative Analyst, Alec Wagner; Hana District Office, we have Dawn Lono; and Lanai District Office, Denise Fernandez; and Molokai District Office, Ella Alcon. We have two items on the agenda today, LU-5, Amending the Comprehensive Zoning Ordinance by Allowing *[sic]* Agricultural Conservation Lots in the Agricultural District and item UL-30 *[sic]*, Short-Term Rental Homes on Molokai. For people giving testimony, please sign up at the desk outside or notify the Staff at the remote sites. Pursuant to Rules of the Council, each testifier will be allowed to testify for up to three minutes. When testifying, please state your name and any organization you may be representing at the podium. For individuals in the gallery, please do not comment, clap, or make any other disturbances. It's very difficult for some people to give testimony without worrying if somebody is going to make comment. Mr. Wagner?

MR. WAGNER: Chair, our first testifier is Hugh Starr, testifying on agenda item LU-5, followed by Bobbie Patnode, testifying on agenda item LU-5.

. . . BEGIN PUBLIC TESTIMONY . . .

MR. STARR: Good afternoon, Chair Carroll, Councilmembers. Hugh Starr from Makawao. I'm testifying in favor of LU-5 and I know there's probably gonna be some discussion about some of the amendments that are being proposed. The one thing that I just felt I wanted to add my input on this was that in my mind, you know, coming more from the agricultural community side that the, as opposed to the gentleman farmer side of the ag equation, our farmers and ranchers need, they need predictability, they need long-term tenure, and this conservation, ag conservation lot will provide that. It's a

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huge, huge revolutionary change potentially, and the one thing I would say that I would propose or ask that you consider is that you allow the two farm dwellings on this large ag parcel because it is intended to be a functional agricultural parcel. In fact, more so, hopefully than any other ag parcel because it's not gonna be able to be subdivided. It's gonna be only for agriculture, so for that reason, I would hope in my vision of how this plays out over the next few decades that it would be the farm land and the ranch land that thrives because there's tenure, there's long-term tenure. So, thank you very much.

CHAIR CARROLL: . . .*(inaudible)*. . .

COUNCILMEMBER SUGIMURA: Oh, your mic.

CHAIR CARROLL: Ms. Sugimura, any...

COUNCILMEMBER SUGIMURA: Yeah, thank you.

CHAIR CARROLL: Proceed.

COUNCILMEMBER SUGIMURA: Hi, Mr. Starr. Thank you for being here.

MR. STARR: Hi, thank you.

COUNCILMEMBER SUGIMURA: So just curious if you have an opinion about as a definition instead of ag conservation lots to be agriculture production lots, to the conservation, you know, would be the terminology that would be different.

MR. STARR: I actually think that's a really good idea, Councilmember, because the conservation is a very confusing and distracting word. It has multiple meanings, you know, we have the Conservation District, the State designation of Conservation which all of us equate as, you know, East Maui, Koolau Forest Reserve and all that. And I think that this is really about agriculture. Agriculture is a form of conservation/open space preservation, but I would hope that the true intent of this is to enable agriculture, productive agriculture, so I actually quite agree with that idea. Thank you for the question.

COUNCILMEMBER SUGIMURA: Thank you. Thanks for being here.

MR. STARR: Yeah, thank you.

CHAIR CARROLL: Any further clarification needed from the testifier? Seeing none, thank you.

MR. STARR: Thank you.

CHAIR CARROLL: Mr. Wagner?

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MR. WAGNER: Chair, our next testifier is Bobbie Patnode, testifying on agenda item LU-5, followed by William Jacintho, testifying on agenda item LU-5.

MS. PATNODE: Good afternoon. My name is Bobbie Patnode, and I am speaking for myself. I'm a general partner in Patnode Family Farm and a member of the Ag Working Group. I'm here to express my support for LU-5 which will allow conservation ag lots and agricultural cluster subdivisions. However, I oppose the changes that have been made to the bill since I last testified on June 13th. As I testified on June 13th, the best part about the bill is that the large conservation lot is kept in ag in perpetuity. The conservation in the bill's title is conservation of ag land, not how the land is to be used. I believe it is imperative that a farm dwelling be allowed on this lot. The best way to control what is happening on your land is to live there. Ag theft is a common occurrence and is much easier to control when you live on your property. The landowner must be allowed to determine where to put the dwelling. I hear farmers say, they put their house on the stinkiest part of the property so the best land can be used for the farm. Limiting where the dwelling can be cited does not allow the farmer to use their property as they know best. Limiting the total square footage to 4,000 square feet may not allow the homeowner to build all they need for their family, especially considering this includes the ohana and structures for the ohana dwelling family. The rule for ag property is 10 percent of the property and we should keep all ag properties to the same standard. Has anyone done the math comparing the chart of allowed numbers of cluster lots to the percentages required for that large ag lot? The percentages don't seem to correlate to the number of small lots allowed. This version has a large conservation lot being dedicated to ag in perpetuity which is great, but for Ag property tax rate that land has to be actually be used for ag. Real Property will take away your dedication if you're not using the land for ag. I hope real property tax will take a look at this bill and comment. I remain concerned about the cluster small lots and how they will be handled. New owners may not know much about agriculture. The unilateral agreement the owners will sign already includes important language. They acknowledge they are on ag zone land and that means noise, dirt, and odors which are part of ag. I suggest that the current rule which requires the majority of their lot to be in ag use to get a building permit be covered by the large conservation parcel, so that landowners who don't want to be farm will not be required to do so.

MR. WAGNER: Two-and-a-half minutes.

MS. PATNODE: The intent of this bill is not to create reluctant farmers on the small lots. The true intent of the bill is to preserve land for agricultural purposes. Let's keep it simple, not hinder the concept with artificial limitations that don't exist for other ag land. I support the bill as it was before. Thank you.

CHAIR CARROLL: Any clarification needed from the testifier? Seeing none, thank you. Mr. Wagner?

MR. WAGNER: Chair, our next testifier is William Jacintho, testifying on agenda item LU-5, followed by Lori Buchanan, testifying on agenda item LU-30.

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MR. JACINTHO: Good afternoon, Committee Chair, Councilmember Robert Carroll, Vice-Chair Hokama, and members of the Land Use Committee. My name is William Jacintho, President of the Maui Cattlemen's Association, testifying on LU-5. For several years, the Maui Cattlemen's Association has been dedicated many hours to issues regarding ag lands. The goal of the work has been to keep ranchers and farmers surviving the day-to-day challenges and preserving agricultural lands for present and future production. The proposed bill for an ordinance amending Title 19, Maui County Code, to allow for the creation of agricultural cluster and subdivision is a unique way of obtaining this goal. Maui Cattlemen's Association strongly supports a clustering option but unable to support the bill as presented here today. Clustering is a very practical way to provide the much needed homes for people, as well as preserve in perpetuity the much needed land for agriculture production. The original bill had been thought out, was written with good intentions and served this purpose well. A little bit of clarification would probably be all it needed but all of these restrictions added without discussion or input from agriculture groups is just not right. This purpose...as this proposed clustering bill is written it is way too confusing to even testify on in three minutes. I request this bill be brought to the ag commodity groups for income and not passed as written today. Thank you for the opportunity to testify.

CHAIR CARROLL: Thank you. Any clarification needed from the testifier? Seeing none, thank you.

MR. JACINTHO: Thank you.

CHAIR CARROLL: Mr. Wagner?

MR. WAGNER: Chair, our next testifier is Lori Buchanan, testifying on agenda item LU-30, followed by Warren Watanabe, testifying on agenda item LU-5.

MS. BUCHANAN: Hi, good morning, Mr. Chair. Respectfully, I would request at your discretion that I could testify after my island testimony or in conjunction with the testifiers on the island of Molokai.

CHAIR CARROLL: It would be better if you testify now, you can testify on both.

MS. BUCHANAN: Okay. Because part of my testimony would be based on what other testifiers are testifying too on the island of Molokai only because we all couldn't afford to come here today. But if I must then I can testify now and then ask to at your discretion maybe come back for a minute to wrap up.

CHAIR CARROLL: You know what, we'll call you back then when we bring up Molokai.

MS. BUCHANAN: Thank you so much. I very much appreciate that, Chair.

CHAIR CARROLL: Okay. Mr. Wagner?

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MR. WAGNER: Chair, our next testifier is Warren Watanabe, testifying on agenda item LU-5, followed by Lawrence Carnicelli, testifying on agenda items LU-5 and LU-30.

MR. WATANABE: Good afternoon, Chair Carroll, members of the Committee. I'm Warren Watanabe, executive director of the Maui County Farm Bureau. The Maui County Farm Bureau strongly supports the concept of ag clustering but has concerns about the details of this measure as proposed. Maui's legacy is agriculture. In the '60s and '70s, Maui was the bread basket for the State with the majority of vegetables exported from the Kula region to regular exports of protea to Europe. Since 9/11, these exports of protea have evaporated and we have seen the decline of pineapple and finally sugar cane in 2016. Despite all these downturns, agriculture is still seen as an important part of Maui County, especially in rural areas such as Upcountry, Maui. Opportunities exist for expansion and the name Maui grown does provide a marketing advantage. Ag can gain, can again be an economic engine for Maui. Enforcement of our land use regulations has fallen short of the policy intent of many of these rules and we see creative ways to circumvent bills. Most recently, we see large lots subdivisions and questionable ag activity encroaching our County Ag Park along Pulehu Road and other multigenerational farms in Omaopio. Driving around Kula, similar situations exist where former productive ag lands lie fallow with for-sale signs inviting the highest bidder. Farm Bureau has always advocated for cluster developments recognizing that retirement funds for many of our farmers lie in their land. We need to keep large tracts intact, preserving critical mass for production efficiencies and not allow residential structures that create a loophole for lifestyle farmers whose main goal is a gorgeous view, open space, or a property tax break. Growing 12 coconut trees or having 2 goats is not enough of a justification for a real property tax break. It is the opinion of Farm Bureau that, one, under definitions, agricultural conservation lots should be redefined as agricultural production lots making it clear that true production is the intent rather than the wide range of accessory uses as defined in 19.030.050. Conservation also implies status rather than growth which should be the intent of this measure. Two, all residential uses should be in the cluster site.

MR. WAGNER: Two-and-a-half minutes.

MR. WATANABE: Accommodation dormitory-style farm worker housing should be incentivized including tax credit incentives, grant assistance for construction and long-term property tax incentives for providing housing for groups of people on a smaller footprint. Additional housing should not be allowed in the ag production area. Other recommended changes are included in our written testimony. It is critical that the primary intent of clustering be fulfilled and not continue to enable misuse of ag land.

MR. WAGNER: Three minutes.

MR. WATANABE: Farm Bureau is willing to discuss any of our suggested amendments. Thank you.

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CHAIR CARROLL: Any clarification needed from the testifier? Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair. Thank you, Mr. Watanabe, for being here. Is it my understanding that the original bill that was presented to the floor, the Farmer's Bureau is in support of and then thereafter that meeting Mr. Carroll took what was said in the meeting and then amended the bill that we have before us. You're not in support of the bill that we have before us with the changes and, you know, going back to my first question, are you in support of the bill that was presented originally?

MR. WATANABE: Well, Farm Bureau did not take a position on the original bill. I came, I attended the meeting with the intent of listening to the discussion before we made our decision. I wanted to support or oppose the bill. We have problems with...you know, for Farm Bureau, we believe that the production areas should be just for production. That's the basis of it. We recognize, you know, in the Code allows uses but if you look further in our testimony, one of the suggestions we do not oppose accessory uses in the production area and I think that's where, you know, you can have the accessory facilities needed for the farm to be located in that area.

COUNCILMEMBER GUZMAN: Yeah, I think you're on, we're one the same page because what would happen, what happened in the previous meeting was that there was a discussion as to what type of accessory uses shall we allow on the large contingent tract, and so that's why these amendments were placed in there. It's still optional as to including more accessory portions of the use, but what I read out of this bill right now it's limiting the accessory uses only to agricultural production and there could be additional ones that could be added like for instance the farm dwelling, I know that was excluded and what was included was the labor dwelling. So, that's all up for discussion and I believe Mr. Carroll has plans to discuss that as well. So, thank you.

MR. WATANABE: Thank you.

CHAIR CARROLL: Any further clarification?

COUNCILMEMBER KING: Chair?

CHAIR CARROLL: Ms. King?

COUNCILMEMBER KING: Thank you, Chair. Thanks for being here, Mr. Watanabe. So, I just wanted to clarify the term production agriculture. So, your position or Farm Bureau's position is that if we allow clustering, then the large tract that's left over should only be allowed for production, for agricultural production?

MR. WATANABE: That's correct, 'cause, I mean, that's the way we envision clustering, you know, you having the houses or, whatever, the employee housing in one area and you keep that main area in production. I think kind of the issue is that I also relate to is that we're getting a lot of encroachment on these active farmlands and I specifically mention the Kula Ag Park because we find that very disturbing that you have houses

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very closely abutting the farms and frankly our farmers in the ag park have stated that they want to relocate because they don't want to see issues coming up in the future that will restrict their use of the land.

COUNCILMEMBER KING: Okay. And then, so, the idea of having a production, the remaining large tracts be only for production, was there any intent to describe a minimum or area?

MR. WATANABE: I think that's where the discussion has to take place. How much of the area? Because I believe right now, you know, it's not nearly as much as what Councilman Guzman proposed. We would like to see the majority of it in that area. We agree that, you know, I mean, I think they also, you see in our testimony there's comments about, you know, the size of the houses and, frankly, you know, we oppose that kind of restriction because, you know, farmers work hard, they deserve whatever house they can afford to build frankly, you know. Just like any other house in a residential area, right, you know, residential may be limited in their amount of land they have but still you have a right, we feel, to build whatever house you feel you want, you need, or can afford.

COUNCILMEMBER KING: Okay. Alright. Thank you.

CHAIR CARROLL: Ms. Crivello?

COUNCILMEMBER CRIVELLO: Thank you for being here, Mr. Watanabe. So, if I'm hearing you correctly, the agriculture lands are to have production for products or produce or, you know, whether it's ranching or what have you, and when we talk clustering we're saying the clustering is to provide, you have your main house and then what the farming caretakers or workers then they have the accessory dwelling, if we want to call it that, and that is it. We're not looking at having ag lands to have short-term rentals or vacation rentals but actual production of what the purpose for ag, agriculture is all about.

