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**MAUI PLANNING COMMISSION
PORTION OF THE REGULAR MINUTES
AGENDA ITEM E-3
JULY 10, 2018**

Mr. Robinson: Planning Commission is now back in session. Commissioners with your approval I'd like to jump to Item E-3 with the ag and auxiliary uses. That all right with you folks? Okay, good. Thank you. Director.

Ms. McLean: Thank you Chair. This is a transmittal from the Planning Department with proposed amendments to Title 19 of the Maui County Code to allow in the Agricultural District structures to be located on the same lot as farm dwellings if the structure's use is customary, incidental, and usual to the farming dwellings. David Raatz is the Department's Administrative Planning Officer and he'll be presenting the proposed changes.

E. PUBLIC HEARING

3. MICHELE MCLEAN, Planning Director, transmitting proposed amendments to Title 19 of the Maui County Code to allow in the Agricultural District for structures to be located on the same lot as farm dwellings if the structure's use is customary, incidental, and usual to the farm dwellings. (D. Raatz)

Mr. David Raatz: Thank you Director. Good morning Chair and Members. I'd like to please call your attention to a memo dated July 10th titled Accessory Uses for Farm Dwellings. And just for a little bit of quick background before we get into the substance of the proposal we have before you this bill for an ordinance relating to accessory uses in the Agricultural Zoning District is a land use ordinance. So under the Maui County Charter, we're asking for the three planning commissions to provide recommendations and findings to the Maui County Council that we will then transmit to the Council and they can consider enacting this bill as an ordinance as we are proposing.

This is an amendment to the Comprehensive Zoning Ordinance for the County of Maui. Generally speaking in most zoning districts there are principle permitted uses and access permitted uses. Typically the accessory permitted uses are customary and incidental to the principle permitted uses. So specifically this bill would amend the Agricultural Zoning District Ordinance, Chapter 19.30A of the Maui County Code where agricultural uses are the principle permitted uses and among the accessory permitted uses are farm dwellings. The question before the body today is those accessory uses known as farm dwellings should they have their own accessory uses like other dwellings in other zoning districts?

And as is pointed out in the July 10th memo, as we get into the discussion of the bill on Page 2, the County Code currently doesn't describe what if any accessory uses are to be permitted for farm dwellings. And again, for a farm dwelling to be in existence there's a presumption that there is a valid principle permitted use of agriculture occurring on the lot. So you've got agriculture use as the principle and then you have a farm dwelling or multiple farm dwellings as the case may be as accessory uses.

What accessories to the accessory uses will be allowed and as pointed out in the memo on Page 2, the Code doesn't give direction. There's a lack of clarity but yet in fact the County has given

1 the go ahead to things like garages, swimming pools, other things that would probably by most
2 people's definition be understood to be accessory to a dwelling. And we're asking for that principle
3 to be codified in the County Code so that we have a clear policy direction on what accessory uses
4 will be permitted for farm dwellings.

5
6 And then if we go down to the bill itself which is attached to the memo, again, it's titled, A Bill for
7 an Ordinance Relating to Accessory Uses in the Agricultural Zoning District. It says, commonly
8 the case when we're proposing amendments to the County Code the format is Ramseyer style
9 which means that new text, proposed new text for the County Code is underscored and content
10 that we're proposing for deletion is in brackets. And if we go to Page 2 of the bill there are two
11 underscored sentences that represent the primary policy proposal in this legislation and again it's
12 under the heading of accessory uses, Subsection B, and then Subsection B.1 talks about how
13 two farm dwellings per lot are accessory permitted uses in the Agricultural Zoning District. To
14 provide the clarity that we see is currently lacking in the County Code the bill would add the
15 following two sentences, "Included may be structures located on the same lot the use of which is
16 customary, incidental, and usual to that of the dwelling use. Above ground structures are limited
17 to 1,000 square feet and counted toward the developable area of the lot." So that's the entirety
18 of the new text in substance that we're proposing in this bill.

19
20 There is one other element of substance if we scroll down to the end of the bill on Page 4, and
21 this is again the list of accessory uses in Subsection 15 the current language says, other uses
22 that primarily support a permitted principle use, however such uses shall be approved by the
23 appropriate planning commission as conforming to the intent of this chapter. I would like to point
24 out we have typographical error in that section. There's an open bracket and we didn't close the
25 bracket. So the bracket is opening before the provision that says, "Such uses shall be approved
26 by the appropriate planning commission". So we would put the closing bracket at the end of that
27 phrase so the sentence would read, "Other uses that primary support the permitted principle use".
28 So at least for discussion purposes the proposal would be that that would be a call that the
29 Department could make and in fact regularly does make as opposed to having the requirement
30 that the planning commission approve an accessory use that's not specifically listed and we would
31 certainly welcome your guidance on that.

32
33 Mr. Carnicelli: So wait, wait, a closed bracket is at the end of the sentence?
34

35 Mr. Raatz: Yes, and I'm sorry...so the sentence would read in its entirety if this bill is approved
36 in its current form, "Other uses that primarily support a permitted principle use." So it would be
37 kind of a catch-all.

38
39 Mr. Robinson: Period.
40

41 Mr. Raatz: Right, period. It would end right there. Whereas right now the Code says the planning
42 commission would have to approve that other use as supporting the permitted principle use.
43

44 Unidentified Speaker: It was all confusing.
45

46 Mr. Raatz: We did send this bill out for agency comments. We haven't heard back from any
47 agencies yet unfortunately. The Department of Public Works told us their general support. They
48 don't have any specific comments. We did get a response from the Office of Economic
49 Development. Mostly comments were very helpful but they don't directly relate to the proposal

1 that we have before you today. There are proposed amendments to other elements of the
2 Agricultural Zoning District that we'll take under advisement and we'll consider at a future date. I
3 did want to thank the Office for pointing out the typographical error in Subsection 15 that I just
4 referenced. And with that Chair, we'd be happy to answer any questions either now or after
5 testimony.

6
7 Mr. Robinson: Thank you David.

8
9 **a) Public Hearing**

10
11 Mr. Robinson: At this time we're going to open the floor up for public testimony. We have here
12 to testify Bobby. Please state your name and you have three minutes for your testimony.

13
14 Ms. Bobbie Patnode: Good morning my name is Bobbie Patnode and I'm speaking for myself.
15 I'm a general partner in Patnode Family Farm and a member of the Ag Working Group. The Ag
16 Working Group is made up of farmers and ranchers and was formed in 2013 to help provide input
17 to the County Council on agricultural issues. We have representation from both the Farm Bureau
18 and the Farmer's Union as well as commodity groups such as Cattlemen's Association and Maui
19 Coffee and community associations.

