

LAND USE COMMITTEE

Council of the County of Maui

MINUTES

November 14, 2018

Council Chamber, 8th Floor

CONVENE: 1:38 p.m.

PRESENT: Councilmember Robert Carroll, Chair
Councilmember Riki Hokama, Vice-Chair
Councilmember Alika Atay (out 1:48 p.m.)
Councilmember Elle Cochran
Councilmember Stacy Crivello (in 1:48 p.m., out 3:20 p.m.)
Councilmember Kelly T. King
Councilmember Yuki Lei K. Sugimura (in 1:43 p.m.)

EXCUSED: Councilmember Don S. Guzman
Councilmember Mike White

STAFF: Carla Nakata, Legislative Attorney
James Krueger, Legislative Analyst
Rayna 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.: Michele McLean, Planning Director, Department of Planning
John Rapacz, Planning Program Administrator, Zoning and Enforcement Division, Department of Planning
Michael Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel

OTHERS: Jordan Hart, Chris Hart and Partners, Inc.
Tom Croly, Maui Vacation Rental Association
Anthony Wrzosek, Vice President, R.D. Olson Development
(3) additional attendees

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

CHAIR CARROLL: . . .*(gavel)*. . . Land Use Committee meeting will come to order. I'm Councilmember Robert Carroll, Chair of the Land Use Committee. First, may I request if anybody has anything that makes noise, please put it on the silent mode or turn it off. With us this afternoon we have the Vice-Chair of the Committee, Mr. Hokama.

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VICE-CHAIR HOKAMA: Chairman.

CHAIR CARROLL: Ms. King.

COUNCILMEMBER KING: Good afternoon.

CHAIR CARROLL: Ms. Cochran.

COUNCILMEMBER COCHRAN: Aloha, Chair.

CHAIR CARROLL: Mr. Atay.

COUNCILMEMBER ATAY: Good afternoon, Chair.

CHAIR CARROLL: Excused this afternoon we have Don Guzman and Mr. White. The rest should join us shortly. Corporation Counsel, we have Mike Hopper, Deputy Corporation Counsel; Administrative representative, Michele McLean, Planning Director; John Rapacz, Planning Program Administrator, Zoning and Enforcement Division, Department of Planning. Staff, we have Committee Secretary Rayna Yap; Legislative Analyst James Krueger; Legislative Attorney Carla Nakata. And our District Offices, we have Dawn Lono at the Hana District Office; Denise Fernandez, Lanai District Office; and Ella Alcon, Molokai District Office. We have one item on the agenda today, LU-65, to amend Title 19, Maui County Code, relating to off-street parking and loading and related definitions. Members testifying in the Chamber you have three minutes. When you come to the podium, please identify yourself and any organization that you might represent. Proceed.

. . .BEGIN PUBLIC TESTIMONY. . .

MR. KRUEGER: Mr. Chair, we have one person signed up to testify in the Chambers; that is Jordan Hart testifying on agenda item LU-65. Oh, to be followed by Tom Croly.

MR. HART: Good afternoon, Chair and Members. My name is Jordan Hart, President of Chris Hart and Partners, here to testify on LU-65, the update to the Maui County Code 19.36A which will become 19.36B, the parking ordinance. On October 2nd, I provided testimony to the Committee basically raising concerns about a specific client that I had R.D. Olson Development who is scheduled for Maui Planning Commission on November 13th. Their project was designed under the existing parking ordinance. We were anticipating approval. Because of the timing of the adoption of this ordinance, they would be in a scenario where they have SMA major permit approval and there's a gap where this ordinance would be adopted. They would submit their building permit applications and their building permit applications would not be in compliance with the new parking ordinance that I presume is going to be adopted shortly. Yesterday we received Planned Development Step I and II approval as well as SMA major permit approval. That puts us in the scenario that I was anticipating where it's very likely that this ordinance is adopted prior to their submittal of building permit at which

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point the Planning Department Zoning and Enforcement Administration would conclude that their parking is insufficient compared to current Code and we'd have to resolve the inconsistency in our SMA major permit. I'm asking for a potential exclusion from this ordinance; that would be projects that have received SMA major use permit approval by the Maui Planning Commission prior to the adoption of this ordinance and that those projects would be able to conclude development under the existing parking ordinance. I think that this is a reasonable addition because there are time limitations to SMA permits and so ultimately all of those would fade away. But, I imagine there's only a few that are pending in this scenario. And so, I think that it's a reasonable proposal and I appreciate your consideration. Thank you.