MR. WATANABE: Yeah, that's correct. And again, that's why we mention that, you know, land use regulations need to be enforced. We, you know, if we continue the path we going to I don't think agriculture will survive bottom line.

COUNCILMEMBER CRIVELLO: Thank you.

CHAIR CARROLL: Thank you.

MR. WATANABE: Okay, thank you.

CHAIR CARROLL: Mr. Wagner?

MR. WAGNER: Chair, our next testifier is Lawrence Carnicelli, testifying on agenda items LU-5 and LU-30, followed by Rory Frampton, testifying on agenda item LU-5.

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MR. CARNICELLI: Aloha, Chair. Lawrence Carnicelli, speaking on behalf of the REALTORS® Association of Maui. And I'll start on LU-30 and as we always say anytime we're talking about Molokai is we're going to defer to the people of Molokai to make the decisions for themselves. I just wanted to add that the newest proposal as far as, you know, removing any vacation rentals from the East End and then adding small caps to central and the West End seems like a pretty logical compromise, seems like something that would be rational and we would be in support of that if the people of Molokai are, and so that's it on LU-30, Chair. And then as far as LU-5, quite honestly I'm a little bit apprehensive as the representative for RAM to speak on this because I don't want it to be perceived as, okay, this is a development thing and this is a housing thing, and, you know, when I testify there's a certain perception of, okay, we're trying to pave over paradise or we're trying to get one over, whatever it is, because the elephant in the room is we're really trying to balance this thing about the gentleman estates that, you know, plant a couple coconut trees and have a goat, and the real farmers and the real ranchers. Because we really need the real farmers and the real ranchers, and our current policy has led us to, let's just call it the fake farm, right, that's what's led us there. So we're trying to come up with how do we really preserve ag. How do we really do this? And so, again, I'm hesitant as the realtors to say, okay, you know, I think this is a good idea because it's like, well what's the loophole, you know, what's really trying to happen here. But as I testified before, I mean, this is something that really saves agriculture, this is about food safety, food security, self-sustaining agriculture, agriculture in perpetuity. The cluster effect allows for the opportunity for more affordable housing, it allows to alleviate things in the infrastructure as far as when you put things close together. Right now you got 2 here, we had a 5 there, we got a 15 there, you know. So, you know, is our current, you know, ordinance has led us to this thing, so, you know, we got to do something, and I think that it seems like everybody is kind of in agreement of that and maybe what you guys are going to have to work out is how do we get there. The other part of this that, I guess, is in the current, just to kind of speak to what some of the other testifiers talked to as far as allowing say, you know, a dwelling in, on the large ag lot, that just seems to make sense, 'cause, you know, when I talk to the farmers and ranchers they're going, well yeah, I need to have a towing on the large lot too, so that would be one thing. I think that the latest version has, kind of, limited some of the ag uses which to me is a little counterintuitive, and then lastly is if there are some parcels that maybe have had a little bit of the sliding scale is to be able to use the clustering on the last part it, you know, so to say like, okay, if you've done sliding scale then, you know, you're completely off the table just seems like, well, if we all agree that the clustering is a good idea --

MR. WAGNER: Two and a half minutes.

MR. CARNICELLI: --why don't we go ahead and allow that to be the case even if we've done a partial sliding scale up 'til now. So, that would be all. Thank you, Chair.

CHAIR CARROLL: Any clarification needed from the testifier? Seeing none, Mr. Wagner?

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MR. WAGNER: Chair, our next testifier is Rory Frampton, testifying on agenda item LU-5, followed by Tom Croly, testifying on agenda items LU-5 and LU-30.

CHAIR CARROLL: Proceed.

MR. FRAMPTON: Good afternoon, Chair Carroll and Councilmembers. I'm Rory Frampton. I'm a land use planning consultant. I'm here representing myself. Thanks, Mr. Chair, for diligently pushing this item. It's been talked about for actually since the sliding scale was adopted in 1998. The, originally the sliding scale, the idea behind it was to provide a range of lot sizes, not only 2-acre lots but also 15 acre minimum, 25 acre minimum, 40 acre minimum, and that was the idea was to provide a range of lot sizes that might be more appropriate for smaller scale ags. However, what's happened over the last 20 years since the sliding scale was adopted is that increased market demand for land on Maui has resulted in these larger 15, 25, and 40-acre parcels to be purchased and used as gentleman estates. If these trends continue, Maui could see a multitude of 15, 25, and 40-acre lots being used as gentleman estates and I think personally that's a very consumptive land use pattern that uses a lot of acreage and it's not good for Maui. As an option, this bill allows you to take the same number of lots, put it on a much smaller footprint, and preserve the larger tract. There's been a lot of diverse members of the community, interest groups, and everybody supporting this over the years, I think it's a good idea. Some of the changes that have been suggested, I would agree with the previous testifier is that we should really look at how we restrict the large conservation lot. There's been a lot of uses overtime that have been added to the Agricultural District, especially as accessory uses that is intended to help with agriculture activity, so there's a number if you go down the list, commercial ag structures, open land recreation which allows agritourism. I think that's all important to include, so I would ask that the Council really take a look at trying to put more of the uses back into that conservation lot. And the second point was referred to by the previous testifier, if you've done a sliding scale subdivision in the past, you shouldn't be not allowed to do the cluster subdivision, and I've provided testimony, I mean, some language that I think would clear it up and make it real simple that the total number of lots that a ag parcel has is as was determined in 1998 by the sliding scale. It's based on a tax map key --

MR. WAGNER: Two-and-a-half minutes.

MR. FRAMPTON: --in 1998. That number of lots should never be changed, let's keep it the same. If you do the ag cluster subdivision all you're adjusting is the minimum lot size. So, I think that the language that I provided in my testimony would do that, it would make it simple, it wouldn't create a second table which the way it's worded now could lead for some confusion and actually I've seen some loopholes in it depending on how it all plays out. So, I would suggest going with the simple approach. And I'm available for any questions.

CHAIR CARROLL: Any clarifications needed from the testifier? Ms. King?

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COUNCILMEMBER KING: Thank you, Chair. Thank you for being here, Mr. Frampton. So, I have one question because I understand, you know, some of the testifiers wanting to put the original agricultural uses back into it which are wide and varied and not necessarily all about production, but I also heard from our Farm Bureau representative that they're very concerned about production and keeping ag production. So, my question to you is there a minimum percentage or number of acres in that remaining large tract that we could put that stamp of production agriculture on that would meet with, you know, that would still allow you, you know, folks to do some of those agritourism things but assure that we're gonna have a certain amount of production?

MR. FRAMPTON: So, that's where I'm scratching my head a little a bit because if you read the purpose of the bill it's not only to preserve ag land, but it's also to preserve environmental, cultural, and open space areas, and this recognizes that not all ag land is fully productive ag land. So, there might be some areas that might be more important for either conservation or for open space, and I don't...I think it's case by case, so it's really hard to say that there's a flat number. There might be some areas that because of their conservation value they shouldn't be farmed, they should be in open space, and I know of certain areas that they are like that. So, I don't know if there's a minimum percentage of acreage for the productive ag land. I do know that by amending this bill to where the maximum cluster lot is only 1.5 acres, the remaining tract is gonna be huge. For an original parcel of say, 400 acres or 600 acres, you're gonna be preserving, if you do that math, you're gonna preserving close to 90 percent of it in the large tract just because you can't get more acreage out of the...if all the remaining lots are 1.5 acres the rest of the, the remaining parcel's huge, out in the order of 85 to 90 percent of the original lot.

COUNCILMEMBER KING: Well, I understand that, but there are a lot of large parcels right now that are not being farmed, so --

MR. FRAMPTON: Right.

COUNCILMEMBER KING: --I also understand the concern that we actually, we need to guarantee some portion of that goes into productive agriculture. And I think that there's a little differing of opinion from what I'm hearing from testifiers about the original intent is the intent of this to create more agricultural land for more food and other agricultural production or is it, you know, all these other uses, so that's just, you know, one of my concerns is if there's some way that you might have in your model to guarantee that we get production.

MR. FRAMPTON: Again, I come back to, you know, that not all the land is always gonna be 100 percent productive, so it's hard to provide that minimum threshold. And I would also add that, you know, some of the principal uses in the Ag District, you know, include energy production like solar facilities. Right now, this bill would not allow a solar facility over 15 acres. That's allowed by special use. This bill doesn't allow any special use permits on either of the parcels. Some lands might be more suited

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towards solar energy production than, is that, than say traditional farming, but that wouldn't be allowed in this case. I guess what I'm saying...

COUNCILMEMBER KING: Right. No...yeah.

MR. FRAMPTON: Yeah, is there's a lot of different...depends on what your definition of productive is too.

COUNCILMEMBER KING: Right. Yeah. And there's no way, I mean, there's the language that's in here and the language that was in there previously had no way of prescribing, you know, that if you have productive lands you have to be growing something or if you don't you can put a solar farm, so that's part of the conundrum, I guess.

MR. FRAMPTON: Yeah, but I don't want to diminish the importance of preserving our community character by preserving large tracts of land even if they're not farmed, but if you take the sliding scale on, say, a thousand-acre parcel, you're gonna be spreading homes and lots over almost 75 percent of that parcel. That's a different community character than if you had a cluster of homes abutting, say, an 800-acre piece of open space even it's not being productive, so, and the Maui Island Plan recognizes this, a lot of our policy documents recognize that the Ag District provides a lot in terms of enhancing community character. In addition to, of course, being our bread basket, but there's a lot more ag lands on Maui than we need to just do productivity but they have other important values and that's, I think, we need to look broadly at it, and that's my opinion honestly.

COUNCILMEMBER KING: Okay. Thank you.

CHAIR CARROLL: Any further clarification needed from the testifier? Seeing none, thank you.

MR. FRAMPTON: Thank you.

CHAIR CARROLL: Mr. Wagner?

MR. WAGNER: Chair, our next testifier is Tom Croly, testifying on agenda item LU-5 and LU-30.

MR. CROLY: Aloha, Chair. Aloha, Committee. Tom Croly, testifying on my own behalf. From the testimony that we've already had I think it's clear that this bill, the LU-5 bill isn't ready to move on in its current form. I just want to express that the idea that we have these clusters of homes, it's a great idea, but the quid quo pro for it is the big piece of land what are you gonna use it for, right, and how can you best use it. In my opinion, just my opinion, we do have to put serious restrictions on that large piece of land to make sure that the benefit of it is broad, that it's agriculturally productive, maybe that's the benefit or as Rory was suggesting it's preserving cultural sites or whatever. Clearly, what we don't want to do but I can see happening here is that large piece of land becomes the big house on the hill with the beautiful view and the privacy

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and so forth and he runs two goats on it and there you go, he's doing his agriculture. So, it's clear that that's not the goal here but you gotta figure out the way to make sure that it does fulfill the goals and you're not gonna do that in this meeting, but I look forward to the discussion that you're going to have. The clusters, great idea to, you know, you're infrastructure can be together and so forth. The preservation of the big piece of land, also great idea, but the use of that big piece of land really is in the rub and I don't think we have that solution at this point. Thank you, Chair, that's my comments on LU-5. On LU-30, I see that we have a new proposal and I like the idea of compromise. Again, I do leave this up to the folks on Molokai and our Molokai representative, but the one caveat that I preach over and over again, you can't say we're not gonna have vacation rentals. That's isn't going to happen, period. What you can say is we will have vacation rentals and they will be regulated, subject to these regulations, to these caps, to these rules and so forth, and we can do our best to regulate them. But if you think in any way, shape, or form that you can say there's gonna be no vacation rentals at all, well you're living in lala land. Vacation rentals are going to be everywhere in the world. They already are. They have been for many, many years. I'm not advocating for them, I'm just saying, you have to live with them, so having a way for them to exist on Molokai is an important part and having them being properly regulated that's necessary. What you're gonna do with the existing ones that have already been then in areas that you might decide to say we don't want anymore, well, that's another, you know, problem for you to solve, but you're gonna have vacation rentals, they can be regulated or they can be unregulated. There are many people and some of them are on this Council that are advocating for unregulated ones. That are working as hard as they can to make sure that we have unregulated vacation rentals. I'm advocating for regulated vacation rentals. Thank you.

CHAIR CARROLL: Ms. Crivello?

COUNCILMEMBER CRIVELLO: Thank you. Thank you for being here, Mr. Croly. I have, on LU-5, one question. You make mention, big piece land to make sure it's broad and it's agricultural. So, how do you make agricultural land broad?

MR. CROLY: I was saying that the benefit needs to be a broad benefit. It needs to be a benefit to the community broadly. And if that is agriculture production, growing food that people eat, that's a great benefit to the community, but, at the same time, if the benefit is preserving cultural lands and preserving view plains and, I don't know, some of the other ideas, I think that also is a benefit. What's not a benefit and what we're trying to avoid, of course, is letting the one guy buy the big piece of land and put his big house on there and have his privacy and he's benefiting but who else is?

COUNCILMEMBER CRIVELLO: Well, I think that's where we err, you know, should be farming or doing ag work. So, my next question about there's no such thing as no vacation rentals or...I recognize that when we do that definitely we'll have many illegal rentals, but I'm trying to understand why you're saying that we're in lala land. You know, they're not in lala land if we don't want the vacation rentals on certain areas or districts or on the island at all.

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MR. CROLY: I think...

COUNCILMEMBER CRIVELLO: I'm trying to understand what you're...

MR. CROLY: Yeah, I think you misunderstood me.

COUNCILMEMBER CRIVELLO: What are you referring to when you said we're in lala land?

MR. CROLY: Yeah, I'm saying that --

COUNCILMEMBER CRIVELLO: I don't think so.

MR. CROLY: --we can't see there will be none. We can simply say, as you pointed out, they will exist and they will be unregulated and they will be illegal, but the idea that someone would put forward, there shall be or there will be no vacation rentals in this area. I challenge that because these vacation rentals where they are 100 percent prohibited across the country, across the world, many places, they still exist, okay. So, for us to stick our head in the sand and say, well, we're gonna say no vacation rentals, you can do that, you can say no regulated ones, but we have to accept then that what we will have will be the unregulated, illegal ones.

COUNCILMEMBER CRIVELLO: Thank you. I don't appreciate your opinion on that. Thank you.

CHAIR CARROLL: Any further clarification needed from the testifier? Seeing none, I'm going to check with the District Offices now. Hana, do you have anybody waiting to give testimony?

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

CHAIR CARROLL: Thank you. Lanai, do you have anybody waiting to give testimony?