20
21 The Ag Working Group has had an opportunity to discuss this bill and are in favor of allowing
22 accessory structures for farm families such as garages, pools or tennis courts. Since this is not
23 clear in our County Code we should make it clear. The language concerning buildings in the
24 Rural zone is clear on this and could be used for the Ag Zone as well.

25
26 The Orion audit of Title 19 recommends that we codify administrative rules when it makes sense
27 to do so. So that the intent of the Code is clear and does not require additional interpretation by
28 admin rules or by the director's discretion. The second farm dwelling, the 1,000 square foot one
29 can create issues for Planning's enforcement staff if the accessory structure is attached to the
30 1,000 square foot building. Does the attached structure expand that 1,000 square feet so it's no
31 longer legal? It would make sense to include in the Code that these allowed structures should be
32 separated by a solid wall from the dwelling.

33
34 Regarding the 1,000 square foot limitation. You may not be aware that our Real Property
35 Assessment Division has changed how agriculture homesites are assessed to start using the
36 Dilmore Adjustment Method. Now ag homesites are appraised just as residential lots. If a two-
37 acre farm property were zoned Rural they would be allowed to have accessory structures for their
38 home with no limitation on the size. I think if farm homesites are taxed the same as Rural, they
39 should be allowed the same as...they should be allowed the same structures as those properties
40 which are zone Ag.

41
42 And just one final note for the commissioners. There is a bill being considered which would allow
43 changes for accessory dwellings for properties zoned Rural or Urban but it doesn't include Ag.
44 Ag zoned properties are limited to farm dwellings, one which can't be greater than 1,000 square
45 feet. I've heard many times from farmers that this rule should be changed to allow two, 500
46 square foot buildings as the law used to allow. Farmers want to help with our housing shortage
47 and this could be a way to help our local people.

48
49 Ms. Takayama-Corden: Three minutes.

1
2 Ms. Patnode: And that's all I have to say, thanks.
3
4 Mr. Robinson: Commissioner Carnicelli.
5
6 Mr. Carnicelli: So if I could just for clarity 'cause the added changes is two sentences and they
7 go in two completely different directions. One, is you know the accessory use and defining that
8 and you guys are in favor of that?
9
10 Ms. Patnode: Yes.
11
12 Mr. Carnicelli: And then there's the second sentence which is limiting all of that to 1,000 square
13 feet and you're against that?
14
15 Ms. Patnode: I am against it.
16
17 Mr. Carnicelli: Okay, thank you.
18
19 Mr. Robinson: Any other questions? Commissioner Kahu Hill.
20
21 Kahu Hill: Aloha. So but you are in favor as others supported of two buildings of 500 square feet
22 each on that one issue?
23
24 Ms. Patnode: Yes, I think that...I'm not sure how the other bill is working. It's allowing changes
25 to the size of the ohana on the property in the Rural and Urban areas. We should be looking at
26 what we can do in the Ag zone as well. And one of the things farmers has suggested is we used
27 to be able to do two, 500s. So if we were able to do that we would immediately be able to have
28 more housing for our workers, family and everybody in the Ag zone.
29
30 Mr. Robinson: I have a question is and when you say farmers and the people that you're
31 associated with what type of size are we talking about as farmers? I mean, are you guys 20-acre
32 farms, you guys couple hundred-acre farms, how large are these farmers that they're apart of?
33
34 Ms. Patnode: Most of us are smaller size. You know, I'm one of the very smallest. I have a 2.76-
35 acre farm. But we also have several people who are ranchers who are leasing hundreds of acres
36 of property. So we have the Farm Bureau who I think are usually the bigger farmers and we also
37 have Farmer's Union people who are the smaller farmers. So it's pretty big range.
38
39 Mr. Robinson: A range. Thank you so much Bobbie.
40
41 Ms. Patnode: Thank you.
42
43 Mr. Robinson: Thank you. William Jacintho. Hi, you have three minutes and please identify
44 yourself.
45
46 Mr. William Jacintho: Thank you. Good morning Maui Planning Commission Members. My name
47 is William Jacintho. I'm here to testify in support of Title 19 proposal. However, I'd include in the
48 proposal some specific language that would prohibit structures from having any type of living
49 quarters in order to keep in compliance with Department of Planning regulations. A lot of times

1 this is what goes south and a lot of times there's question in even approving you know, things like
2 that necessities because right away the gut feeling is oh, someone's gonna live in it. So I think if
3 you put in a clause that it is not allowed for living areas, it's for you know uses, I think that would
4 be a good thing.

5
6 In addition, there are cases where there may be a need for more than a thousand square feet to
7 accommodate their size. It all depends on the family size or farm size. There should be a process
8 or something to allow that type need, you know, not go ahead and allow things to just go crazy.
9 That's all I have to say, thank you for the opportunity. I made copies if anybody needed. I wasn't
10 sure of the procedure.

11
12 Mr. Robinson: Commissioners, do we have any questions for the testifier?
13 Commissioner La Costa.

14
15 Ms. La Costa: Mahalo Chair. Thank you very much for coming today. So your proposal is that
16 the size of the dwelling can be more than a thousand feet but you don't want that dwelling used
17 for residential occupancy period?

18
19 Mr. Jacintho: No, I think the proposal is like an accessory to the dwelling and that's when
20 Department of Planning have a lot of problems with enforcement and having people not occupy
21 those as a residence. So I believe the proposal is an accessory to the dwelling.

22
23 Ms. La Costa: Thank you.

24
25 Mr. Robinson: Thank you. Thank you for your testimony.

26
27 Mr. Jacintho: Thank you.

28
29 Mr. Robinson: Is there anybody else like to testify on this item? Hi, please identify yourself.

30
31 Mr. Tom Croly: Aloha Chair. Tom Croly speaking on my own behalf. I always like when items
32 come forward to help clarify the Code because the Code is not easy for people to understand.
33 But I'm not sure if this one does whether it clarifies or muddies to some degree. With respect to
34 the Department I understand their concern. We have an accessory use of an accessory use and
35 are we allowed to do that and so forth. But the sentence that's here seems to open it up more
36 broadly than one might expect and my concerns would be when we say above ground structures
37 are limited to 1,000 feet, I'm guessing that that means that swimming pools can be larger than
38 1,000 square feet as you know, why we're saying above ground versus underground structures.
39 So again, I would want more clarity there. And also support what I just heard William say, we
40 need to be crystal clear about the use of any of these structures for dwelling purposes for people
41 to live in. For example, I have seen pool cabanas be built and a pool cabana is a necessary thing
42 sometimes. A place to change and shower for the pool, but it's so easy to turn a pool cabana into
43 a dwelling, right? So I think that this could use a little more massaging to be more clear about
44 what it is enabling and what we specifically do want to forbid. That's my comment on it. Thank
45 you.