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

MR. KRUEGER: Mr. Chair, the next person signed up to testify is Tom Croly testifying on agenda item LU-65, to be followed by Anthony Wrzosek.

MR. CROLY: Aloha, Chair. Tom Croly testifying on behalf of the Maui Vacation Rental Association. I testified on this item at the Planning Commission, but the comments were not included in the draft you got so I'm here again testifying on that. The proposed requirements for bed and breakfast homes contained in this new parking code are incorrect and they do not carry out the County Council's intent when they created the bed and breakfast ordinance. The Maui Vacation Rental Association wants to ensure that all parking requirements for bed and breakfast homes are adequate to ensure that all guests for permitted bed and breakfast park onsite as required in every bed and breakfast permit. However, what has been proposed in what's before you right now is a doubling of the parking requirements. We feel that it's draconian to make the parking requirements so severe that people aren't going to be able to comply with the Parking Code. The Director incorrectly reported to this Committee at the last meeting that this newly proposed Code represents no change from the existing Code. Well, I want to read the existing Code to you, one parking space for each bedroom used for bed and breakfast home use in addition to other parking spaces required by this section. It's period at that point in what's before you today. But what the current Code says in addition to other parking requirements for this section for dwellings not used for short-term rental and stalls may be situated in tandem. Point is this, you can't make one set of requirements for the house and then say now we're gonna add on top of that these requirements for the bedrooms in that house that we've already made requirements for. So, you're doubling the parking requirements if you adopt this current Code. I also believe that this one size fits all doesn't necessarily suit all the bed and breakfasts. Sometimes someone is renting out an entire unit to just one person. That unit might have three bedrooms or four bedrooms in it. The person renting it is gonna have one car, maybe two cars like they would for a short-term rental. But, instead we're saying you have to have four parking spaces for each of those bedrooms. So, the parking would be better stated as per rental unit as opposed to per bedroom. We can make some recommendations in that regard if the Department is open to it, if the Chair is open to that. Catherine Clark of the Maui Vacation Rental Association sent in some testimony that I hope was received by the Department and by this Committee that also lays this out. In the few seconds

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that I have left, I will also say that I think that this Parking Code is an opportunity to create perhaps affordable housing opportunities. Perhaps we should be looking instead of creating more regulations for parking, we should say for affordable housing that's located in areas that are served by a bus line, for perhaps --

MR. KRUEGER: Three minutes.

MR. CROLY: --the requirements could be cut in half. So, someone, a builder could then build greater density and if they were serviced by a bus line maybe not need all these parking requirements. So, just something where I think we should be using incentives in here instead of just requirements. 'Cause understand, every time you make a requirement, you really are increasing the cost of --

CHAIR CARROLL: Please conclude.

MR. CROLY: --housing for everyone. Thank you.

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

MR. KRUEGER: The last person signed up to testify in the Chambers is Anthony Wrzosek testifying on agenda item LU-65.

MR. WRZOSEK: Good afternoon, Committee Members. My name is Anthony Wrzosek, Vice-President with R.D. Olson Development. We are the developers of the proposed 110-room hotel in Wailea, Hotel Ike, and as highlighted by Mr. Hart, our project has received Planning Commission approval of the P.D. Step I, P.D. Step II, and major SMA. We would appreciate your consideration in light of entitlements and approval of a major SMA permit by Planning Commission that some sort of exemption be placed on our project. We've been working with the Planning Department for the past year and a half. It's been a collaborative effort designing our project to the current parking ordinance. By the way, we've designed a surplus of 40 percent. So, we abide by the current parking ordinance plus 40 percent of parking spaces. However, to, from our point of view, penalize us after the fact with the new ordinance, it would create a significant financial hardship and major redesign of our development. So, we appreciate your consideration. We understand the intent of the new parking, new proposed parking ordinance, and we feel that it'll be an incredible tool for future development. But, in our case, would like consideration for the fact that we do have Planning Commission approval for a hotel based on the current parking ordinance. Thank you.

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

COUNCILMEMBER KING: Thank you, Chair. Hi, can you remind me again how many parking spaces you have in your design?

MR. WRZOSEK: Yes. We have designed it to a .7 ratio, 78 spaces.

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COUNCILMEMBER KING: Okay. And then you don't anticipate that this, that you'll ever need street parking with this number?

MR. WRZOSEK: No, not based on our current occupancy patterns. We're comfortable with the .7 ratio; current Code is .5. So, we're 40 percent greater.

COUNCILMEMBER KING: No, I understand that. But, I'm just wondering if you were ever fully, you know, occupied what would, you know, would you anticipate some of those rooms might be using mass transit or other, not need parking spaces?