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

CHAIR CARROLL: Thank you. Molokai, do you have anybody waiting to give testimony?

MS. ALCON: Good afternoon, Chair. This is Ella Alcon on Molokai and our first testifier is Rob Stephenson.

MR. STEPHENSON: Aloha, Land Use Committee Chair Carroll, Vice-Chair Hokama, and honorable Committee members. My name is Robert Stephenson and I'm a resident here on the island of Molokai. I want to thank you for putting this measure forth in its current draft. It seems that having the number of 25 short-term rental homes on Molokai and excluding the East End from short-term rentals and having zero on the East End seems a good compromise from where the bill first started out at 40, went

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down to zero and now somewhere in the middle. Short-term rental home industry is a very important industry. Here on Molokai it employs many people, many families, and it has a significant economic contribution to our community all the way from our grocery stores to our shops in town, restaurants, the airlines, the rental cars, service providers of all different types. So, I do thank you for this new revision and support the revision that's before us today in its current draft. And I thank you for your time.

CHAIR CARROLL: Any clarification needed from the testifier? Seeing none, thank you. Proceed --

MR. STEPHENSON: Thank you.

CHAIR CARROLL: --with your next testifier.

MS. ALCON: Our next testifier is Bridget Mowat.

MS. MOWAT: Good afternoon, director or Chair Carroll and the rest of all of you. Thank you for allowing us to give our voice, Molokai people giving our voice. I am testifying in opposition to the revisions made in LU-30, the proposed short-term rental cap on Molokai. I oppose the proposed cap of 25 and I oppose grandfathering the existing SR [sic] permits that violate our Molokai plan. I support the zero cap. Current problems with short-term rentals include community division. Our communities have spoken. These are generational families who have to deal with strangers in their communities. We have already designated areas for visitors and that is areas like the condos, Molokai Shores, we have Hotel Molokai, we have Wavecrest, and a lot of times they're not being utilized. These are designated areas already for tourists. Okay, why do we have to change our lifestyle to support a mainland resident, they maintain a vacation rental so they have a home to stay when they come to Molokai to visit, but we are residents born and raised, we'll probably die here, and these rentals do, you've heard many of the community members speak and how it affects their social lives, how it affects their gathering, of mountain, where the mountain or makai. Wherever there is a vacation rental there's always problems whether they take up all the ocean space where the walls go up, whether they're physical walls or just walls between the community that is so unhealthy and it's very unfair. We have areas already designated for our tourists, and we already know there's so many that when they come they have this --

MR. WAGNER: Two-and-a-half minutes.

MS. MOWAT: --kind of attitude that since they're paying money, they have the right, but, you know, our community also have the right. So, that's my manao and I thank you for allowing us, and I really appreciate listening to the community members and not those who are benefitted because they own the vacation rentals.

MR. WAGNER: Three minutes.

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MS. MOWAT: So, listen to the people who are impacted by strangers in their communities and having to change their lifestyle. Thank you very much. Aloha.

CHAIR CARROLL: Aloha. Any clarification needed from the testifier? Seeing none, your next testifier?

MS. ALCON: Our next testifier is Mahina Poepoe.

MS. POEPOE: Hi, this is Mahina. I want to start by saying that I oppose the 25 cap. I support a zero cap. I am opposed to grandfathering in what is existing and allowing for the continued renewal. That still does not implement the intentions of our East End Policy Statement or our community plan and having the East End Policy Statement been consulted and enforced when the law allowing short-term rentals was create Manae would have been granted the protection it had been asking for from the get go and we may not even be having this conversation today. So, when you say to prohibit short-term rentals in East Molokai community plan area that means, you know, that every, even the existing permits once they expire will not be renewed; otherwise, that is very deceiving language. There are many other points that are not reflected in this new bill proposal. There, such as the thousands of petition signatures and form testimonies supporting the cap at zero. The Planning Commission recommendation were zero. It does nothing to address the density issue. Pukoo, my neighborhood which is in Manae is developed to the point where Molokai people can no longer afford to buy. Again, it doesn't address the severe lack of enforcement and response. It doesn't address the speculation. Ninety-five percent of Molokai's short term rentals are owned by non-Molokai residents and even the one that is, is a part-time resident. Another really important point is that it doesn't consider the fact that West End short-term rentals are all on ag land. Our current community plan, Page 10, policy 4, specifically asks for protection for ag land through discouraging pseudo ag uses where the residence is a primary use and agriculture is secondary. Short-term rentals are exactly that. They allow the residents to take over as the primary use. Agriculture isn't even secondary. It's nonexistent. I'm asking you to please implement into this cap the Page 10 policy for our current community plan. You know, I've seen it...I think you started to acknowledge the East End Policy Statement, but what about the whole rest of the plan? And then there's the jobs argument, the locals will be the hardest hit. No data was ever presented demonstrating lower unemployment rates resulting from jobs created in the short term rental sector on Molokai. STR jobs are sporadic, on-call, --

MR. WAGNER: Two-and-a-half minutes.

MS. POEPOE: --and when compared to the traditional employment structure, they are inferior in providing livable wages, consistent hours, tax benefit. One of my friends worked for a while as a housekeeper for short-term rentals and that, the money she made was not enough to pay her bills. The way she paid her bills was selling laulau plates. And she...so, visitors when they come here, regardless of where they stay, they're gonna buy groceries, --

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MR. WAGNER: Three minutes.

MS. POEPOE: --yeah, rent a car, shop at businesses, they still have to buy a plane ticket, they still need to eat, it doesn't matter if they stay in a house or in a condo. I own a small business in town and visitors do sometimes shop in my store, mostly locals, but I'm still hear testifying for zero. The economic contribution has never been proven. When it comes down to it I see the, kind of like you're gonna have to choose a side of who --

MR. WAGNER: Three-and-a-half minutes.

MS. POEPOE: --. . .*(inaudible)*. . . the interest of residents or nonresidents.

CHAIR CARROLL: Please conclude.

MS. POEPOE: Okay, to wrap up, this bill needs to be by implementing and honoring our community plan, policy statements, represent our community, and uphold zoning, and it's about promoting good and cautious planning. So, I'm opposed to this 25 cap. A lot of points are still being missed in this bill, and I ask that you do not vote on the affirmative on this today. It still needs work. Thank you.

CHAIR CARROLL: Any clarification needed from the testifier? Seeing none, you're next testifier?

MS. ALCON: Our next testifier is Liko Wallace.

MS. WALLACE: Aloha, Committee Chair Carroll and Committee members. My name is Faye Liko Wallace. I'm here to testify in opposition to the revisions made to LU-30, the proposed short-term rental cap on Molokai. I oppose the proposed cap of 25 STRs. I oppose grandfathering in existing STR permits all of which violated our Molokai plan. I support a zero cap and as the guy said we live in lala land, well, no come to lala land then because we all good with lala land. I have seen STRs change our environment, our ability to go to the beach, to the mountains, and it's not for the better of our community. It's a no-brainer. It doesn't...it goes unchecked, the STR industry will change us, and the thing that I just recently found out, I mean, I was speaking on behalf of the property taxes being driven up, but what I didn't really understand was being a resident, if I had an STR that was a million-dollar home that was built next to me and more so that it's being built by people that don't even call this home, it will drive my property tax up to the point of not even being able to continue to live there because it would take, it would be a heavy financial burden on myself and my family. I wouldn't even be able to turn it over to my children or my grandchildren which is what we plan on doing because this is home to us. To the ones that come over from the mainland, this is not home, this is, they just look at it, oh, what a beautiful paradise, and so we want to make money off of this place, oh, the land is pretty cheap, so they turn around, they buy property, they don't live here, they rent it as STRs, and they make money. We have enough condos and hotels here to accommodate the visitors that come. I don't think we need to make this STRs a big deal here like how

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it's been on the outer islands. It is driving us out of our homes. You may not see it now, but as it, it is continued to be allowed it is just, it's ridiculous, and again, I'll repeat after what the other guy said --

MR. WAGNER: Two-and-a-half minutes.

MS. WALLACE: --we love living here in lala land and we want to keep it that way. Mahalo.

CHAIR CARROLL: Any clarification needed from the testifier? Seeing none, your next testifier?

MS. ALCON: Our next testifier is Faye Pacheco.

MS. PACHECO: Aloha, Committee Chair Carroll and Committee members. My name is Faye Pacheco. I'm here to testify in opposition to the revisions made to LU-30, the proposed short-term and rental cap on Molokai. I oppose the proposed cap of 25 STRs. I oppose grandfathering in existing STR permits. All of which violated our Molokai Community Plan. I support a zero cap for all Molokai because I have seen STRs change the social infrastructure on other islands and it's no, it's a no-brainer that an unchecked STR industry will change the social infrastructure here. I was born on Molokai in 1941, was raised here, and raised my children here. This is my home and this is where I will remain until God calls upon me. Do not change Molokai. The lifestyle on this island needs to be protected as the treasure it is. Thank you very much.

CHAIR CARROLL: Any clarification needed from the testifier? Seeing none. Your next testifier, please?

MS. ALCON: Our next testifier is Gladys Leialoha Naki.

MS. NAKI: Aloha, everyone on board. My name is Gladys Leialoha Naki. I am here to testify in opposition to the revisions made to LU-30, the proposed short-term rental cap on Molokai. I oppose the proposed cap of 25 STRs. I oppose grandfathering an existing STR permit. All of which violated our Molokai plan. I support a zero cap for all of Molokai because I have seen STR change the social infrastructure on the other islands and is no-brainer that an uncheck STR industry will change the social infrastructure here on Molokai. Thank you for your time.

CHAIR CARROLL: Any clarification needed from the testifier? Seeing none, your next testifier please?

MS. ALCON: Our next testifier is Louise Mililani Hanapi.

MS. HANAPI: Hi, aloha, you folks there on Maui. Aloha, Chairman. My name is Louise Mililani Hanapi. I'm from the East End of Molokai and I am a landowner. I also have agricultural exemptions and it has been a very strange way they, how it comes and goes and the waves we are being cast as far as landowners go. I've been

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paying taxes since 1853, for real, I did a real tax history, so I'm not just saying that. The other real big concern I have is the word, using the Agricultural District is the word conservation. Any time Conservation District, I thank you, Chairman, for bringing that up, that word is really important to me because it limits a whole bunch of progress and it can really infringe upon our rights as native people. Again, like I said, we're from the East End of Molokai and we are landowners and there's plenty of us on the East End. We support the 1981 policy statement that was done by our kupunas. In 1981, everybody was alive. Everybody was alive in 1981. It's only about 20 pages, but what they do talk about is the impact upon the East End of Molokai and that no commercial activity. Every time you sell our lands, that is a commercial activity. Every time you do vacation rentals and rent it out to other people, that is a commercial activity. It has been violated since 1981. It's slowly, slowly, and almost all of the East End now has vacation rentals and it throws all our people into chaos. I'm not sure of all the titles on the West End, but I have much aloha for our whole island of Molokai, and we are the farmers of the land and sea, and if this is a Land Use Committee, I, our uniqueness of the East End of Molokai is really important. It's nowhere else in anywhere could you find such beauty and it's very, very fragile. I, again, I'm really concerned because of the lifestyle and its impact upon us. There should be better infrastructure even, some kind of pumping station that sewage is going someplace. We are the farmers of the land and sea and any other place we would be the richest people. Everybody would be eating from us from the city. If we could feed the city, the farmers would be really rich.

MR. WAGNER: Two-and-a-half minutes.

MS. HANAPI: But right now, we're just importing so much food that our farmers are struggling. Like I said, I have had an agricultural exemption from the tax office and it has been quite an experience. So, again, I would like a better definition of what clustering is all about, and again the open lands and conservation zone, anything conservation restrict . . . *(inaudible)* . . .

MR. WAGNER: Three minutes.

MS. HANAPI: So, again, I thank you for your opportunity to give this testimony. I am a grandmother of ten and a great grandmother now. And as I just said, as time goes on there'll be less places for us to be Hawaiian, and Molokai has given us that chance. We ask you to not allow any vacation rentals on the East End of Molokai and those that are there they should be fined because it throws our families into chaos and it allows confrontation to continue.

MR. WAGNER: Three-and-a-half minutes.

MS. HANAPI: God bless you guys all. Have a wonderful afternoon.

CHAIR CARROLL: Thank you. Any clarification needed from the testifier? Seeing none, your next testifier, please?

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MS. ALCON: Our next testifier is Leimana Naki.

MR. RAYMOND LEIMANA NAKI: To, Chair Carroll, my name is Raymond Leimana Naki. I'm in opposition to the revisions from the LU-30, the proposed short-term rental cap on Molokai. I oppose the proposed cap of 25 STRs. I oppose grandfathering in existing STR permits on all of which violated our MKK plan and also our East End policy. I support a zero cap for all of Molokai, because, yes, social infrastructure on the other islands. What I do support is that the continuation of our mauka lands and the East End continue to do culture and traditional. According to the East End policy of '81 . . .*(inaudible)*. . . of our State Constitution of 1978. The support that our fish ponds be restored and rebuilt. It's just totally...they infringing on our culture just to be here time and time again to sit in this office or another office talking to six, seven of you, or nine of you on this County Council and on this land commission, committee. We talking about land. The land don't need you. We need the land. And who was here first? We the kanaka maoli, yes, culture and traditional and customary, yes, and according to the east '81 policies it's already support tourism. The way they think that we hate tourism or we hate tourists for coming. No, we do not. We are aloha, hello. You can go backwards, we still aloha. If you walk sideways, you can put your feet down wherever. We are aloha. And this aloha comes with the land and with the sea, it comes from our mauka and our ocean, that's aloha, and it comes from the people that takes care of the land and the sea. So, we did our best and we continue to do our best.

MR. WAGNER: Two-and-a-half minutes.

MR. RAYMOND LEIMANA NAKI: We hope that you the one on this Committee or Land Committee will do the same. Yes, this is '81, this is 19...well this is 2018, this is 40 years in the making. I wanna thank Ms. Kelly King, she came aboard pretty late but rather late than never. And she's doing her best. And I hope they all support her, yeah, to make this thing pono. She came on late and tried to put this...no, this is 40 years now.

MR. WAGNER: Three minutes.

MR. RAYMOND LEIMANA NAKI: Forty years, hello, on how many of this County Council people they going in and they came out. Well, we still here. We're all the sons and daughters and grandchildren of the '81 policy made by our kupuna. We still got the 1978, yes.