46
47 Mr. Robinson: Commissioners any questions for the testifier? Thank you. Like to testify? Please.
48 Hi, please state your name, you have three minutes.

1 Mr. Hugh Starr: Hi, good morning Chair Robinson, Commission Members, my name is Hugh
2 Starr.

3
4 Mr. Robinson: Excuse me, your complete name please.

5
6 Mr. Starr: My name is Hugh Starr.

7
8 Mr. Robinson: Hugh Starr, Hugh.

9
10 Mr. Starr: Sorry, I'm slurring my words. Hugh Starr. And I'm also a member of ...we're a
11 Agricultural Working Group with Ms. Patnode and William Jacintho. And I'm surprised to say a
12 48-year land broker and land consultant for ranches and farms on Maui. I'm in favor of the first
13 sentence of the proposed amendment which is to include accessory uses. I am opposed to the
14 second sentence which limits the size of any accessory structures to a thousand square feet and
15 I feel that way for a couple of specific reasons.

16
17 First, not being a really active farmer rancher myself, but working very closely with them and have
18 all my career honestly I'm shocked at how tough a business it is. I mean in terms of it's a great
19 lifestyle. Everybody admires it but it's really hard to deliver a bottom line. . So everybody in the
20 business is using everything on their farm for, you know, drying mamake leaves to you know,
21 keeping their tack dry to storing equipment and you know, et cetera. So it's a complex business.
22 And we talk about accessory uses on agricultural land it's not so simple and clear cut as is one
23 would hope.

24
25 And then there's of course this dichotomy between true agriculture and the gentleman farmers
26 and there's this tension and the Planning Department with all due respect has to deal with the
27 gentleman farmer dilemma because it's all considered "agriculture". I and they represent true
28 agriculture which is protected by our Constitution. The only land use that really is. So the problem
29 with the accessory limitation of a thousand square feet is that it's difficult and problematic for true
30 farmers and ranchers. I can think of a number of instances if you're interested. But also, I think
31 it's important to draw your attention as commissioners to the fact that the Planning Department is
32 proposing new ag accessory uses as a new category to the existing rules, administrative rules.
33 And those accessory uses are extensively defined in those proposed rules. And if you go through
34 those accessory uses and you actually try to apply them to real case scenarios it creates
35 problems. So this needs to be sorted out for our true ranchers and farmers. So I'm opposed to
36 the thousand square foot limitation, but I'm not opposed to the accessory use being included in
37 Title 19. Thank you very much.

38
39 Mr. Robinson: Commissioner Carnicelli.

40
41 Mr. Carnicelli: Thanks Hugh. Just because of your experience and working with those folks for
42 that long do you have an opinion on Item 15, you know, the back end where we're deleting out,
43 "however such uses shall be approved by the appropriate planning commission as performing to
44 the intent of this chapter," you know we're deleting that and just going, "other uses that primarily
45 support permitted principle use." And we deleted out the other part. How do you feel that that
46 impacts you know the farming community?

47
48 Mr. Starr: Okay, I apologize because I've actually haven't focused on that particular thing.

49

1 Mr. Carnicelli: Okay.

2

3 Mr. Starr: It was more focused on the underlying in the Code itself.

4

5 Mr. Carnicelli: Yeah, it was a little confusing 'cause there wasn't the double bracket there.

6

7 Mr. Starr: Okay, so take what I say with a bit of grain of salt I may be misconstruing it.

8

9 Mr. Robinson: So Hugh would you like to read it before you answer it?

10

11 Mr. Starr: Sure that be helpful. I appreciate that. Thank you.

12

13 Mr. Robinson: Number 15.

14

15 Mr. Starr: Other uses that primarily support a permitted principle use, however such as
16 uses...such uses shall be approved by the appropriate planning commission. That's being
17 proposed to be—

18

19 Mr. Carnicelli: Deleted.

20

21 Mr. Starr: Deleted.

22

23 Mr. Carnicelli: The bracket...(inaudible-not speaking into mic)...

24

25 Mr. Starr: Yeah okay. So, thank you. I guess the best way I can answer that if I understand it
26 and I'm not...promise I understand it 'cause I may not is that...and the Orion report speaks to this,
27 which the Orion audit of Title 19 which was a very interesting read for those of you who haven't
28 had a chance to read it, especially with respect to ag lands, the rules can be...exactly what's a
29 rule and what's not a rule can be vague. And so they need to be regulated very stringently and
30 this is what Orion, the consultant recommends, they recommended actually no rules, no new rules
31 should be adopted nor current policies that are being treated these rules should be really enacted
32 until those enabling ordinances much like what is before you today. So if something isn't explicitly
33 in the ordinance then it's problematic to enforce it as a rule. I mean that was Orion was saying.
34 Now whether that's addressing this question that you're asking I'm not 100 percent certain but I'm
35 more for being very explicit about what rules are and having as much ability for everybody to be
36 clear about what the rules are, that they're explicit, everybody can understand, there's no
37 confusion. So if towards that end,...(inaudible)...that paragraph solves that or makes it worse, I
38 suspect it might make less accountability, that's a tough word to use, but anyway. I'm rambling.
39 Sorry I don't know if I answered your question or not.

40

41 Mr. Carnicelli: You answered it but it's still not clear. So that's all right.

42

43 Mr. Starr: Okay, sorry about that. I apologize.

44

45 Mr. Carnicelli: No, that's okay. No, no, no.

46

47 Mr. Robinson: Commissioners any other questions? Commissioner Kahu Hill.

48

1 Kahu Hill: Mahalo Chair. Hugh I just wanted to hear one of your examples whether it be for
2 acreage or how big farms are why you don't feel a thousand feet is good and what you are in
3 support of.
4

5 Mr. Starr: Actually maybe I answer the second question first. To my knowledge no zoning
6 category has a limitation on accessory uses. So I'm in favor of no limitation on accessory uses
7 as long as it's permitted. And I think to that issue where there's confusion with farm dwellings is
8 that when you read the Code as I read it, it's very clear, a farm dwelling is single family residence.
9 It's defined as such. So putting aside the confusing semantics of "farm dwelling". It's a single
10 family residence in Maui County Code and single family residences have accessory uses. So
11 accessory uses should be permitted and they are. Any confusion that might be suggested that
12 because the farm dwelling is actually an accessory use to another use that it's not...it's
13 problematic to have an accessory to an accessory use is in my view the way I read the code it's
14 not an issue. Farm dwelling is a single family residence and you have accessory uses and that's
15 what we're talking about. So coming to your first question, I think if Annette Niles who is on our
16 Ag Working Group, she's...one of her besides, she's a very multi-tasking woman, one of the
17 things she does is mamake tea. She grows mamake. She has to dry her mamake. She doesn't
18 dry it indoors, she dries it on a porch. So right now it's not really an issue but the proposed rules
19 will consider that her porch which is perhaps...and I don't know exactly what her porch looks like
20 but if it has screens on three or more sides, it's considered enclosed living area as though it were
21 inside the house and that gets counted as though it's her enclosed living area. So this is merging
22 of the use of the word accessory in the code with how the proposed rules will use the word
23 accessory and it's problematic for ranchers and farmers because so many things just get, you
24 know, thrown into the soup. And I know it's not super clear, it's even hard for me to understand
25 this myself. I have to read it over and over again and really you know, 'cause you're putting two
26 or three different documents together and trying to make sense of them. So it's confusing, but
27 that's an example of someone using a use that we might think of as being outside, but it will be
28 considered an inside use. And you start to add up the inside uses and you're out of luck if you
29 want to go do something else you can't get a permit.
30