MR. WRZOSEK: Correct. Guests arrive by different means whether it'd be individual cars or car pools or Uber, Lyft. We also offer a shuttle to assist and keep traffic to a minimum within the community, within Wailea. Our shuttle is free for guests to use within a two-mile radius of our hotel which encompasses the town of Wailea.

COUNCILMEMBER KING: Okay. Thank you, Chair.

MR. WRZOSEK: Okay. Thank you.

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

MR. WRZOSEK: Okay. Thank you.

CHAIR CARROLL: And Ms. Sugimura has joined us. Thank you.

COUNCILMEMBER SUGIMURA: Aloha, Chair.

CHAIR CARROLL: And Ms. Crivello.

COUNCILMEMBER CRIVELLO: Aloha, Chair.

CHAIR CARROLL: Do we have anyone else?

MR. KRUEGER: Mr. Chair, there is no one else currently signed up to testify in the Chambers.

CHAIR CARROLL: Hana, do you have anybody waiting to give testimony?

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

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

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

CHAIR CARROLL: Thank you. Members, having no one in the Chamber or the remote sites waiting to give testimony, if there's no objection I will close public testimony.

COUNCILMEMBERS: No objections.

CHAIR CARROLL: Public testimony is now closed.

. . .END OF PUBLIC TESTIMONY. . .

ITEM LU-65: AMENDING TITLE 19, MAUI COUNTY CODE, RELATING TO OFF-STREET PARKING AND LOADING AND RELATED DEFINITIONS (CC 18-304)

CHAIR CARROLL: Members, we have one item on our agenda, LU-65, Amending Title 19, Maui County Code Relating to Off-Street Parking and Loading and Related Definitions. The Committee last met on this item on October 2, 2018. At that meeting, the Committee received a presentation from Department of Planning on the proposed bill. The presentation is available in Granicus if you would like to review it. The Committee has last considered an unsigned bill. The Corporation Counsel has since approved a further revised bill as to form and legality and transmitted it to us for consideration. That version was transmitted by correspondence dated November 7, 2018 and has been posted for today's meeting. Ms. McLean, do you have any opening comments?

MS. McLEAN: Thank you, Chair, and thank you for scheduling this today. Just very briefly, the purpose of the proposed changes are to address shortcomings or challenges that the Department has found in administering the existing Parking Code; also, to avoid paved, requiring paved parking where we think it's appropriate to have reductions or alternatives, and to promote walkability and alternative forms of transportation. The uses that are listed in the current Code are pretty narrow and sometimes too specific, sometimes not general enough. Some of the existing requirements are too restrictive while others are too lenient and it doesn't allow a whole lot of flexibility. The Department conducted outreach earlier this year. We had a public meeting. We met with the Maui Chamber of Commerce. We reviewed the changes with the Arborist Committee. There was review by the three Planning Commissions and we've taken the comments that we received by the Planning Commissions and incorporated them into the bill that's before you today. And the testimony that you heard is very important and we do have suggested revisions that I believe would address those concerns pretty simply and straightforward that one I know we have typed out and was distributed, the other one we can just read if you get that far. So, I'm happy to go over some of those areas in more detail if you'd like, Chair; up to you and the Committee how you want to proceed.

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CHAIR CARROLL: Members, I'll open the floor at this time for discussion to Planning. Ms. Sugimura?

COUNCILMEMBER SUGIMURA: Chair, I guess the Department said that they would go over the proposed changes or the document. So, if that could, if we could do that?

CHAIR CARROLL: Yes, she offered to.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR CARROLL: Anything further before I turn it back to the Department and we can review? Mr. Hokama?

VICE-CHAIR HOKAMA: Chairman, we're gonna work off your November 7, 2018 communication, Chairman?

CHAIR CARROLL: Yes.