CHAIR CARROLL: Please conclude.

MR. RAYMOND LEIMANA NAKI: So...thank you, Chair Carroll and all of you that's listening to this. I am a grandpa, have seven, yes, seven grandsons and two granddaughters. These are . . .*(inaudible)*. . . five and two, yeah. However, we . . .*(inaudible)*. . . to eat fish --

MR. WAGNER: Three-and-a-half minutes.

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MR. RAYMOND LEIMANA NAKI: --yes, and poi, and we'll continue to eat fish and poi. That guy from lala, I like to see him over here visit me and give him . . . *(inaudible)*. . . Yes, no really. Yeah, he's . . . *(inaudible)*. . . maybe, yeah, he's a . . . *(inaudible)*. . . and hopefully he remains there, yeah.

MR. WAGNER: Four minutes.

MR. RAYMOND LEIMANA NAKI: So, again, we love you, take care very much. Aloha.

CHAIR CARROLL: Aloha.

MR. RAYMOND LEIMANA NAKI: Leimana Naki. Aloha to all of you.

CHAIR CARROLL: Any clarification needed from the testifier?

MR. RAYMOND LEIMANA NAKI: You have any questions for me?

CHAIR CARROLL: No, no questions. Thank you very much.

MR. RAYMOND LEIMANA NAKI: Thank you, Chair Carroll.

CHAIR CARROLL: Next testifier, please?

MS. ALCON: Our next testifier is Cora Schnakenberg.

MS. SCHNAKENBERG: Aloha, everyone. Well, I'll be testifying on the LU-30. I am opposing the grandfather existing for renewal permits. I'm also opposing for any new that is in pending. I think there's three pending permits. I am opposing that that get passed. I'm also in agreement as far as that...excuse me, erase, sorry, enforcement. I think that we should have some sort of enforcement. There isn't any enforcement to monitor any of these illegal, that is operating illegal at the present time. And so, that would be it for the IU-30 *[sic]*. I'd like to also speak on the IU-5 *[sic]*. I want to thank you for acknowledging our Molokai Commissioners and excluding...I do have one question on this is I didn't understand what did you folks mean by agricultural accessory as far as clustering. I would hope that you folks can define a more clear definition. Other than that, that be it. Thank you.

CHAIR CARROLL: Thank you. Any clarification needed from the testifier? Seeing none, your next testifier, please?

MS. ALCON: Our next testifier is Judy Caparida.

MS. CAPARIDA: Hello, bruddah and all of you on the board. Aloha. I'm here just to say I'm opposed to the, to all the short-term. Me, I know that there's two legal ones, two bed and breakfast that's legal, 19 short-terms that I know of that's legal, but we don't know how many more. So, yeah, so we oppose any more and I know that it was for

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zero capping. Okay, and I would like to really emphasize on this LU-5, I think it's Page 4. I wanna thank you folks for exempting, exclusion for Molokai. I thank you guys for that 'cause we don't need it, bruddah. Okay. That's what I had to say. Okay. Aloha.

CHAIR CARROLL: Mahalo. Any clarification needed from the testifier? Seeing none, how many more testifiers do you have, Molokai?

MS. ALCON: I have three.

CHAIR CARROLL: Your next testifier, please.

MS. ALCON: Our next testifier is Kadi Manaois.

MS. MANAOIS: Aloha, community Chair Carroll and community members. My name is Kadi Manaois and I am 14 years old. And I am here to testify against the proposed caps of the 25 STRs. I support a zero cap for all of Molokai because I have seen the STRs change the social infrastructure on the other islands and it's obvious that it's an unchecked STR industry that will change the social infrastructure here. I'm currently living on the Big Island and I eventually want to move back to Molokai and raise my family but that won't be able to happen because of the STRs and how they are working. They are going too high for people to continue to live in their homes. So, I want to thank you for this opportunity to testify.

CHAIR CARROLL: Any clarification needed from the testifier? Seeing none, your next testifier please?

MS. ALCON: Our next testifier is Palmer Naki.

MR. PALMER NAKI: Aloha, Committee Chair Carroll and Committee members. My name is Palmer Naki. It's not I, it is we, 'cause I am here on behalf of my loved ones that no longer are here that can speak but they have written their policy, the East End Policy Statement. And we are here in opposition to the revised made to LU-30, the proposed short-term rental cap on Molokai. We oppose the proposed cap of 25 STRs. We oppose grandfathering in existing STR permits, all which violate our MKK plan. I support a zero cap for all of Molokai because I have seen STR change the social infrastructure on the other islands, and it is a no-brainer that the unchecked STR industry will change the social infrastructure here. Like my father said, 40 years my ancestors have made this policy to protect and preserve us, and you as County Councilmembers, before you, after you, and now today have not acknowledged my loved ones' policy, and I'm kind of very upset with that. And I wish you folks would acknowledge it, and, you know, abide, and just listen to us because this is our home, and we don't want it to be destroyed or changed so we have a hard time living here. So, thank you very much.

CHAIR CARROLL: Thank you. Any clarification needed from the testifier? Seeing none, your next testifier, please?

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MS. ALCON: Our last testifier is Keani Rawlins-Fernandez.

MS. RAWLINS-FERNANDEZ: Aloha, Committee. My name is Keani Rawlins-Fernandez. Mahalo for this opportunity to testify. I'm here to testify in support of the zero cap recommended by our Planning Commission and to oppose the revisions made to LU-30. I oppose the proposed cap of 25. I oppose grandfathering in existing STR permits, all which violate our community plan. I support a zero cap for all of Molokai. STRs have changed the social infrastructure on the other islands and would ultimately change the social infrastructure here. I support the County conducting a social impact study that STRs have on Molokai. I'd like to first address the economic arguments that testifiers made to support STRs on Molokai but have no evidence to support their claim. Nothing proves that STRs bring more tourists and in turn support our local businesses more. In fact, for jobs there have been no studies that analyze the impact STRs have had on hotel jobs where employees have consistent work and are provided benefits. . . .*(inaudible)*. . . support on STRs, on the STRs' impacts published in 2016 found that STRs don't support sustainable jobs for local people and that the isolation of the lone worker and the ease of the employers of replacing them leaves them nearly powerless. People must work second to third jobs to make enough money to get by. The competition for this work is likely to drive down wages. Next claim, that we lack accommodation. With the new hotel there will be accommodations for about 1,048 visitors. HTA's 2016 annual visitor research report found that Molokai receives an average of 779 daily. Our accommodations exceed average daily visitors. Claims of needing more accommodation in Manae specially are unsubstantiated. The condo and Manae Wavecrest rarely if ever has over 50 percent occupancy. On the West End, there are three condominiums on land zone for tourist accommodation. The STRs on the West End are on ag land. Of the 458 pieces of testimony received from those who oppose the zero cap, only 57 are residents of Molokai. Well over a half of that testimony came from paddlers who didn't understand prior facility testimony that this cap did not include Hotel-zoned areas. The paddling association on Oahu, Kanaka Ikaika publicly apologized thinking that they were being helpful to residents. This bill proposes a cap of 25 plus the 19 existing STRs plus 6 pending plus 20 unpermitted is 70. Can you guys . . .*(inaudible)*. . . that 70 STRs will not change the social infrastructure of our Molokai?

MR. WAGNER: Two-and-a-half minutes.

MS. RAWLINS-FERNANDEZ: In closing, the Planning Department administratively approved 16 of the 19 existing STR permits. This means that it never came to our community for review. This is a violation of my due process rights. Furthermore, the Planning Department violated our community plan. I come before you today to ask you to fix the damage that they have done. Issues that have such a substantial impact on Molokai's future should be discussed and decided here where Molokai residents can fully participate. Please support a complete zero cap. Until the County is capable of enforcing this law we cannot trust that STRs will get --

MR. WAGNER: Three minutes.

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MS. RAWLINS-FERNANDEZ: --more out of hand than it already has. Mahalo for this opportunity to testify.

CHAIR CARROLL: Mahalo. And mahalo to all of you on Molokai that gave testimony today to our Committee.

MS. ALCON: Chair, I have one last testifier that just walked in.

CHAIR CARROLL: Alright. Proceed.

MS. ALCON: His name is Kua Lopes.

MR. LOPES: Aloha, Committee Chair Carroll and Committee members. My name is . . . *(inaudible)*. . . Lopes, I'm 16, come from . . . *(inaudible)*. . . I'm here to testify in opposition to the revisions made to LU-30, the proposed short-term rental cap on Molokai. I oppose the proposed cap of 25 STRs or short-term rentals. I oppose grandfathering in existing short-term rental permits. All of which violated our MKK plan. As for the zero cap for all of Molokai because I have seen STRs change the social infrastructure on other islands, it's a no-brainer that an unchecked STR industry will change the social infrastructure here. Mahalo.

CHAIR CARROLL: Mahalo. Mr. Wagner?

MR. WAGNER: Chair our next testifier is Lori Buchanan, testifying on agenda item LU-30, followed by Bill Greenleaf, testifying on agenda item LU-5.

MS. BUCHANAN: Aloha, honorable Chair Carroll, honorable members of the County Council. My name is Lori Buchanan. I'm currently the Chair of the Molokai Planning Commission. It is my third term of service to this County of Maui. I spent \$435 today to come, and I came and I spent that money because this subject is of such high importance. It's critical within my community. Serious talks about short-term home rental started in June of 2017. It was probably my first or second Planning Commission meeting, not as the chair then. So, I've heard testimony well over a year now. The Molokai Planning Commission sent out our recommendation to County Council and this Committee, and the recommendation was zero. I don't know where it became 25 with excluding Manae. I was unable to locate any verbiage that at your May 30th meeting that concluded why the count went from 0 to 25. So, I agree with all my community testifiers at home, and I realize this is a hot topic everywhere. And I just here to say, what, what we going do? My community is small. We passionate people. We all born and raised. My grandmother was Ella Kapaku from Kahakuloa. My mother was Ana Purdy born in Ulupalakua, the granddaughter of Ikua Purdy. I have much ties to Maui. And so, every time I fly to Maui for business, I have to fly over where my ancestral lands are to here. Today, I flew over one ranch and I saw one helicopter parked in the front yard. I was like, whoa, yeah, ranching must be good on Maui. I can have my own helicopter in my front yard.

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MR. WAGNER: Two-and-a-half minutes.

MS. BUCHANAN: So, Chair, before I run out of time, I respectfully and I know you have the authority to grant me one more minute because I came such a long way at great expense and I'm here to advocate for my community. The Molokai Planning Commission did pass out zero cap. And zero doesn't mean zero like I heard other testifiers because currently we have already 19 permitted.

MR. WAGNER: Three minutes.

MS. BUCHANAN: Of that 19 permitted, only three were not administratively decided here on Maui, so that becomes a due process issue for me. So, I came here today to get this on the record because I feel legally my due process as a native person was violated. I was not granted the right during an administrative process by the Planning Department to give feedback on what negative impacts to my community and myself as a native person that would have. I'm also here representing the Namahana Buchanan Estate that owns the ancient fish pond, 33-acre fish pond in Pukoo surrounded by the current short-term home rentals. Makai of that is an additional 300 acres and I have authority --

MR. WAGNER: Four minutes.

MS. BUCHANAN: --to represent them today in this matter. They were never offered the opportunity and now they're having difficulty paying their land taxes and also the whole ag issue is affecting them. So, because I only have one more minute, if I have to take off my shoes, get down on my knees, and beg everybody...

MR. WAGNER: Four-and-a-half minutes.

CHAIR CARROLL: Excuse me, I've already given you four minutes.

MS. BUCHANAN: Okay. Oh I'm sorry.

CHAIR CARROLL: You have to conclude.

MS. BUCHANAN: So, thank you, Chair. And I apologize for going over time, but please, please, Councilmembers, it's not zero, we already have existing. Please ____ the authority over to the Molokai Planning Commission and not have an administrative process. As the chair I'm going to work on the Molokai Planning Commission rules, and I've become quite proficient in the request for service process.

MR. WAGNER: Five minutes.

MS. BUCHANAN: And I will personally on the record seek out each illegal vacation rental and I will make that office busy. Thank you.

CHAIR CARROLL: Thank you. Any clarification needed from the testifier?

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COUNCILMEMBER KING: Chair?

CHAIR CARROLL: Ms. King?

COUNCILMEMBER KING: I'll give you another minute, Lori. No, thank you for coming all the way over here, I know it's a burden, but I do have a question. So, the Planning Commission, Molokai Planning Commission recommended a zero cap, but you currently have 19 permitted. So, what was the intent of the Planning Commission to let those 19 exist until those permits run out?

MS. BUCHANAN: I believe that was the discussion and it was...I believe it was amenable to all that those be allowed to operate and then at some point with the restrictions and rules governing those permits if they were to dissolve over time, they were nontransferable, that would stay in place was my understanding or what I felt was a compromise. Because we're always trying to compromise and we're always trying to please everyone. But I know of all those 19, only 1 is probably owned by a local person on Molokai that doesn't even actually live on Molokai anymore.

COUNCILMEMBER KING: Okay. So, your intent was to let those permits --

MS. BUCHANAN: Yes.

COUNCILMEMBER KING: --be renewed as well?

MS. BUCHANAN: If you asking me what I thought of what the testimony came that is what I would have understood that those 19 would stay in effect and that eventually if they were administrative review that they would be turned back to the Molokai Planning Commission for the reviewal [sic] and renewal process.

COUNCILMEMBER KING: Okay. Alright, thank you very much.

MS. BUCHANAN: Thank you.

CHAIR CARROLL: Any clarification needed from the testifier? Seeing none, thank you. Mr. Wagner?

MR. WAGNER: Chair, our next testifier is Bill Greenleaf, testifying on agenda item LU-5, followed by Albert Perez, testifying on agenda LU-5.