31 Mr. Robinson: Kahu Hill.
32

33 Kahu Hill: Just a continuation because I have dried a lot of mamake and laaulapaau over the
34 years and herbs. My understanding that if you were to dry laaulapaau or you were to dry gourds
35 or hula implements or even firewood living up in place that that would also be counted in that area
36 and the screened if you left it covered outside.
37

38 Mr. Starr: Yeah. Yeah so the...I mean I actually had written and in the proposed rules which is
39 they actually haven't been adopted yet, but they're poised to be adopted by the Department and
40 I don't know whether the commission, I don't know whether you the commissioners will actually
41 be reviewing those and commenting on those rules before the Director has the authority to adopt
42 the rules and I don't know that. That's a legal question and I'm not a lawyer but let's assume what
43 the proposed rule is saying with respect to enclosed living area, a new definition in the rules is
44 any portion of a dwelling, this is ag, any portion of a dwelling that covered by a roof and is
45 surrounded on three or more sides by a constructed barrier such as a wall, lattice, canvas or
46 screening that is greater than 42 inches in height, okay, that would be considered enclosed living
47 area so now that gets added to our house, so you start to see that there's this real confusion.
48 Now I understand the dilemma the Planning Department's in. It's this dichotomy between true ag
49 and gentleman farmers, but the gentleman farmers we true ag people feel it's an enforcement

1 issue. But we have to be careful to protect agriculture because that's really what ag's all about
2 really at the end of the day and the future is huge and it's changing. We're no longer...we all know
3 we're no longer, no longer, it's gonna be a different day and we need diversity, we need
4 complexity, we need everything that we can't even foresee now related to agriculture. It's about
5 food security, self-sufficiency and all the rest. So sorry to ramble but thank you for the question.
6

7 Kahu Hill: Mahalo Hugh. Mahalo Chair.
8

9 Mr. Robinson: Thank you. Anything else?
10

11 Ms. La Costa: I have a question for the planner.
12

13 Mr. Robinson: You have a question for...yeah, when we come to them. Okay. All right thank
14 you Hugh.
15

16 Mr. Starr: Thank you.
17

18 Mr. Robinson: Is there any other testifiers at this time?
19

20 Mr. Peter Niess: Good morning Commission.
21

22 Mr. Robinson: Good morning.
23

24 Mr. Niess: My name's Peter Niess. I'm a local architect here on Maui. I think Hugh Starr said
25 well right at the end there where it's the dichotomy between the gentleman farmer and real true
26 ag and that there's a fear of it getting...these accessory uses which will be accessory to dwelling
27 use will get abused, but it's an enforcement issue. I think it's important to keep that separate and
28 hopefully the enforcement is going to pick up and hope resolve some of the illegal rental issues
29 and whatever, whatever else is going on that isn't correct.
30

31 But overall I brought this up in our last AIA meeting. We talked about it with a bunch of architects
32 and everyone seemed really positive. I'm presenting today on my own behalf not for the AIA
33 just to be clear. But we talked through it and increasing clarity is very much appreciated. We
34 know that the people reviewing the plans are smart and they see right through it when a client's
35 like oh no, they're telling us they're gonna do something and we all know they're doing something
36 else. So increased...I think it will help a lot the first sentence allowing the dwelling to be a primary
37 use and then things such as swimming pools and cabanas being the accessory use to that will
38 help out a lot. And after listening to real ranchers and farmers speak it sounds like the thousand
39 square feet could be a hindrance, yeah, but I have to think about that one some more, but yeah
40 it could be an issue I guess.
41

42 Mr. Robinson: Thank you. Would anyone else like to speak at this moment? Please identify
43 yourself. You have three minutes before questions.
44

45 Mr. William Spence: Okay, thank you Mr. Chairman, Commissioners. My name is William
46 Spence. In my former life as Planning Director this is a bill that I wanted to see come forward and
47 first before I get into why I have a little disclosure to make. I own a piece of agricultural land and
48 as a result of wanting to see this bill come forward I went to the Board of Ethics last month and
49 requested an advisory opinion of whether I have a conflict or not and whether it's improper for me

1 to go ahead and pursue this. They voted that no, I...well I do have a conflict but it's no greater
2 than the other thousands of agricultural property owners within the county. So I'm perfectly okay
3 to do this. That opinion will be adopted by the Board of Ethics tomorrow. And I'm, of course I'm
4 happy to provide anybody with a copy of that.

5
6 Okay, my hope is that this bill or some form of it will be adopted that will allow accessory uses s
7 related to the dwelling. The farming issues that's kind of a separate issue. When we start getting
8 into getting permits for swimming pools, you know how is that allowed? Somehow we have
9 approved hundreds of swimming pools in the Ag District, but somehow that's...I mean, how is
10 that part of the farm dwelling. We've had varying opinions on how we could do this including
11 maybe the swimming pool should be indoors only that then you could say it's a part of the
12 accessory or part of the dwelling unit. There have been some interpretations that, you know for
13 garages, you can't just have a standalone garage even though we've approved some of those.
14 Somehow those need to be connected so they can say, we can say that's a part of the farm
15 dwelling. To me I think we should be allowing these kind of uses just as a part of, as a part of the
16 farming dwelling we shouldn't have to pretend that they're related to agriculture. It's just, you
17 know, you have your 50 percent, 51 percent of your property set aside for farming you should be
18 able to do other things with your property.

19
20 This bill will help the little property owner as you know, if I had a couple million dollars to spend
21 on a house I could just...if I wanted a workout room or I wanted an art studio I could just add onto
22 the house. But for the regular property owner, he wants to build, he or she wants to build a little
23 structure for that use that's—

24
25 Ms. Takayama-Corden: Three minutes.

26
27 Mr. Spence: --pretty easy to do. I'll finish up here. The other counties, it should be noted the
28 other counties allow accessory...these accessory structures as just a part of their zoning code
29 and I found no limitations on size or particular use. So this would make us consistent with the
30 other counties.