VICE-CHAIR HOKAMA: Is that the attachment we will be working from? Okay. Thank you. Maybe one of the things the Department can help us with this proposed revision is highlight the areas of the revisions. You know, the revised proposal is pretty much doesn't tell us where the changes were made from the previous draft. So, that might be helpful. And I appreciate the testimony, Chairman. But, as our colleagues on Oahu is dealing with monster houses, you know, Kahului has some challenges also. And so, for me, I don't have a problem with being very strict on off-street requirements because our streets cannot handle it currently. It's a safety issue on our streets for first responders. So, I have no problem making it very strong including enforcement and penalties, Chairman. You know, I tried incentives. Our people do not respond to incentives. They respond to the stick though. So, I don't have a problem making it very hard, Chairman, because again our streets, our densities, our underground infrastructure wasn't geared for greater densities; was geared for what we have currently. Okay. We're gonna make the changes, then let us be honest from our departments on what we're gonna need to do to adjust the road, the waterline, the sewer line, access for Police and Fire, emergency services 'cause it's going to take money, Chairman. So, for me, I appreciate the effort by the Department 'cause I think it's timely. But, I'm not looking at making this anymore less restrictive, Chairman. I need a strong stick, okay, everywhere we look at. Let's go down Waiale. Okay. Police knows the current Code states no overnight parking in this County. Do you know how much overnight parking we get every night blocking intersections, parking in front of stop signs, around intersection corners, blocking line of sight, and pedestrian safety? Our police can tag every day for the whole shift if they wanted to. Okay. So, we need enforcement, Chairman, and that's what I hope that we would talk about as part of this proposal is how we're gonna provide the enforcement for compliance and whether or not the penalties is sufficient to make it work. Thank you, Chairman.

CHAIR CARROLL: Any more comments or questions for Planning before I turn it back to Planning? Could you proceed in going through the document?

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MS. McLEAN: Thank you, Chair. If you wanted to look in Granicus at County Communication 18-034...right, 18-304, attached to that is an Exhibit 2 which is the memo that we prepared for the Maui Planning Commission. And that memo has a chart attached to it that lists the uses, where the parking requirement has been decreased, uses where there are little or no changes, and uses where there are increases in the parking requirement. And then it goes through and gives an overview. So, I'll just go ahead and state that in general the requirements are proposed to be...well, to answer Mr. Hokama's question, the, we're proposing to replace the entire chapter because the chapter right now is a hodgepodge. It doesn't flow step by step by step and so to red line it or to use the Ramseyer format it was just a big mess. So...

VICE-CHAIR HOKAMA: So, Exhibit 1 and Exhibit 2 for our Committee's understanding is the areas that is to be repealed and replaced with the proposed draft attached to November 7th communication? Is that what our...

MS. McLEAN: The exhibit 1 --

VICE-CHAIR HOKAMA: Correct?

MS. McLEAN: --isn't part of the bill. That's just a chart for information purposes to show the difference between the existing and the proposed.

VICE-CHAIR HOKAMA: Yeah, you know, I just ask that, Director, yeah 'cause, you know, for all of us we going looking at exhibit 1...I do the paper version so yeah I apologize, but on the top, you stay telling us is the key differences between Chapter 19.36A and 19.36B, that's part of the title of what the Chairman posted so but this is not part of the legislation? The exhibits?

MS. McLEAN: That's right.

VICE-CHAIR HOKAMA: And Exhibit 2 is also not part of the legislation?

MS. McLEAN: Correct. That was part of the transmittal to the Council that lists out...

VICE-CHAIR HOKAMA: So, just in a short form then you telling us to repeal these two exhibits and consider enacting the new attachment to November 7th to replace?

MS. McLEAN: No, the exhibits don't need to be repealed; that's just a chart that shows the differences between the existing Code and the proposed new Code. So, if the bill is adopted it would repeal the existing Code and adopt the new Code. So, it would in effect put the chart into law, but the chart itself is not part of the bill.

VICE-CHAIR HOKAMA: Okay. Okay. Thank you for that clarification, Director. Thank you, Chairman.

COUNCILMEMBER KING: Chair?

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CHAIR CARROLL: Thank you, Mr. Hokama. Ms. King?

COUNCILMEMBER KING: You know, I don't know what I'm looking at. I'm looking at the communication you talked about but I have a page that says Exhibit 1.

MS. McLEAN: This is Exhibit 2 of that...

COUNCILMEMBER KING: Okay. So Exhibit 1 is the bill?

MS. McLEAN: Is the bill. Well, --

COUNCILMEMBER KING: Is the actual bill?

MS. McLEAN: --Exhibit 1 is the bill that was transmitted to the Council.

COUNCILMEMBER KING: Okay. That...originally and then --

MS. McLEAN: Right.

COUNCILMEMBER KING: --you have changes to that?

MS. McLEAN: And that same bill was sent up to Corporation Counsel and they made some tweaks to it in order for them to sign off as to form and legality. So, that's a separate communication in front of the Committee.

COUNCILMEMBER KING: Okay. I'm looking for exhibit...okay. So, Exhibit 2 is just a list of changes?

MS. McLEAN: Correct.

COUNCILMEMBER KING: Okay. Thought you said something about a chart, but I didn't...