MR. GREENLEAF: Aloha, Chair Carroll. Aloha, Councilmembers. So, cluster zoning I think is a wonderful idea. I know there may be some a few changes, but I'd like to just take a moment of everyone's time and describe what we have going on right now. And the Io, the Kula Io Subdivision's a good example. It's a piece of land that under the sliding scale has some large parcels and some smaller parcels, so that's on ag land and what ends up happening is that people buy 'em and then they find out that they need a farm plan to build their building, so they do the farm plans, and then they have to

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implement their farm plan to do any accessories which would be another building, it might be a tennis court, it might be a swimming pool, and they really didn't get in there to farm. They aren't on ag land to farm and so, I believe, these are State requirements that they are facing. These aren't County requirements, so there's no way really around it, and it's led to a lot of people...there's actually probably a little industry of people that can advise them how they can fake it to make it. And the cost to the County of Maui and to Hawaii is the loss of ag land. So, with the cluster zoning bill, we would have the same number of units, whatever's decided on that or however you portion things out but it would leave a large piece of land for ag. Now, what are we gonna do with that large piece of ag? I think that has to be a question that's gonna come up over and over. And so, I just want to bring up a few things. The Farmers Union has had an active farm apprentice mentoring program. We're trying to grow farmers. The challenge with growing farmers is once you grow them and they can do two acres, can they do four acres, can they do eight acres? And scaling up becomes something that we have to deal with. On a recent trip to Oregon, I got to see Councilmember Atay at a food hub, and the idea of a food hub is to support agricultural with commercial kitchens, with prep areas, with areas where they can fulfill orders so if a hotel wants to get a certain amount of mangoes and a farmer doesn't have those it's gonna be a problem, but if it goes to a food hub and gets aggregated in their chills then we can supply the hotels or we can supply the schools. So, once we create this infrastructure, then farming --

MR. WAGNER: Two-and-a-half minutes.

MR. GREENLEAF: --starts to be more viable on larger scales. And the final point on that is at the food hub, we plan to have incubator farms. So, right now, we're talking with Mike Atherton on a 50-acre piece which will leave incubator farms where we could teach people how to scale up hands on. And thank you very much for hearing this. I'm very much in favor of cluster zoning. I'm very much in favor of food sovereignty in the next decade. I think we can grow the farmers. We need to preserve the land.

MR. WAGNER: Three minutes.

MR. GREENLEAF: Preserve the opportunity. Thank you.

CHAIR CARROLL: Any clarification needed from the testifier? Seining none, thank you.

MR. GREENLEAF: Thank you. Thank you, all.

CHAIR CARROLL: Mr. Wagner?

MR. WAGNER: Chair, our next testifier is Albert Perez, testifying on agenda item LU-5.

MR. PEREZ: Good afternoon, Chair Carroll, Councilmembers. Albert Perez, Maui Tomorrow Foundation. I'm trying to keep up with all the revisions to this bill. The bottom line is the Maui Tomorrow supports this in concept. There is some more work that's needed

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and I'd just like to spend my time making some observations to think about. We really support letting real farmers live on their land. Farmers need to be able to physically see their land and be there to prevent theft of produce and equipment. It's a really big problem. If they don't, then it adds to their cost. If farmers have to live elsewhere, they have to pay rent, and that reduces their profitability and also the viability of farming on that land. The question I have though is who's doing the real farming? And I don't know, I might step on some toes here, but is it the owner of the land who's living in the farm dwelling? Sometimes, I would say. Or is it the people who are living in the farm labor dwellings? We want to encourage the real farmers to be able to live on their land. The question I have on the sliding scale allocation number which I understand is gonna be the same as the cluster lots number. Should that be placed entirely in the cluster lots and not allow a lot that has farm dwellings in the ag conservation lot? That's a question. There's pluses and minus to that, but as you are considering restricting some ag uses in that conservation lot, please try to keep the real farmers in mind. I'm also wondering if we can find a way to require that when you do this conservation lot that the best lands on that parcel be used for agriculture so that they're not putting the junk land or the gulches or whatever into the conservation lot and then saying that that's clustering. Specifically on Section 19.30A.35(C), there's a definition that I think needs to be worded for clarity, an agricultural cluster subdivision shall include the creation of a single ag conservation lot and cluster lots that are contiguous to each other. That could be read to mean that the cluster lots need to be contiguous to the cluster lots or it could be read to mean that the cluster lots need to be continuous --

MR. WAGNER: Two-and-a-half minutes.

MR. PEREZ: --to the ag lot, so that should be clarified. The bottom line is we're trying to create an alternative, an attractive alternative to the existing subdivision regulations. We don't want to place more restrictions than necessary or we'll continue to get what Mr. Greenleaf just described before me. We also want to avoid encouraging subdivision of ag land that would not otherwise be subdivided --

MR. WAGNER: Three minutes.

MR. PEREZ: --because of the cost of infrastructure. And I'll conclude, so with the existing sliding scale the cost of providing infrastructure all over the existing parcel is fairly high and with clustering you would lower that cost to provide just the cluster infrastructure so parcels that might not be subdivided because of the cost under the existing sliding scale might then be subdivided under the cluster --

MR. WAGNER: Three-and-a-half minutes.

MR. PEREZ: --so that's kind of the downside. Thank you very much.

CHAIR CARROLL: Please conclude.

MR. PEREZ: Thank you.

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CHAIR CARROLL: Any clarification needed from the testifier? Seeing none, thank you. Mr. Wagner?

MR. WAGNER: Chair, there are no other testifiers signed up in the Chamber.

CHAIR CARROLL: Having no further testifiers in the District Offices and none in the Chamber, unless anybody in the Chamber that hasn't given testimony wishes to come forward. If there's no objection, I will close public testimony.

COUNCILMEMBERS: No objections.

CHAIR CARROLL: Public testimony is now closed.

. . .END OF PUBLIC TESTIMONY. . .

CHAIR CARROLL: Members, we will take our afternoon recess. Please be back at 3:15. We stand in recess. . . .(gavel). . .

RECESS: 3:04 p.m.

RECONVENE: 3:20 p.m.

CHAIR CARROLL: . . .(gavel). . . This Land Use Committee is now called to order.

ITEM LU-5: AMENDING THE COMPREHENSIVE ZONING ORDINANCE TO ALLOW AGRICULTURAL CONSERVATION LOTS IN THE AGRICULTURAL DISTRICT (CC 15-152)

CHAIR CARROLL: Our first thing on the agenda, LU-5, Amending the Comprehensive Zoning Ordinance to Allow Agricultural Conservation Lots in the Agricultural District. Members, the purpose of the proposed legislation is to allow for the creation of agricultural cluster subdivision on the island of Maui as an alternative to the traditional agricultural subdivision pursuant to Section 19.30A.030(G), Maui County Code, to promote agricultural production and increase the island's housing inventory. As proposed by an agricultural cluster subdivision consists of one large agricultural conversation lot occupying at least 70 percent of the total area of the parcel to be subdivided for subject lot area if it under 92 acres or 60 percent of the subject lot area, if it is 92 acres or more, and an increased number of small agricultural cluster lots depending on the size of the subject lot area. The visual aid distributed at the last Committee meeting from Member Guzman comparing the lot layouts of the agricultural subdivision as it currently stands and the proposed agricultural cluster subdivision alternative is being distributed for your reference. Since our last meeting, the bill that I distributed has been revised. The further revised proposed bill incorporating the changes discussed at the last Committee meeting was transmitted

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by way of correspondence dated July 2, 2018, from the Department of Corporation Counsel. We'll be working from that bill today. For your ease of use, Members, we also have distributed a track of changes version for the further revised proposed bill so that you can see the changes made since the last meeting. Your Chair has invited Hugh Starr to give a brief presentation on the purpose, intent, and history of this legislation. Mr. Starr is an agricultural land consultant, an original member of the Agricultural Working Group that work closely with Member Guzman on the creation of the agricultural conservation lots bill, which has developed into the current agricultural cluster subdivision bill. Members, if there's no objections, the Chair would like to designate Mr. Starr as a resource person pursuant to Rule 18(A) of the Rules of the Council.

COUNCILMEMBERS: No objections.

CHAIR CARROLL: Thank you. So be it. Mr. Starr? You may proceed with your presentation.

MR. STARR (*PowerPoint Presentation*): So this is...is this gonna end up...oh, I see, it's there. Okay. Sorry. I'm trying to get oriented here. Yeah, okay. Thank you very much, Chair, for allowing me...

CHAIR CARROLL: You're gonna have to speak in the microphone.

MR. STARR: Yeah, this is Hugh Starr and I wanted to thank the Chair and the Councilmembers for asking us to make a short presentation on, just on the concept of clustering. Let's see, Alec, in terms on scrolling on this one. Sorry, is that it? Okay. Great and scrolling up is the...okay, good, thank you. So, basically, this is maybe 11 slides. I'll try to make it super quick. It's already been alluded to that 1998 was a revolutionary year in agriculture, prior to that you could just do two-acre lots willy-nilly over no matter how big the parcel was and that's what this is attempting to articulate. The sliding scale which we're all talking about lately was adopted in 1998. This is actually what it looks like in the Code in Title 19.30A and I kind of want to just point out that doesn't work unfortunately. So, where I have the red rectangle, you know, you just use the mouse, yeah, right there, thank you very much. That basically is the place in the Code where it tells you how many lots you can do under the sliding scale. It established whatever the tax key parcel at that time was, March 1998, and that's burned into time in memorial. You can't change that. Every parcel of land that's zoned Ag has an allocation of lots, and then below that down here is the schedule. So, and this is what an allocation agreement looks like, so when a developer or a landowner wants to subdivide a piece of agricultural land since 1998 you had to complete an allocation agreement, a unilateral allocation agreement. It gets recorded in the Bureau of Conveyances and I just selected this one offline. It's a parcel of land that Maui Land and Pineapple did in 2006, and first page is the recordation data of this is probably the last page of a, maybe, a 6, 8, 10, 12-page document and that has the schedule of lots that are, that each of the new lots of the subdivision, in this case, there are seven of them. How many lots get allocated to them? And, so this is public record and that's what an allocation agreement looks like. Now, I stuck this in here.

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This is Wailuku-Kahului and up on the left-hand side is Wailuku Country Estates in the beige, not the yellow. Now, Wailuku Country Estates was a pre-sliding scale subdivision. You see what it looked like. It was 450 acres more or less and you see how many lots there were there. It's just the whole thing's covered with two-acre lots. So, the, what was accomplished in 1998 was that the sliding scale significantly reduced the density from 184 acres to, I'm sorry, 184 lots to 29 lots, that's all that's allowable now on a comparable size piece of land, so what I did with the yellow there, that's just a theoretical comparable size piece of ag land that's been subdivided, theory, according to the sliding scale. You can't do any more lots than that and what you see there are the various size lots, the fourteen 2s, the eight 15s, the five 25s, and the two 40s. Then I just stuck this in there because in my mind I see this cluster bill as another seminal turn in the land history of agriculture in 2018, and this is the hopefully eventual adoption of the clustering provision. Now, I've take the same place and instead of the sliding scale, I've just done a theoretical clustering, and basically, it's, you notice, it's the same 29 lots as the previous one, the previous one was 29 lots, you can see in the upper corner. But in the, under the cluster, 8...28 of them are an acre and a half, one of them is 408 acres, and that's pretty typical on a large parcel like this, you're gonna have maybe 90 percent of the land is gonna be in the ag conservation lot and the others are gonna be about that amount of land. And this is just a kind of a side-by-side comparison of what is looks like now with the sliding scale and what it would look like theoretically if someone did a cluster. You can do the clusters in a different way and I have another model of that further on, but they're basically, that's that. Now, I stuck this in here because I thought it was instructive for me especially, and I hope that you find it instructive, this is the State, this is out of the Data Book this map. It shows the different land, State land use classifications on the island of Maui, and so you'll notice up on the right-hand corner that the light green is all the Ag-zoned lands. It comprises 52 percent of the land area of Maui island. Forty-two percent is in the dark green which is in the conservation, the forest reserves, the, you know, Haleakala National Park and all, La Perouse. The urban is the brown and the dark brown is the rural category, and if you look up in that pie chart, the rural category's only 1 percent of the total land area of Maui. And all of our policy documents over the last 15, 20 years have urged that more land be taken out of agriculture and put into the Rural District that it's really kind of, I describe it as an appendix of the land planning regime. It just isn't used for anything really, so that's just kind of a comment. And now, I've taken basically, again, the same base map of the four categories, you see 'em on the left, ag, conservation, urban, and rural, and I've done a couple of things. First, I've super imposed Alexander and Baldwin's IAL designated lands on top of it. You can see that lighter green area there in the central valley, that's pretty much to scale and I would consider that, you know, somewhat accurate, that's 27,100 acres which they committed, I think, in 2015 or '16, that they completed it. And then up in this upper-right-hand corner is we talk about the ALISH maps, the Agricultural Lands of Importance to the State of Hawaii, that's what ALISH stands for, and it's hard to see it here unfortunately but the dark, dark green are what are called the prime lands, those are our most important ag lands. And just as a point of interest, you'll notice that, and it's hard to see here, that I'd say 80 percent of the prime lands on Maui are under, I'm sorry, that 80 percent of the A&B IAL lands are actually a large portion of Maui's prime ag lands. So, the point I'm trying to make

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there is actually, I'm not trying to schlep for A&B, but I just think that we as a community it's helpful to acknowledge that we are fortunate that maybe 60 percent of our prime ag land on Maui island is actually in perpetual preservation through the IAL Act, so that's kind of off the conversation of the clustering. The clustering idea it happens on all the other light green lands there. And, so this is just, I took another model of clustering, this is very uncreative, but you see, you get the idea. Those are two ways to cluster. And finally, I just did this little thing. So, what's in it for the various stakeholders? For agriculture, which is the one I'm most concerned with is long-term insurance of affordable farm and ranch land. This is a huge, huge issue. Michele got an earful from me this morning at the Planning Commission meeting about that about how hard it is for farmers and ranchers to have tenure and assurance over the long run. It's never really been available. They've always had to compete with the land, the market and there, so there's no competition with rural residential. For the community, it preserves our open spaces which we've grown kind of habituated to, you know, and now we see with the closure of HC&S that it's no guarantee, you know, there's no guarantee. So, preserving open space for the community is a big deal and long-term ag land stewardship, having somebody responsible for that. And for the County, for our governmental services, it's, appears as though it does continue the public cost of service, there's less infrastructure for anybody that does develop using a cluster versus the sliding scale, fewer roads in less places. And also, it does provide a certain food security which is a mandate of ours now. It's a really important thing and for our society here, so food security and self-sufficiency is a public benefit. And then finally, for Maui's ag landowners, it's their incentive to support agriculture and to steward the open spaces, and that's pretty much it. So, thank you very much. I appreciate it.

CHAIR CARROLL: Thank you. Alright, Members, I'm gonna go through the different departments and after we finish with that then we will open the floor. Planning, could you please walk us through the changes made to the bill since the last Committee meeting?