31
32 Lastly, I'm not...I'm not too concerned with abuse of this. Allowing these as opposed to any other
33 district that we have. Somebody in the Single Family Residential District, they convert a garage
34 they're in violation of the Code. I don't see how this would be any different. I know this...it's not
35 promoting any kind of abuse of accessory uses. So anyway, thank you for allowing three minutes.
36 I'm happy to answer any questions.

37
38 Mr. Robinson: Thank you. Any questions from the Commission? Commissioner Carnicelli.

39
40 Mr. Carnicelli: Thank you for being here Mr. Spence. I kinda look at this bill has three separate,
41 you know, substantive changes. The two sentences adding and then the deleting of the backend.
42 So when you testified you were saying that you...you found no size limitation in other counties,
43 and yet, you said that you were okay with this when it says that it's gonna limit it to a thousand
44 square feet. So I mean I guess I'm a little bit confused as to which way you're going with it then.

45
46 Mr. Spence: The thousand square feet comes from the Title 19 definition of a private garage
47 which is limited to a thousand square feet. That being said, that was kind of a something of an
48 internal discussion. I would be perfectly fine without that limitation. The size would still be limited
49 by the "developable" area of the lot.

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Mr. Carnicelli: Right.

Mr. Spence: Not everything can just be built as big as everybody would like. You're still limited within the confines of the Zoning Code.

Mr. Carnicelli: Thank you Chair as a follow up. You know Hugh had talked about we get caught in these semantics of dwelling unit, accessory dwelling unit, everything like that...it's a house, let's call it...you know, let's call what it is, I mean it's a single family residence and so we're saying like accessory to accessory and it gets sorta like muddled in this and people go like oh wait is this the main dwelling unit, second dwelling unit, accessory use to the dwelling unit, it's a house.

Mr. Spence: Yes.

Mr. Carnicelli: Okay. And then back into this, in you know say other uses primarily supported by a permitted principle use, period. How will that change people coming forward and is there something coming that's going to be the administrative rule that would tie into this that's not a part of the code I guess is.

Mr. Spence: And that, you're referring to that number 15?

Mr. Carnicelli: Number 15, and do you want to read it as well?

Mr. Spence: I'm...I think that would be a fine deletion out of the Code. I know that the only application that I'm aware of that took place with this provision was when Kealii Reichel came forward to this commission to request permission from this commission regarding a hula halau and all the uses that went along with that on a piece of ag land up Piiholo Road. So...

Mr. Carnicelli: Thank you.

Mr. Robinson: Anyone else has a question? Commissioner Tackett.

Mr. Tackett: Yeah, Mr. Spence what's your, what's your feelings on prohibiting new structures from having any type of living quarters as was brought up by William Jacintho?

Mr. Spence: Yeah, the idea is right now you have...in the Ag District you're allowed two homes. One of relatively any size and then one limited to a thousand square feet. The idea is to permit accessory structures, not other homes. That would be if...there's a lot of discussion on other farm dwellings for workers and stuff. I think that's a worthy discussion for a different time. Right now we're talking about having a garage that's just related to the house or having a swimming pool and eliminating the question of is this permitted? Is a pool permitted or is it not? Is a pool cabana permitted or is it not? We're just...just let's clarify the Code to say these are fine. Somebody converts an accessory structure like what I'm taking about to a dwelling that's an enforcement issue and they should be cited. So...They should not be converted to other dwellings.

Mr. Tackett: Thank you.

Mr. Robinson: I have a question and I'm trying to find the, I'm trying to find the benefit of having ag lands compared to rural. I'm trying to find the preservation of ag compared to letting somebody

1 who owns his land does what he wants with it. I own acreage as well as a lot of other people do
2 and there's that, well this is my land I wanna do what I with it. I wanna build a second house.
3 I got kids, I wanna build a third. I want a tennis court. I want a swimming pool. You know, but
4 then there's the other side, well then shouldn't we be looking at changing zoning instead of trying
5 to change uses inside the ag itself. Instead of ag being five acres and we only use two and a half
6 of it. Should we be then be looking at a zoning difference because things change, right?
7 Everything, you know, we're hit right now with vacation rentals. Fifteen years from now it might
8 be something else. We might become self-sustainable. There might be difference with the
9 ...(inaudible)...you know things never ever stay the same. So us allowing to let things infringe on
10 our ag land to me is a concern. So it's not about what's allowed or what's not allowed, right. If
11 you have a tractor, a 1,000 square feet in a garage ain't going to be enough to put a big tractor
12 and if you're going to do large stuff. So 1,000 feet don't make sense. If you're gonna have a farm
13 and you're gonna have that much, you know, like the old days, people would come and they would
14 live as rent subsidies to work on these farmlands. They do in Honolulu. That's why they don't
15 have this regulation, but on Maui you know not as much, but that's something that we can move
16 towards like other countries do. You work for a week for your rent and you travel around. So
17 trying to make it simple and allowing everything because it's 51/49 to me is problematic. How do
18 you feel about zoning instead of trying to add uses?
19

20 Mr. Spence: I think our Rural District is extraordinarily underutilized. We have lots of gentleman
21 estates, that topic keeps coming up over and over again and those are really rural land uses.
22 They're not agricultural. I mean, you go to Launiupoko, you go to Haiku Makai, Haiku Mauka, just
23 to name a few. There's a bunch in Kula that are predominantly residential. I think all of those
24 should be rural and just call it what it is instead of pretending that it's agricultural. So that's
25 something I have always looked forward to as Director and seeing some of those changes made,
26 the political climate just hasn't been right for that yet.
27

28 Mr. Robinson: And the follow up with that is we know it should be called Rural but it's not, so how
29 do you change, you know, Kula 200, how do you change Launiupoko? How do you move it to
30 Rural without it...because it's not supposed to be Rural? Right, these are agricultural lots that's
31 supposed to remain in agriculture.
32

33 Mr. Spence: Right.
34

35 Mr. Robinson: So do we...is do we look at predevelopment and try to change the whole thing to
36 Rural, you know, 'cause I mean, you brought up the point about...put in R-1, R-2, it's you know,
37 they're adding this, they're adding that, but that's residential that's not really preserved because
38 people are gonna maximize living spaces or not. While us we're doing it the opposite. We're
39 trying to limit living quarters in agricultural, you know. So that's the dilemma. So how would we
40 move agriculture into rural in large developments such as Launiupoko?
41

42 Mr. Spence: Well, Launiupoko in the Maui Island Plan is shown as Rural. It's within a rural
43 boundary and so it would take an act of the County Council to redistrict it and rezone it.
44

45 Mr. Robinson: We could do it the oppose way. We could redistrict it, rezone it and then people
46 could apply for an ag exemption for taxes.
47

48 Mr. Spence: Yes, they could.
49

1 Mr. Robinson: Right. Instead of the other way around.

2

3 Mr. Spence: Absolutely.

4

5 Mr. Robinson: Which makes too much sense.

6

7 Mr. Spence: I concur. Or there's another way perhaps when the Title 19 rewrite comes through
8 I know a couple of the other counties have different agricultural districts. I want to say on the Big
9 Island they have a Family Agricultural District, small lots, predominantly, it's much more like Rural
10 and then they have a Ag District that's really much more about commercial agriculture and there's
11 different permitted uses and limitations on that. That might be another way to deal with this, but
12 I agree, it should be a different district altogether.

13

14 Mr. Robinson: And it can be, right?

15

16 Mr. Spence: Yes, it can be.

17

18 Mr. Robinson: Any other questions Commissioners? Thank you.

19

20 Mr. Spence: Thank you Commissioners.

21

22 Mr. Robinson: And remember you're supposed to add housing, so...

23

24 Mr. Spence: Yes. Oh, that's like trying...

25

26 Mr. Robinson: Is there any other testifiers? Seeing none, public testimony is closed. At this time,
27 Commissioners we have questions for David? Commissioner La Costa.

28

29 Ms. La Costa: Thank you Chair. I also would like to address the second sentence. To me it is
30 conflicting because one, two farm dwellings per lot, one of which shall not exceed 1,000 square
31 feet of developable area included may be structures usual to that dwelling use. And then it says
32 aboveground structures are limited. Well, you're contradicting because one can be and one
33 cannot be. So now it's saying that the aboveground structures cannot exceed 1,000 square feet.
34 So living on an ag lot that means that none of my structures, if I build a main home it cannot
35 exceed 1,000 square feet because of that "s". Am I reading it correctly or no?

36

37 Mr. Raatz: Thank you Chair. Thanks for the question. I think we're...I don't think that's an
38 accurate reading of it.

39

40 Ms. La Costa: Structures is plural, yeah?

41

42 Mr. Raatz: Well, maybe the Director wants to help me out?

43

44 Mr. Robinson: Yes, please Director.

45

46 Ms. McLean: Thank you for the question. I don't think that's the intent but I can see how it can
47 be read that way so that should be clarified that in that second sentence that the reference to
48 aboveground structures relates to the structures that are being added by this amendment that

1 that aboveground structures does not relate to the two farm dwellings. That's a very good
2 clarification.

3
4 Mr. Robinson: Commissioners any other questions? Director, would you like to comment?

5
6 Ms. McLean: Thank you Chair. I'd like to give just very briefly some background. I have some
7 spent some wonderful time with the Agricultural Working Group working on the rules that they
8 referenced. And the challenge as you've touched upon today is supporting agriculture on the one
9 hand which generally means being permissive versus wanting to curb the abuse on the other
10 hand which generally means being restrictive. So that's a hard balance to achieve and working
11 with the Ag Working Group we would discuss some of the abuses that we've seen and they would
12 feel like oh, yeah, you can't allow that, you can't allow that. But if you take that same circumstance
13 and sort of translate it to a real farmer or rancher they say, oh well no we need to be able to...we
14 need to be allowed to do that. So it's a very difficult challenge. Just to establish, I don't know of
15 a circumstance where we, where the Planning Department has not signed off on a building permit
16 for a garage. If it's a garage with a tile floor and 220 electric and plumbing we might have issues
17 with that. But if it's what's clearly a plain garage we have signed off on those. We have signed
18 off on swimming pools because there's not a concern that a swimming pool might be converted
19 to something else. There's not a concern that a tennis court might be converted to something
20 else. There is a concern that that these types of structures could be converted to something else.
21 And the only reason we're concerned about that is because the code calls for that 1,000 square
22 foot limit on the second farm dwelling if you allow these other structures then that 1,000 square
23 feet sort of becomes meaningless. The example that was given is if you have your unlimited size
24 farm dwelling and you want to build a workout room or a media room you can, but you can't do
25 that for the thousand square foot farm dwelling and the answer is well, yeah, that's because it has
26 a limit of a thousand square feet. So it's...of course we want the farm dwellings to be livable and
27 certainly any use is needed for agriculture we want to be permissive with but it's trying to find that
28 balance of opening it up for abuse so that if allow these additional structures that aren't agriculture
29 related, they're related to the dwelling then why do we have that thousand square foot limitation
30 on the second farm dwelling. That's the real challenge here. Thank you Chair.

31
32 Mr. Robinson: Corporation Counsel.

33
34 Mr. Galazin: Thank you Chair. I don't want to speak for the Department necessarily I'm just trying
35 to provide you with some things to consider. With this bill I think you're looking at a subset of a
36 category which already, you're talking about the Ag District, you have your permitted uses, you
37 have your accessory uses. Well, those accessory uses happens to be a farm dwelling. Dwellings
38 themselves typically, you know, are allowed accessory uses but because that's not spelled out in
39 the Code these things would presumably have to be accessory to farming or find somewhere
40 within this existing section of the Code for an accessory structure. And I think what the
41 Department is trying say is that, they've considered these dwelling units as they would any other
42 dwelling unit and if somebody wants a garage, that's you know, a accessory for any type of
43 dwelling. Well, the Code as it currently reads technically may not allow that. The Department's
44 view has been that well, these are dwelling units we shouldn't treat them any different than any
45 other dwelling unit.

46
47 I'd also like to comment to Commissioner Tackett's earlier point we do have a definition for
48 accessory building or structure and that is within Title 19, and again, it contains the same language
49 you know which is attached, it's from the principle building, it's customarily incidental and

1 subordinate to the principle building or use, but it also ends with, and not used for human
2 habitation. So I don't think you need to clarify or suggest clarifying language within what the
3 Department's proposing that this accessory to the farm dwelling can't be used for habitation
4 because by definition it can't be used for habitation. And as the Housing Director pointed out
5 there are always going to be abuses no matter, you know, whatever district you're talking about.
6 So I do think clarification is important because Planning needs some way to be able to legitimately
7 provide these, you know, permit these accessory structures which would be normal to any kind
8 of dwelling unit you know whether it's a garage, whether it's a small outdoor storage shed and
9 what have you. And so you're making a recommendation to the Council on this ordinance, you
10 can go where you will with it. I just wanted to give you some points to think about as you discuss
11 and before you make your recommendation.