MS. McLEAN: Thank you, Chair. I will do my best. We didn't prepare the revised bill, but I think I understand what the changes were. The first change on Page 1 is an attempt to restrict the uses that are allowed on that ag conservation lot, so if you recall Hugh's presentation just now, you have that 450-acre parcel with the 408 acres remaining in the ag conservation lot, and based on what the testimony and the purpose was restricting the uses on that lot, see it would be a way to ensure that remaining large portion was used strictly for agricultural purposes because there are a number of accessory uses allowed in the Ag District that could be conducted on that large remaining portion. And so, it might be helpful perhaps at the next meeting to print up what all those uses are and then the commission, or excuse, the Committee can determine what uses you believe are appropriate to be allowed on that lot. For example, open land recreation, animal hospitals, riding academies, bed and breakfast, short-term rental homes. So, if the purpose is to have a conservation lot then you might want to restrict those uses to ones that are truly in support of agriculture. Let's see, then on, at the top of Page 2, there was a concern that the existing sliding scale could be utilized to its full potential and then the large remaining lot from that could

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then come in for a cluster subdivision and sort of like double dipping. So, the language in D was an attempt to see that that didn't happen, that you'd have one scale or the other scale to use; however, it's since been made clear that there are plenty of large parcels out there that have been subdivided only once or twice perhaps for a road widening lot or a water tank or maybe just to subdivide the parcel in half. And so, the intent was not to prevent the large remaining lots from benefitting from the cluster concept, so we can clean that language up a little bit to still allow clustering, but again, with the whole intent being that the number of lots potentially created under one scale or the other it wouldn't be doubled, it would still be within the same amount intended under either scale. And then, really the other most substantive change was the deletion of some of the restrictions and standards simply because those are already listed in the Ag District, so they didn't need to be listed again. There were just a couple of examples where the restrictions and standards are different for ag cluster subdivisions, and so those were spelled out, but otherwise, we'd look at the restrictions and standards in, that exist already in 19.30A. Chair, I believe those were the key changes. Alec might be able to jump in or David might be able to jump in. Oh, David's pointing out one more, in terms of the size of the cluster lots, you want to have a minimum lot size, so you don't want to go any smaller than one acre but you also want to have maximum lot size so that you stick with that cluster concept, so a range of between one and one-and-a-half acres was added to the bill to stick to the concept as Hugh demonstrated in his presentation. Thank you, Chair.

CHAIR CARROLL: Thank you, Planning. As for the total number of cluster lots allowable in agricultural subdivision, did you have a suggested number for that?

MS. McLEAN: Thank you, Chair. I did some very rough calculations. This is just for the Committee's information. Under the existing sliding scale, if you have a 1,000-acre parcel, under the existing scale you could get a total of 46 lots of varying sizes. Under the cluster concept, you could get a total of 51 lots, so comparable. If you have a 5,000-acre parcel, under the existing scale you could get 176 lots, again, of varying sizes. Under the cluster concept, you could get 192 lots, again, those are the one to one-and-a-half acre. So, there is, there's a comparable limit, the scale all by itself has a limit. So, I don't believe it's necessary to establish a cap because the scale, part of what makes the scale work is that it does that already, so you would have that cap just based on the way the scale works. I would point out that State Department of Health rules on individual wastewater systems would put a restriction on if there were more than 50 units which would be 25 lots if each is allowed two dwellings would have, no more than 25 of those could be clustered together and have individual wastewater systems. So, that would be...doesn't need to be something addressed in this bill, that would be something through the development process that would get restricted by the State Department of Health, so in Hugh's example here, this concept might not work because Department of Health wouldn't allow it, but that concept would where the clusters are separated from each other. Thank you, Chair.

CHAIR CARROLL: Planning, Planning's proposed Section D.5 says, any farm labor dwelling on an agricultural conservation lot shall be situated a maximum of 500 feet from any adjacent cluster lot. The proposed language doesn't specify whether the entire farm

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dwelling or just a portion of it should be within the 500-foot area. Does your Department have any recommendations on how this 500-foot maximum should be implemented and appropriate wording to reflect this intent?

MS. McLEAN: Let me think about that if I could. Nothing comes to mind immediately, but let me --

CHAIR CARROLL: If you'd like we can come back to that later.

MS. McLEAN: --give that thought. Thank you.

CHAIR CARROLL: Alright. Correspondence from the Director of Public Works dated July 5, recommended the Department of Planning process both the ag allocation and cluster calculation as it pertains to subdivision or redivision of Agriculturally-zoned parcels. What are your thoughts about the administrative change? Either one . . . *(inaudible)* . . .

MS. McLEAN: I joked with the Public Works Director earlier that they've been fighting this fight for 20 years. Public Works administers the Subdivision Code and that's why when the ag bill was adopted in 1998, the administration of the scale was put to Public Works and Planning is quite happy with that arrangement. I don't know if that Public Works is, they're asking that come to Planning, but because they administer the Subdivision Code, we feel that it's appropriate for them to continue to do so. Thank you, Chair.

CHAIR CARROLL: Do you have anything to add that we didn't go over before I go to Public Works?

MS. McLEAN: Not at this time, thank you, Chair.

CHAIR CARROLL: Public Works, at the last meeting, the Committee expressed concerns about whether a landowner would be able to consolidate or resubdivide a parcel that has already been subdivided pursuant to the sliding scale. In the further revised proposed bill, we added language propose Section D which reads, an alternative to but not addition to the subdivision sliding scale provided by 19.30A.030(G) of this Chapter, the following district standards shall apply for uses, facilities and structures in an agricultural cluster subdivision on the island of Maui. And proposed subdivision D.2 which reads, limitations on resubdivision pursuant to Section 19.30A.040 of this chapter shall apply for all agricultural cluster subdivisions. And your point of view is this language, adequate to prohibit a parcel which has already been subdivided pursuant to the sliding scale from being consolidate or resubdivided into agricultural subdivision?

MR. GOODE: Chair, I think that question is a policy question. It may be a question for Planning as it relates to, you know, what kind of outcome they're trying to drive here. As Ms. McLean mentioned in the current ag ordinance, our Department administers the allocation of lots that Mr. Starr showed an example of. So, we simply do the work

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as provided in the ordinance, so if that's what the will of the body is to allow further subdivision of lots that have potential...when I say will have potential, they have the ability to be subdivided further, and that's up to you folks, you know, we can do it. And as Ms. McLean mentioned earlier, it's, for 20 years we've wished that the Planning handle this instead us, so that to me, that's a policy question. We'll do whatever the policy is if we have to still do it.

CHAIR CARROLL: Thank you. Your correspondence dated July 5, 2018, recommends the Department of Planning process both the ag allocation and cluster calculations as it pertains to subdivisions or resubdivision of Agriculturally-Zoned parcels. Would you be amenable to continue in the process to process agriculture subdivision pursuant to Section 19.30A.030(G) as well as agricultural cluster subdivision if this ordinance is enacted?

MR. GOODE: Yeah, Chair. I mean, whatever you folks do, if it requires us to do it, we'll do it. We just think that as a policy matter it says Title 19. Title 19 is under the purview of Planning. So, while it is, does say like how many times another lot can be subdivided or into how many lots, we do administer the Subdivision Code but this is a zoning requirement. So, I believe...well, first of all, I want to make sure I'm working on the same draft that you folks are, so the draft I have is the last one that was provided from Council Services. I understand there might be some other drafts floating around, but the way I read the current draft is that Public Works would not administer the cluster, and that's because the current ordinance in 19.30A.030, that's what sets forth the sliding scale, that's what we've been working with for 20 years. In 19.30A.040, that first sentence says Public Works puts together this agreement for 030, right, so that's what we do. Now, you're adding 035, well it doesn't say who administers 035, 'cause you haven't changed 040, 040 still says Public Works does 030. So, who does 035? I'm assuming it'd be Planning, so that'd be something, I mean, we got to address this question, you know, and our Department, we're happy to work, continue to work with Planning on this or continue to work with you and your Staff, Chair, to iron it out but, you know, whatever policy you folks come up with, if Public Works is, you know, responsible to do something, we'll do it.

CHAIR CARROLL: Thank you. Do you have any comments before I move on to Corporation Counsel?

MR. GOODE: I just have one further comment, Chair, if I may. And this is based on my experience of having developed ag subdivisions and I think Ms. McLean mentioned earlier talking about Department of Health regulations related to a number of lots by which the septic system could be servicing that. There's also my experience there's requirements from either Department of Water Supply, if it's a County water system or the State Department of Health Clean Water Branch, if it's a private water system that the lots have to have a certain amount of water in order to farm. So, if you create and say in like Mr. Starr's example, like a 400 remnant lot, that'll be your ag conservation lot, my understanding is either Water Supply or Clean Water Branch is going to demand to show that you have a certain amount of water in order to service that 400 acre lot to farm. And it's a big question of how much water, what are you

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farming, right? So, while we're setting aside big acreage, there may be a requirement that I think the Committee should consider and understand is there gonna be a requirement from the Water Department? That's maybe . . . *(inaudible)*. . . that says oh you need one three-inch meter, that's like impossible to get, you know, or water or Department of Health could say, oh, you need to drill a really big well. So, I think, I don't see Water here today, so I think if this discussion goes further, I think that an understanding of what the water requirements would be for these large conservation lots is important for the Committee to understand; otherwise, someone may not be able to develop these lots. Thank you.

CHAIR CARROLL: Thank you. Corporation Counsel, in the current language of the bill or in Chapter 19.03(A), Maui County Code, is there a clear designation as to which department is responsible for administering this proposed section? If not, would you recommend language to clarify this, and do you have any other comments that you would make at this time?

MR. GALAZIN: Thank you, Chair. That's a good point to point out and as the Director Public Works noted in 19.30A.040, the Director of Public Works makes that determination based on the existing sliding scale and there is no language currently in this bill that does state who has the responsibility for making that determination when the subdivision is first come through. It's been my experience having worked with Public Works that, you know, they're used to doing the allocation agreements, they're very familiar with them. Again, I think like Director said, it may be a policy call but there should be some language in there to say that one director shall, or one or the other shall make the determination of how many lots will be allowable for the ag cluster subdivision, so I can work on something that could be suggested to put in there. It would probably mirror more or less what is in 19.30A.040, just a question of where to actually physically put it within the bill. I can look at that, but I have no other initial comments at this time.

CHAIR CARROLL: Thank you. Members, before we begin discussion, at the last meeting we discussed the uses that should be permitted in the agricultural conservation lot. Staff is distributing copies of Section 19.30A.050, Maui County Code, which contains the principal and accessory uses allowed by the Agricultural District. As proposed the definition of an agricultural conservation lot limits its uses to those highlighted in the distributed copy as set forth in the proposed Section 19.30A.035(B) of the bill. As you can see, all principal uses and for accessory uses for the Agricultural District are allowed as accessory uses on the agricultural conservation lot. These accessory uses are one farm labor dwelling per five acres lot area. If the owner or lessee can provide proof of a certain criteria, storage, wholesale, and distribution structures such as barns, greenhouses, and agricultural related storage facilities, processing of agricultural products and other uses that primarily support a permitted principal use. These accessory uses are the uses for which I feel are most necessary for true agricultural use. Members, please review the copy of Section 19.30A.050, that Staff has just distributed. If there any accessory uses that Members would like to add or subtract from those listed in the proposed Section 19.30A.035(B) of the bill, feel free to

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raise them and move forward and we can amend the bill as appropriate. The floor is now open. Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair. Yeah, I understand where you made the amendments from our last meeting. I believe some of the Members were concerned about the large tract of land that can...and how that would be used in terms of agriculture. So, what I see here, what you've done on the first page of the bill on 13.30A.035(B) [sic], you have narrowed the accessory uses to B.2, 4, 5, and 15, and according to this handout that you have given us on the Committee, it looks like you highlighted principal uses of agriculture, so those, and I'm referring to your handout here, A, the principal uses, all of those highlighted right there would be allowed in the large, contingent lot. Also, what you are, included is accessory uses which is in your opinion, B.2, one farm, one labor farm dwelling as well as all of that section under two and B, I mean, sorry, four on the second page, storage and, five, accessory of processing of agricultural products, and on the last page, number 15. So, those are the accessory uses that you, in your opinion, Chair, would be allowed in the large contingent lot. And what you're asking us to do now is is there any other accessory components or uses that we would like to include?

CHAIR CARROLL: Either that or if there's any in there that you would like to exclude, too, at this time.

COUNCILMEMBER GUZMAN: Okay. So, after hearing the testimony of the various entities and individuals, I would like to add, let's see, under the accessory uses, let me see, the open space, open land recreation, that would be number ten under the accessories. That would be hiking, noncommercial camping, fishing, hunting, those type of recreational activities in the large remnant agricultural lot, as well as, let's see, the, let's see, one dwelling, I believe, I...two farm dwellings per lot that would be number one. It sounds as though the, there should be someone who's the owner of the lots be living there, as well as what you've indicated, Chair, is the farm dwelling, the labor dwelling lot, labor dwelling units. So, if you having the labor dwelling units on the land, why can't the actual owner of the land live there too? So, that just makes sense to include B1 of the accessory uses. I have...that's all for me, right now. I think the other Members...I'll yield, I mean, whether or not they would want an animal hospital or even number nine, riding academies, I'm not sure about that, but, like I said, what I would like to see is number ten, the open land recreations and number one which is that those two accessories included as part of the permitted use on the large tract of land. Also, Chair, I would like to see whether or not we can address some of the, and it's not on here, it would be under the special use permit. So, all agricultural lands could, you could also get a special use permit if it's not an accessory. So, should we also be limiting the special uses, you know, basically in a laymen's term, you can only apply for certain amount of special use permits? And so, I would be looking at 19.30A.060 and including that in the language under 13.30A.035 [sic] after the sentence, after the words, pursuant to Section 19.30A.050, I mean, zero and, here's the amendment to include the language, and 19.030A.060, and we can also limit the special uses. I would like to see on the special uses they do also have open space recreation, structures, and also the commercial agricultural structures. That's also

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under the accessory use, I may have missed that one. But, in any event, I would like to see the agricultural commercial structures be part of the accessory use because that was our bill, my bill years ago, and it was envisioned to have it, to be able to utilize a food hub and without that type of ability to put that commercial agricultural structure on these large lots you're gonna limit the production or, at least, the ability to further advance and diversify our agricultural industry. It's, you know, basically the food hub is a multi-tier co-op and as one of our testifiers indicated as well as Mr. Atay had visited the food hubs in Oregon and I had done so, too, about three years ago when I was crafting out that particular bill, the commercial agricultural structure bill. So, I would like to see that one, which is part of the accessories use added to allow that to be used in the large agricultural lot. I know it's a mouthful of things but I think Staff _____ take that...take all of that down? Alright.

UNIDENTIFIED SPEAKER: Chair?

CHAIR CARROLL: I think you mean that's pretty difficult to follow, Mr. Guzman.

COUNCILMEMBER GUZMAN: I know it's almost like I should have had more hands on in, you know, drafting some of these amendments, but...

CHAIR CARROLL: No, it's not a problem.

COUNCILMEMBER GUZMAN: Sorry.

CHAIR CARROLL: I would, you know, I would accept motions from the floor except...

COUNCILMEMBER GUZMAN: Okay. I can...

CHAIR CARROLL: Right now, we're in discussion and I realize that...

COUNCILMEMBER GUZMAN: No, I can set it forth in a motion, make it more clear what exactly...

CHAIR CARROLL: Yeah.

COUNCILMEMBER GUZMAN: But I thought we were still in discussion.

CHAIR CARROLL: But, yeah, when we get to that point you can make a motion and then we'll bring it right on the floor, and once the --

COUNCILMEMBER GUZMAN: Okay.

CHAIR CARROLL: --motion is seconded, and then Members can talk and we can always ask questions of Planning or whoever's appropriate to.

COUNCILMEMBER GUZMAN: Okay. Okay. So, I have other points on the other amendments, but I'll yield at this point because...

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CHAIR CARROLL: Why don't we deal with what you just went through?

COUNCILMEMBER GUZMAN: Yeah, yeah, just for that one section alone. Okay. Thank you.

CHAIR CARROLL: Are you going to make a motion for that?

COUNCILMEMBER GUZMAN: You want me to make a motion for this section? And I'm referring to 19.30A.035(B), because you've handed out this, I guess, the permitted uses and you've highlighted those that are already in the language --

CHAIR CARROLL: Yeah.

COUNCILMEMBER GUZMAN: --and I, it appears as though you're asking us what other accessory uses do we as a body would like to either limit or allow within the large tract.

CHAIR CARROLL: That is correct.

COUNCILMEMBER GUZMAN: And what I was stating was my picks, your picks but including some of my picks of the accessory uses, and I could add that in a motion as we speak, but I'm not sure whether the other Members would like to also add in their other accessory uses and we can do it all in one motion.

CHAIR CARROLL: Alright. Since we have...so is that your motion?

COUNCILMEMBER GUZMAN: Yeah, yeah. I...so just to reiterate, I would like to add the accessory use of B1 which is two farm dwellings per lot, two farm dwellings, so it would only be allowed two farm dwellings on the large lot. And then, also the number three which is a maximum of two commercial agricultural structures, so it would be only one because it's per...oh, wait, maximum two commercial ag, so, two, yeah, two commercial agricultural structures, and that's what I was talking about, about the food hub stuff 'cause without having that as an accessory we wouldn't be able to have a food hub there, so that's three. And then, oh, here's another one, number six, which is the energy systems, small scale, and number ten which is the open land recreation. So, those are the accessory uses that I would like also included in addition to your picks, Chair, that you have highlighted. Okay, that's my motion.

CHAIR CARROLL: Is there a second to the motion?

COUNCILMEMBER SUGIMURA: Second.

CHAIR CARROLL: Been moved by Mr. Guzman, seconded by Ms. Sugimura. Alright. Discussion, maker of the motion?

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COUNCILMEMBER GUZMAN: Okay. Yeah, thank you, Chair. In listening to the testimony and also drawing on my experiences working with the Ag Working Group, if we're talking about large tracts of agriculture, I understand the concern of trying to limit the use so that it doesn't get abused. But I also understand the ability to have that flexibility for those that are in the agricultural industry so that they can have the ability to diversify and create food hubs and if they want to tour, you know, create a tour on their land to showcase their sunflower seed, you know, sunflowers, you know, these kind of things are accessory uses and I don't see a problem in allowing the actual farmer to live on the land and aside from the labor dwelling and, you know, the other two, the solar, the energy systems, small scale. So, I was envisioning that if there was the possibility of if we were to allow energy systems at a small scale 'cause that's what the accessory is, small scale, we could utilize those energy systems to even produce the alternative energy for those cluster lots that will have the houses on it, so it would all be a sustainable community. And so, I would urge my colleagues that the additional accessory uses that I'm proposing would all work together and would not necessarily 'cause a substantial amount of development which we don't want. We want to keep it a more rural, more agriculture, but these are the tools that they're gonna need to fulfill that goal, to make it a community of agriculture, so that's my argument. Thank you. Or not argument, my position, sorry.

CHAIR CARROLL: Discussion to the motion on the floor, Members? Ms. King?

COUNCILMEMBER KING: Thank you, Chair. Well, I agree with the accessory to agriculture and actually I agree with all the additions that Mr. Guzman added except the number ten, the open land recreation has a lot of items that are in here that are non-accessory to agriculture. So, I don't have a problem with farm tours, but when we start getting into petting zoos and paragliding and now we're adding back in equestrian activities when we've left out the riding academies. So, there's some things in here that are a little bit contradictory to other things. So, I would just assume take out the open land recreation but somewhere add in farm tours which I think are gonna be key components of actual agriculture. I know there's some farms that I've been told that are making more money off their tours than actual, their actual production, but there's just a lot of things in here I could see, you know, we've been having problems with the ziplines in Haiku and I just can see potential landmines in there. But, I do think, you know, adding in small scale energy systems makes sense 'cause we're already saying that we're gonna allow small scale solar facilities in number eight. And, I like the fact that it says that land with soil classified as D or E, if they're gonna put a solar panel on, solar farm on there it doesn't have to be compatible with the existing agricultural uses, 'cause I think those are the most appropriate for solar farms anyway, not the prime ag lands. So, anyway, I would just, I would agree with that but, I would just ask to maybe modify number ten to just include farm tours.

CHAIR CARROLL: Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair. May I ask Corp. Counsel if that's, if we were to look at accessory use number ten, the open land recreation and it does have the language, such as farm or plantation tours, is there a way to somehow limit it,

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limit number ten accessory to just farm or plantation tours? Is there a way to do that?

CHAIR CARROLL: Corporation Counsel?

MR. GALAZIN: Thank you, Chair. Certainly, looking within the definition of the ag conservation lot saying that, you know, the principal uses, accessory uses shall be limited to those provided in those subsections and then you can just put in, just add on an addition just take the language you want to say, in addition, farm and guided tours that are accessory to principal uses such as farm or plantation tours. You can take that same language and pull it out instead of referencing it as a subsection, you just place it right after where it would say, of this chapter in that Section B that you're looking at.

COUNCILMEMBER GUZMAN: Okay. So, I would agree with my colleague, Ms. King, but there are other aspects of this recreation that would, what I would tend to agree that some are not related to agriculture and some are. Like for instance, the botanical gardens, maybe the greenways, the abatorio [sic], and fishing, hunting. And then I guess, no, hand gliding, no way, you know, para-whatever, or mountain biking, no, no, no, but other things like the garden tours, I think those are, could be, there could be a nexus to agricultural. So, I would rely on some of my other colleagues to try to single out some of these, so it appears that Mister, that Corporation Counsel's, is indicating that we can kind of pick and choose out of this number ten accessory and only apply it to the large tract of land. So, open for further discussion on number ten accessory so that I can frame my motion correctly.

CHAIR CARROLL: Alright, Members, everybody has this before them. Alright. Is there anything in there that you would wish to delete from this section that we're referring to? Anybody see anything in there that they would wish to delete?

COUNCILMEMBER SUGIMURA: So, Chair, I have a question for Corp. Counsel, I guess. So, Chair...

CHAIR CARROLL: Ms. Sugimura?

COUNCILMEMBER SUGIMURA: Thank you. So, in this paragraph ten and other areas of your handout, right, it mentions the island of Molokai or Lanai, in this paragraph ten it's, for example, it says, if hiking, fishing, hunting, equestrian activities, rodeo arenas, hand gliding, paragliding, or mountain biking are conducted for commercial purposes on the island of Molokai, it only cites island of Molokai, I was just wondering about that. Such uses shall have been approved by the Molokai Planning Commission as conforming to the intent of this Chapter, open land and recreation uses or structures are not specially permitted by this section or by Sections 19.30A.060(A)(7), shall be prohibited. So, could you comment on that?

CHAIR CARROLL: Corporation Counsel?

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MR. GALAZIN: Thank you for that question. If you look on Page 1 of the proposed bill and subsection C and the agricultural cluster subdivision itself is only allowable on the island of Maui, so anything...if you wanted to reference, you know, subsection 10 in the accessory uses, any reference to Molokai would be just irrelevant and superfluous, so there would be no need to speak to it because it's only allowed on Maui.

COUNCILMEMBER SUGIMURA: I see. Okay, thank you for that.

CHAIR CARROLL: Anybody...Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. First off, I think the intent of this is for us to protect our ag lands and to have ag production. I mean, I, just in the opening Section 1 as to the purpose to just put a period, I like the additional language that Ms. Sugimura asked Mr. Watanabe in his testimony the, where it says preserved in perpetuity for the protection of agricultural production lots or lot. I think it should just be a period and never mind all that other stuff, it's not like I don't support environmental cultural and open spaces, but in, for this particular thing this is the point. And so to start adding all this other stuff it's for ag production, period, in perpetuity. Keep it simple, keep it plain, keep it, you cannot, there's no way to hem and haw and to twist this in any other way. So, we keep adding and adding and this use or that use and not this or not that, I'm totally not for that. I want to keep it as simple as possible for the intent which is to have our ag lands do ag. And that's where I'm coming from, so all this other stuff to me is way over the top and making it into something that, I think, the intent and purpose for me, anyway, is straying from. Thank you, Chair.

CHAIR CARROLL: Further discussion? Ms. Crivello?

COUNCILMEMBER CRIVELLO: I'd like to just ditto with what Councilmember Cochran is saying, because I think the idea of agricultural production should be the ultimate focus when it comes to ag lands and that, this is why we have the problem of gentleman estates. We put all these different, allow so many other loopholes and all that. And the clustering is not so that bad of an idea if it means to provide dwelling for your farm workers or your caretakers, but I think what Mr. Watanabe tried to point out for us that if we're not going to concentrate on the production of ag, which is why we have the ag lands, then we're completely, if we're looking down the road, generations to come, and we're trying to grow farmers or are we gonna grow all different aspects? And then, too, when you started adding all these different things and if you truly are into the farming production there are strict rules coming down on the Federal for food safety and there are many things that's not allowable that can be approved for that, your products can be marketed, so called. So, I think there's many more considerations to take and I think more discussion. I understand what the, hopefully, the intent was, but when we start going more incidental into what, you know, we add this and add that to the agricultural lands and allowing more dwellings as we try to talk farming or ag then it kind of adds confusion for me, yeah. So, maybe the maker of the bill can help to explain to that better than how I'm trying to understand it.

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CHAIR CARROLL: Members, what I distributed, what is in there now the few things that I had put on there have been gleaned from the prior meetings and from testimony and everything else. I've opened the floor for changes because the Members have not had an opportunity to comment on what I proposed, but I believe that proposal that we have, the original, what is down there, those items are what is before us but you have the chance to amend it. Mister...do we have any...do you have any comment to where we're at right now? We're getting little confused over here because there are so many different options that we have over here and also modifying entire sections. This is going to be a little bit more difficult.

MR. WAGNER: Chair?

CHAIR CARROLL: Mr. Wagner, do you have any comment from where we're at?

MR. WAGNER: Chair, I believe we have a motion pending from Councilmember Guzman where he moved to amend Section 19.30A.035(B) under the definition of agricultural conservation lot to read, agricultural conservation lot is a lot dedicated for principal agricultural uses pursuant to Section 19.30A.050 of this, oh, excuse me, pursuant to Section 19.30A.050 of this Chapter in perpetuity. Agricultural uses or accessory uses shall be limited to those provided by Sections 19.30A.050(B)(1), (2), (3), (4), (5), (6), (10), and (15) of this Chapter.

CHAIR CARROLL: Alright. Mr. Guzman?

COUNCILMEMBER GUZMAN: Yeah. That was adding and 19.030A.060, and what I would be adding accessory use of the farm dwelling which is B1 and the energy systems, small scale six, numbers accessory use six, and accessory use number ten, open land recreation but limited to such as farm or plantation tours only. Oh, sorry, did I miss number three? Oh, yes, and the number three, the maximum to commercial agricultural structures per lots. So, again, that's important because of the food hub and any other agricultural structures that they may need for the production and selling of their produce on the land. I don't see any other way unless they have to get it a special use permit to build a commercial agricultural structure.

CHAIR CARROLL: Can I...can we...is everybody alright with the clarification of the motion on the floor?

COUNCILMEMBER KING: Chair, I'll second the motion.

COUNCILMEMBER SUGIMURA: I already seconded.

COUNCILMEMBER KING: Oh you did.

CHAIR CARROLL: We already have a motion on the floor.

COUNCILMEMBER KING: Oh, I didn't hear a second, so...

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CHAIR CARROLL: Yeah, we...

COUNCILMEMBER KING: Can I ask a question?

CHAIR CARROLL: Well, what I would like to do is, as I was trying to say, that if everybody would recognize that as clarifying what the motion entails, the original motion, because some other things were talked about, but I think that makes it more specific and easier to understand what you just read and how you read it.

COUNCILMEMBER KING: Yeah, I just have --

UNIDENTIFIED SPEAKER: Chair?

COUNCILMEMBER KING: --one clarifying question.

CHAIR CARROLL: Ms. King?

COUNCILMEMBER KING: Okay. So, I'm unclear on B, if it's one or two, is it one or the other or is it both of those? Because B1 says two farm dwellings per lot, one of which shall not exceed 1,000 square feet, and number two says, one farm dwelling per five acres of lot area. So, presumably if you have 100 acres that means you can have 20 farm dwellings? One farm labor dwelling per five acres of lot area, number two.

CHAIR CARROLL: Mister, Corporation Counsel?