12
13 Mr. Robinson: So David I got a question for you and I want to go with the criteria. One farm labor
14 dwelling per five acres of a lot area. Two out of the three. So I want to go with B, provide
15 certification by Department of Water Supply that agricultural water rates are being paid if the
16 subject lot is served. So we're asking, we're asking that they have agricultural water? I mean,
17 'cause on a building permit you have to have water calculations, you know, and so this is where
18 I'm at. So if you want a second building the water calculations and not having enough water is
19 not going to qualify you for your calculations you know, and then if you had a swimming pool that
20 you know all these things are supposed to add up in a different code not necessarily this area.
21 But in B, you're asking that they have to have ag. So what if somebody has a one-inch ag line
22 and then now they all of a sudden they have enough water to not use on ag and they're, they're
23 you know if...and I'm sorry I'm rambling, but somebody has a five-acre lot and they're using four
24 acres for farm land and they have a water line for ag then they're able to you know put an auxiliary
25 dwelling on or a housing dwelling are they allowed to use that ag water for that other dwelling
26 because they're already permitted that and is that something that the Department would look at
27 when permitting other structures. You know, is swimming pools 'cause swimming pools take
28 water is that being calculated for additional water usage just like an extra room would be? How
29 is the Department dealing with that?

30
31 Mr. Raatz: Thank you Chair I don't have the answer to that. Be happy to look into that. For the
32 record, in this bill we're not proposing to change that particular subsection relating to farm labor
33 dwellings. It's the prior subsection of farm dwelling which is different concept technically.

34
35 Mr. Robinson: I know but you're asking, you're asking for if they have farming water, right? They
36 have agricultural water rates and why you're asking if they have agricultural water rates? Because
37 if they had standard water rates to me it's the opposite. Am I reading this wrong? Am I
38 misconstruing what this sentence means?

39
40 Mr. Raatz: No, I think it's a valid area of inquiry. In preparing this bill we haven't looked at that
41 issue, but we'll take that into consideration.

42
43 Mr. Robinson: Yeah, I know but what we're adopting we're only changing certain things. So
44 that's...yeah, what I'm saying what we're looking at is like...and you know we're looking and I
45 guess what we're thinking about is the auxiliary use of a house if we're using more units, you
46 know for recommendations. So I mean, Corporation Counsel please.

47
48 Mr. Galazin: Yeah, thank you Chair and maybe I can, maybe I can clarify something for you. So
49 in Item 1 what the Department's is proposing to change is to farm dwellings which is defined in

1 Title 19 as basically a single family dwelling that's located on and used in connection with a farm.
2 What you're talking about is in Section 2, a, b, and c, that's a farm labor dwelling and that's defined
3 for a unit that's used exclusively by agricultural employees employed full-time or seasonally in the
4 county located on the farm. So that's, that would be for somebody working on the farm and they're
5 an employee and that is you know, the farm labor dwelling. That's supposed to be just for the
6 workers. I think that's why it has different criteria. What the Department's trying to do right now
7 is just to address the issue of farm dwelling which it would be, you know, you have the house.
8

9 Mr. Robinson: I guess my question is why are we asking if they have agricultural water rates? Is
10 there a different permit to get agricultural water rates and therefore they look at different criteria
11 for housing and other second farm dwellings. That's what I'm trying to say is there something
12 that's connected to trying to get that agricultural water rate 'cause that to me is...that's what stands
13 out for the auxiliary dwellings. Is there another permit? Go ahead Director.
14

15 Ms. McLean: Thank you Chair. And one of the folks from the Ag Working Group can clarify this.
16 But that is a process you go through with the Department of Water Supply and it has to do with
17 income derive from your farming or your ranching. So you demonstrate that through tax
18 information that you provide to the Water Department to demonstrate that you have commercial
19 agricultural income and if you and then the Water Department charges you agricultural water rates
20 it isn't a separate water line, you don't have ag water and non-water. It's just the water that serves
21 your home is...costs a lower rate than everybody else and that's one of the tests that can be
22 passed in order to have that farm labor dwelling that you're already showing commercial
23 agriculture production. It's a pretty low threshold I understand, \$1,000. So it's not a difficult test
24 to pass.
25

26 Mr. Robinson: Thank you. Commissioner La Costa.
27

28 Ms. La Costa: Thank you Chair. In addition to that, this says and I understand this is not being
29 changed but my question was it says if the subject lot is served by the County water system.
30 There are a lot of private water systems also and I think that that's kind of nebulous because if
31 you don't have County then it doesn't apply. So why should that not apply to all ag water systems?
32

33 Mr. Carnicelli: Point of order Chair? What we're tasked with here today is we're given a proposed
34 amendment to Title 19 by the Department to then give our recommendation on their proposed
35 changes to the County Council. I understand that we have the entire Chapter 19.30A.050 but
36 what we're tasked with here today is not to revisit the entire chapter but to make comment on
37 what it is that they're proposing. So all of these are great comments and probably things that
38 should be addressed. However, what we're tasked with here today is to make a recommendation
39 to the Council on the Department's proposed bill.
40

41 Mr. Robinson: Is...thank you for your comment and I understand what you're trying to say, it's I
42 want a clarification on what the category is labor dwelling 'cause it's auxiliary dwelling or another
43 dwelling of a thousand feet. And so I think that ties into are we going to allow structures of a
44 thousand feet, where's the water is coming from and they have to qualify with the Department of
45 Water so I was trying to find where that connection was of this criteria of what actually is a labor
46 dwelling 'cause a labor dwelling is different than a auxiliary dwelling. So if we're gonna open up
47 and recommend that we take away that thousand square feet or that we keep it I know that the
48 labor dwelling is still gonna be protected as a separate item. And I understand where you think

1 it's a tangent but I wanted to just get that clarification. It had nothing to do with...that was where
2 my connection was.

3
4 Mr. Carnicelli: Okay.

5
6 Mr. Robinson: Kahu Hill.

7
8 Kahu Hill: Just on a separate matter. I'm just wanting a...even though I'm here, knowing more
9 about Maui looking at our other islands that this is a Countywide ordinance and so I'm wanting to
10 know if Lanai and Molokai was reached out to and any of the people there and their ag lands and
11 if they chimed in on any kind of testimony or are the planning commissions there?

12
13 Mr. Raatz: Thank you for that question. We're going to the Molokai Planning Commission
14 tomorrow and the Lanai Planning Commission next week. We've advertised those meeting
15 agendas and we certainly hope we get a lot of public input.

16
17 Mr. Robinson: Thank you. Is there any other questions or comments?

18
19 Mr. Raatz: Chair if I may just real briefly?

20
21 Mr. Robinson: Please Dave.