MR. GALAZIN: Yes, thank you, Chair. Councilmember, the farm dwelling is a separate definition within Title 19 from a farm labor dwelling. A farm labor dwelling is something that's solely for somebody who's employed to work on the farm whether it's full time or whether it's seasonally. The farm dwelling is just for the owner of the lot, so with that clarifies that for you, that's why there are two different things.

COUNCILMEMBER KING: Okay. But, I just wanted to...okay, so the number two which is one of Mr. Carroll's proposed uses to keep in there, it says one farm labor dwelling per five acres of lot area. So that mean, if you have 100 acres, you can have 20 farm labor dwellings?

MR. GALAZIN: That would be correct, but there's also, the owner, there's criteria that apply to a farm labor dwelling. So, you would have to provide proof of either, you know, an X number of gross sales for the farm labor dwelling or certification from the Water Department, a farm plan. The idea being that if you've got a farm, you've got people working on it, you don't want them to have to schlep all the way up there and if they're just gonna work on the farm during the season there's, you know, a place for them to stay, live, work on the farm, and then, you know, once the season, the harvest is done, they can go off.

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COUNCILMEMBER KING: Okay. So, they have to prove that it's a working farm that they need all that labor, the dwellings for the labor. And then for the number one, is two farm dwellings per lot which means, so that, the owner and the second one would be for...

CHAIR CARROLL: Planning?

MS. McLEAN: These are uses that are already allowed in the County Ag District, so in the County Ag District on any agricultural lot, you can have two farm dwellings --

COUNCILMEMBER KING: Okay.

MS. McLEAN: --one of which is limited in size.

COUNCILMEMBER KING: Okay. But it doesn't have to be for labor?

MS. McLEAN: Correct.

COUNCILMEMBER KING: Okay. But it can't be an STR because that requires...that's taken out, I mean, that's one of the uses that we didn't pick.

MS. McLEAN: Under this bill, that's what's being proposed, correct.

COUNCILMEMBER KING: Okay. Okay, great. Thank you.

CHAIR CARROLL: Any further discussion to the motion on the floor? Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. Just for clarification, I thought that the larger lot, the remainder lot was going to be exclusively for agricultural use. And I can see allowing farm dwellings on there, but I would assume that if somebody's gonna be controlling the large remainder lot that they could own one of the adjacent parcels if they wanted to farm there. Do you see any reason for adding B1, Department?

CHAIR CARROLL: Planning?

MS. McLEAN: Thank you, Chair. Certainly the operator of the farm could live on one of the cluster lots, but they might also want to live on the farm lot. Depending on the topography or how the farm or ranch is laid out, they might wish to have a dwelling not clustered with all the other homes but some farther distance away for security reasons or as we heard some of the testifiers, you know, you don't necessary want to restrict where the farmer or rancher can have their home or if they can have a home on that lot. So, we don't have an objection to adding that number one to the list. Thank you for the question.

COUNCILMEMBER WHITE: Would you be more, I guess, the question is if we're gonna allow whatever number of farm dwellings or farm labor dwellings they can qualify for, would you, because of that provision, take out the 1,000 square foot additional unit in B1?

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CHAIR CARROLL: Planning?

MS. McLEAN: Not necessarily. For the farm labor dwellings, you need to meet those criteria showing commercial agricultural production, and I would agree with some of the testimony that was presented today that the farmer or rancher of this ag conservation lot shouldn't be restricted in their dwellings more so than an existing two-acre ag lot for their dwellings. For some of the other uses is you're talking about it would be appropriate to restrict those so that they were only ones that support agriculture having a farm dwelling and then 1,000-square-foot farm dwelling as well as the potential for farm labor dwelling seems appropriate for such a large parcel.

COUNCILMEMBER WHITE: Okay. Thank you. Thank you, Chair.

COUNCILMEMBER GUZMAN: Chair?

CHAIR CARROLL: Mr. Guzman?

COUNCILMEMBER GUZMAN: Yes, and I may remind, respectfully, you know when...as part of this registering it or designating the large tract of land as the agricultural conservation area, the, under the last page, it is under a unilateral agreement, and we tracked, basically, how we go about doing conservation lots. How do we create conservation lots? We go through a unilateral agreement, we file it with the Bureau of Conveyances, it then runs with the land, and no matter who sells it or who buys it, it runs with the land. So, in the unilateral agreement, there are conditions that say, look, you can only use these, you can only do certain things on this large tract of land, and that will be reiterated on the unilateral agreement, so whatever we put forth in the ordinance would definitely be in the unilateral agreement. And we can even make it more restrictive in the unilateral agreement or less restrictive, so there is that flexibility in that portion, if you're concerned about abuse, so this is a good way of controlling, I would say, the possibility of a large gentleman estate owner, you know, we definitely could put in provisions in there, the unilateral agreement that, you know, really restricts it. So, I'm just trying to go forward and looking at the natural accessory uses that are already permitted within our Agricultural-zoned lands, and we are taking out a lot of the other accessory uses that would be available to other agricultural lands. So, I think this is appropriate. I think that a dwelling, a farm dwelling on the property, as well as a farm labor dwelling, as well as a, my other amendment is the commercial agricultural structure, the energy system, small scale, and number ten which is the open land recreation limited to such as farm or plantation tours only. But I don't want to go through this motion if one the accessory uses aren't going to be passed because I don't want to kill the entire motion. So, I'd rather...maybe we can do it one at a time.

CHAIR CARROLL: Members, we've had a lot of discussion to the motion on the floor already. Are there any other friendly amendments to the motion on the floor that we would like to discuss? If not, I'm going to call for the vote. Seeing none, all those in favor to the motion on the floor, signify by saying "aye."

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COUNCILMEMBERS: Aye.

CHAIR CARROLL: Opposed?

COUNCILMEMBERS: No.

CHAIR CARROLL: Alright, we have seven ayes, one no.

MR. WAGNER: Can we take a roll call, Chair?

CHAIR CARROLL: Yes.

MR. WAGNER: Could you take a roll call, please?

CHAIR CARROLL: Roll call, proceed.

MR. WAGNER: Member White?

COUNCILMEMBER WHITE: Aye.

MR. WAGNER: Member Crivello?

COUNCILMEMBER CRIVELLO: No.

MR. WAGNER: Member Atay?

COUNCILMEMBER ATAY: Aye.

MR. WAGNER: Member Sugimura?

COUNCILMEMBER SUGIMURA: Aye.

MR. WAGNER: Member Cochran?

COUNCILMEMBER COCHRAN: No.

MR. WAGNER: Member Guzman?

COUNCILMEMBER GUZMAN: Aye.

MR. WAGNER: Member King?

COUNCILMEMBER KING: Aye.

MR. WAGNER: Chair?

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CHAIR CARROLL: Aye.

MR. WAGNER: I believe that the vote was seven to two...no, no, six to two, one excused, Member Hokama.

VOTE: AYES: Chair Carroll, and Councilmembers Atay, Guzman, King, Sugimura, and White.

NOES: Councilmembers Cochran and Crivello.

ABSTAIN: None.

ABSENT: None.

EXC.: Vice-Chair Hokama.

MOTION CARRIED.

ACTION: APPROVED AMENDMENT.

COUNCILMEMBER GUZMAN: Chair, may I have a clarification?

CHAIR CARROLL: Yes.

COUNCILMEMBER GUZMAN: Just to a point of clarification, this bill does not apply to Molokai and this bill does not apply to Lanai.

CHAIR CARROLL: No, it is in the bill that it applies to Maui only. It's very clear.

COUNCILMEMBER GUZMAN: Maui only, this bill applies to Maui only, just to clarify. Thank you, Chair.

CHAIR CARROLL: It's stated in the bill, and it's very clear.

COUNCILMEMBER GUZMAN: Yes, yes. Thank you.

COUNCILMEMBER COCHRAN: Chair?

CHAIR CARROLL: Members...oh, excuse me. Ms. Cochran?

COUNCILMEMBER COCHRAN: And with that being said, I know there's some testimony from Mr. Scott Crawford out of Hana and he strongly would like this to be vetted through the Hana Advisory Committee over there. They haven't had an opportunity, so I feel this is very premature. There's still a lot to be vetted through and Hana itself has not had a chance, according to his testimony anyhow. So, I think it'd be

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only appropriate to allow that end of our island to have a say. They have a lot of ag lands there too.

CHAIR CARROLL: Thank you.

COUNCILMEMBER GUZMAN: Chair?

CHAIR CARROLL: Yes?

COUNCILMEMBER GUZMAN: In response to that, this bill has been in the Committee for four years and it went through the, and as well as you know, Chair, it's went through the Planning Commission and then it was delayed again through Planning Department. This used to be in Don Couch's Committee and only through your grace that it finally came out of there and saw the light of day. So, I don't know why it didn't go to Hana Advisory Committee, because it's been in the Planning Department for four years or at least three-and-a-half years.

CHAIR CARROLL: Thank you. Members, alright, I have a few amendments over here. It's getting really late. Obviously, we're not going to finish with this today, but I do have a few amendments that from what has transpired all this time that I would like to bring forward now. One-minute recess. . . *(gavel)*. . .

RECESS: 4:32 p.m.

RECONVENE: 4:36 p.m.

CHAIR CARROLL: . . . *(gavel)*. . . This Land Use meeting is called back to order. Members, I would like to propose an amendment. I would accept a motion. The Chair will entertain a motion to amend the proposed Section 19.30A.035(D), line one, by striking "but not in addition to" so the beginning of the first sentence of the section reads, as an alternative to the subdivisions sliding scale be provided by 19.30A.300(G) of this Chapter.

COUNCILMEMBER GUZMAN: So moved.

COUNCILMEMBER SUGIMURA: Second.

CHAIR CARROLL: Been moved by Mr. Guzman, seconded by Ms. Sugimura. Members, making this revision will allow the landowners a parcel subdivision pursuant to the sliding scale in 19.30A.030(G), who did not subdivide their land into more than maximum number of lots permitted by the Director of Public Works. The option to further subdivide larger agricultural proposed lots pursuant to provisions of the agricultural cluster subdivision or 19.30A.030(G). Any further discussion to the motion? Mr. Guzman?

COUNCILMEMBER GUZMAN: Yes. Thank you. And this is to clarify, Members, that I know there are some pending applications for subdivisions, and the ability to...once...strike

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that, let me start over. When developers come through or the owners of tracts of land they have to go through the sliding scale and they go through the application portion, but they haven't started the construction of it yet. So, this is the ability to say, okay, look, another alternative they could look at is now to apply for this cluster agricultural type of subdivision, so this would allow them to change up and say, okay, let's, this is a better route to take and we would have a larger tract of land in open space or I mean in agricultural space, so that's what the language change is all about. It's just to allow those who are in the process to have an alternative solution to apply now for a cluster division, subdivision.

CHAIR CARROLL: Thank you. Any further discussion to the motion on the floor? Seeing none, all in favor, signify...oh, I'm sorry. Did Mr. White have a...

COUNCILMEMBER WHITE: No.

CHAIR CARROLL: Oh. All in favor of the motion, signify by saying "aye."

COUNCILMEMBERS: Aye.

CHAIR CARROLL: Opposed? Motion carried. Five "ayes," no "noes."

VOTE: AYES: Chair Carroll and Councilmembers Atay, Guzman, Sugimura, and White.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Vice-Chair Hokama and Councilmembers Cochran, Crivello, and King.

MOTION CARRIED.

ACTION: APPROVED AMENDMENT.

COUNCILMEMBER GUZMAN: Chair?

CHAIR CARROLL: Members...

COUNCILMEMBER GUZMAN: Chair?

CHAIR CARROLL: It's been...we've run out of time.

COUNCILMEMBER GUZMAN: Chair, can I add one...

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CHAIR CARROLL: Yes, Mr. Guzman?

COUNCILMEMBER GUZMAN: I apologize. A point of clarification, I do...I just was handed by my staff a letter dated May 14, 2018, from the Department of Planning, and this is the subject of this bill, and this was a review from the Hana Advisory and may I enter into the record the language in the letter itself in addition to Department of...staff met with the Hana Advisory to the Maui Planning Commission on this matter on January 16, 2018. After receiving a presentation imposing questions to Staff, the committee adopted the following motions by a four to zero vote to express the general agreement of the committee with the recommendations of the Planning Commissions that there is a benefit to the intent of this legislation, but that it needs to be revised, cover some of the flaws that, so that the intent actually matches the implementation, and also that it does move forward, and it comes back to Hana Advisory for another review. So, I think that, in terms of the Hana Advisory Committee, it was covered in terms of their review process or at least portions of it, so just to clarify. Thank you, Chair.

CHAIR CARROLL: Thank you for that clarification, Mr. Guzman. Alright, Members, I appreciate it. This is one, something that we really need to get right because this is gonna last like forever. I appreciate you staying a little bit late. Obviously, we cannot go on. There's been a lot of discussion and we shall try to bring everything that was said today in writing and so we can proceed at the next meeting where we leave off today with this last amendment.

COUNCILMEMBERS VOICED NO OBJECTIONS. (Excused: EC, RH, KK)

ACTION: DEFER PENDING FURTHER DISCUSSION.

CHAIR CARROLL: Thank you again and thank you all in the audience and television for participating. This Land Use Committee...

MR. WAGNER: Chair, excuse me. Chair? We can't adjourn yet. We haven't, --

CHAIR CARROLL: I'm sorry.

MR. WAGNER: --you know, made an action on this item or the next item on the agenda, LU-30.

COUNCILMEMBER SUGIMURA: It...defer.

MR. WAGNER: We haven't made an action on the next item in this Committee, LU-30.

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ITEM LU-30: SHORT-TERM RENTAL HOMES ON MOLOKAI (CC 17-173)

CHAIR CARROLL: Oh, thank you. Because of the late hour, the last item is Molokai. We do not have an, even opportunity to go over there and pursue that. If there's no objection, we shall defer that item also and try to put it on the same agenda as we may bring this one back up. Any objection?

COUNCILMEMBERS: No objections.

CHAIR CARROLL: Thank you.

COUNCILMEMBERS VOICED NO OBJECTIONS. (Excused: EC, RH, KK)

ACTION: DEFER PENDING FURTHER DISCUSSION.

CHAIR CARROLL: That...sometimes we lose sight of something. Alright, the two items have been deferred. Again, thank you, everyone. This Land Use Committee meeting stands adjourned. . . .(gavel). . .

ADJOURN: 4:45 p.m.

APPROVED:



ROBERT CARROLL, Chair
Land Use Committee

lu:min:180710:mb

Transcribed by: Michelle Balala