22
23 Mr. Raatz: Wanted to point out when we're dealing with agriculture uses there's always an overlay
24 of state law, HRS Chapter 205 restricts some of what the County can do with regard to Agricultural
25 zoning. And there was a case from the Hawaii Supreme Court back in 2005 that clarified under
26 State Law that the accessory to accessory concept is valid and that was regarding Hawaii County
27 Code where they were seeking approval of a garage as an accessory use to a farm dwelling and
28 the Supreme Court said under both the Hawaii County Code because they had the provisions for
29 accessory dwelling and HRS 205 that that was appropriate. So we feel comfortable that if this
30 passes and the County Code will be consistent with the overlaying state law as well.

31
32 And just finally, what we are asking for is your recommendations and findings to the Council and
33 as usual that means there's four main routes you can take, you can recommend that the Council
34 pass the bill as is, you can recommend that the Council pass the bill with amendments, you can
35 recommend that the Council not pass bill or you could defer consideration pending further
36 information from the Department. Thank you very much.

37
38 Mr. Robinson: Thank you. And again, Commissioners it's a recommendation so it doesn't have
39 to be unanimous. We can have five different ideas on it and recommend all five and the Council
40 will take and choose as they wish anyway regardless if we are unanimous or not. That having
41 said, does any Commissioners have something they'd like to put on the docket for them?

42
43 **b) Action**

44
45 Mr. Carnicelli: Thank you Chair. I'd like to make a motion to transmit this for the Council to
46 approve, however to delete the sentence that says, above ground structures are limited to 1,000
47 square feet and counted toward the developable area of the lot. So all the other changes would
48 remain, however that particular sentence would be deleted is my motion.

49

1 Kahu Hill: Second.

2

3 Mr. Robinson: Seconded by Commissioner Hill and La Costa. Discussion on the motion?

4

5 Mr. Carnicelli: So Chair I do believe that you know as multiple people have said this is that
6 balance, right? This is the gentleman farmer versus the real rancher farmer and where do we
7 split that? So I am however concerned about the limitation of the thousand square feet and yes,
8 does that open the door for abuses and all of that other stuff? It can, however we can't legislate
9 enforcement. So that's why I think that it's better to I guess allow the ranchers and farmers that
10 option. I like your idea of you know Ag to Rural, is it needed? Absolutely it's needed and maybe
11 you know the Department will bring something here in the next...or what you're clock's ticking five
12 and a half months whatever is left. The living quarters I think Corporation Counsel addressed
13 that. I think the one testifier bringing in you know how this is appropriate in regards...or in
14 comparison to real property taxes and rural is appropriate. And you know, we're always going to
15 be limited by developable area anyways as far as the thousand square feet goes. So that's why
16 I'm gonna support the motion to transmit it to the Council. Thank you Chair.

17

18 Mr. Robinson: Thank you. Discussion anyone? It's is I have a property on the Big Island and it's
19 Rural until I prove that I get an exemption for Ag.

20

21 Mr. Carnicelli: Right.

22

23 Mr. Robinson: Three acres. You know I have to prove that we use it and then you get the
24 exemption. It's not the other way around. You know, and it's hard for the...and it may be a
25 monetary thing but it's just a...it's just a neighborly thing or we're all in it together type of thing
26 when we see gentleman estates that are in ag land that are paying ag rates, you know. I live in
27 Kahului it doesn't affect every day but the point is we all should be able to follow the same rules
28 and we all should be reasonable, you know, and it does comes with enforcement. But knowing
29 that we have a lack of enforcement, you know, I think is a consideration, you know. It shouldn't
30 be, we shouldn't have to worry about it, but you know, it's...like I learned the last session with our
31 Corp. Counsel that permits stay until they mess up which means everything's grandfathered in
32 which means, you know, we allow 49 percent of a property of ag to become unag and it's pool,
33 it's a tennis court it may not ever return and it could be prime land. We have, you know we would
34 be howling a little bit more if that was green, lush acreage up in Launiupoko but we know it's not.
35 You know we know it's dust storm area and it's rocks. And we can't look in the future. So I think,
36 I think what we recommend is good. I think the thousand, the thousand square feet I think people
37 want to use it, but I think we should look at it for different size properties. You know I see a half-
38 acre ag lot having unlimited size, auxiliary dwelling you know towards a—

39

40 Mr. Carnicelli: ...(inaudible-not speaking into a mic)...buildable area.

41

42 Mr. Robinson: Yeah, I mean I saying to where it is as compared to somebody that has 50 acres,
43 you know who has a huge tractor. You know once we open it up, we open it up and why is it
44 above ground? You know why aren't we counting under the ground? You know, is buildable area
45 again is buildable area, you know. Is so with loosing that thousand feet do we address the
46 porches, the drying, the screen structures? David I think so we do, right? And I think that's what
47 we heard today, you know. So is my only recommendation is that is that we recommend to the
48 Council to look at changing designations from ag developments into rural developments and let
49 people you know come back and ask for ag with a simple...and again, and guys on the Big Island

1 the guy drives by, he sees my ag, he sees my cows, he sees whatever it is and it's done. It isn't
2 a 50 you know whatever type of page and you gotta have planners come out. It's a simple, they
3 look, yeah okay this is a ag house and they move on. You know, but if I have cabanas, if I have
4 a second dwelling, I have, you know a bunch of quads and motorcycle bikes and you know, you
5 guys know, you guys have seen it. You can go online and you can see these ag lots being sold
6 as vacation rentals. I think that's what we want to kind of limit and keep the ag, ag. Okay, so
7 besides that recommendation is that it?

8
9 Ms. McLean: There's a motion on the floor.

10
11 Mr. Carnicelli: We have a motion on the floor.

12
13 Mr. Robinson: Yeah, I know. Is I don't know if we want to add on. Okay, but again, it's a
14 recommendation we don't have to even be unanimous. I think we can agree that we're all...we
15 all agree to that motion by Commissioner Carnicelli. All in favor of recommending that? Okay,
16 that's five. And I'll just put my recommendation you know that, that they should seriously look at
17 changing the ag to rural.

18
19 Mr. Raatz: Thank you very much.

20
21 Mr. Robinson: Thank you.

22
23 **It was moved by Mr. Carnicelli, seconded by Kahu Hill, then**

24
25 **VOTED: To Recommend Approval to the County Council of the Proposed**
26 **Amendments to Title 19 of the Maui County Code as recommended**
27 **by the Department, with the deletion of the sentence, "Above-ground**
28 **structures are limited to one-thousand square feet and counted**
29 **toward the developable area of the lot." Also, to forward a**
30 **recommendation made that the Council look at changing**
31 **designations from ag developments into rural developments and let**
32 **people come back for ag.**
33 **(Assenting – L. Carnicelli, A. Hill, C. Tackett, P.D. La Costa,**
34 **K. Robinson)**
35 **(Excused – S. Castro, L. Hudson, T. Gomes)**
36

37
38 Submitted by,

39
40
41 Carolyn Takayama-Corden
42 Secretary to Boards & Commissions II