MS. McLEAN: Well, I called it a chart 'cause it's in a box.

COUNCILMEMBER KING: I don't know if I'm looking at the same thing then 'cause mine's not in a box. It's just a letter that has, looks like this.

MS. McLEAN: Okay. So, if you scroll two more pages then you'll come up with the chart, I believe.

COUNCILMEMBER KING: Okay. Okay. I see.

CHAIR CARROLL: Alright. Anything else, questions for Planning?

COUNCILMEMBER COCHRAN: Chair?

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CHAIR CARROLL: Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you. Thanks, Department, for being here. And I just want to maybe go back to Mr. Hokama brings up the point quite often about the on-street parking issues and I live it every day, too, being at my mom's house up in Lahainaluna Road and all those subdivisions. And I see you want to minimize, obviously, the on-street parking demand that we see, but I mean, as stated, there is actually a law on the books, that is simply illegal at this time, right? I mean and it so I know we're not gonna go out and run around, but I mean technically, if we were to follow the laws as written we would need to and should be and so I don't know how all this, so we looking to repeal that or adjust that somehow or 'cause there's no solution and that's why we have what we have. But, I do see the points where people are parking in intersections, around turns, in very detrimental, safety hazard ways. I just had again my mom's home is in Kilauea Mauka and police or fire truck, one of our big fire trucks, had to navigate through and I don't think they could make the turn down the road 'cause this is the middle of the night when everyone's home sleeping so every car is out there. You know, it depends on the time of day how congested it is. So, that's a hazard. You know, I mean they had to get to give some CPR or put out a fire. I mean, so how are we addressing that? You know, how is it these changes if anywhere in here is going to help alleviate that in any way?

CHAIR CARROLL: Ms. McLean?

MS. McLEAN: That's a great question. The every kind of use you can imagine has a parking requirement associated with it and what we're finding in many residential neighborhoods and also with some businesses that that parking requirement currently is inadequate. So, for a single-family home, no matter the size, it can be tiny, it can be huge, the current requirement is just two parking spaces. And so that's why we're seeing in a lot of the residential areas, two spaces isn't enough. You have more than two people who drive cars living there or you have friends visit or you have friends come and stay. In many cases, you have many adults who drive staying in one home and yet the Code only requires two parking spaces. And so, what happens is those people end up parking on the street and if that's, if parking on the street is legal, then that's that. If parking on that street is illegal, then that's something for Police to enforce. And even if street parking is allowed, you can't park within certain distances of intersections, so that's something that Police could enforce. In terms of making sure that properties have adequate parking on their lots, that's one of the things that this bill would address; is specifically for single-family homes, it increases the parking requirement based on the size of the home. And this is a minimum requirement so people can certainly provide more parking on their property if they want to, but minimum they would have to provide more than they do now for exactly the reason that you described is that we find it to be wholly inadequate. And the same is true for a number of other uses - playfields, hospitals, hotels, as you heard from the testifier, auditoriums, community centers typically do not have adequate parking. And so, those are the types of uses where we're proposing to increase the minimum requirement because we found over many years of administering this Code that it's inadequate.

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COUNCILMEMBER COCHRAN: Okay. How does it work for, so how is this gonna be addressing say Lahaina Town and the establishments there and, you know, that phantom parking, whatever? I mean I think every establishment is to provide, but they literally do not have anything being provided, but we do have, you know, our County parking lots and private ones, too, but so how is that addressing any of that if at all here?

MS. McLEAN: A couple of things for that, for existing developed properties, if they were built lawfully and are providing the parking that they were required to at the time they're built then they're fine. They can continue and be considered lawful. If they want to expand at all, then the new requirements would apply to that expansion. For off-site parking, which is the kind of situation that we see in Lahaina where a property doesn't have enough space on its lot, it's allowed to provide its parking off-site within a certain distance. And that's been on the books for a while, that will continue. But, what wasn't documented well in the past was that that parking has to be documented in a unilateral agreement, recorded against that property that shows what spaces are reserved, and that those spaces need to be marked for that use. And that's not something that has happened in the past. So, you could have that double-dipping where two properties both say they're providing their parking off-site and there wasn't any way to keep track of it or I should the Department did not do a sufficient job of keeping track of it. And so now with the recordation, it would be recorded against the property to confirm what number of spaces are set aside for what kind of use.

COUNCILMEMBER COCHRAN: Okay. So, a follow-up, Chair? So, in reference to that then you're gonna start this recordation, you're gonna start these agreements, and should you find shortages or how's that gonna be accommodated or what's...

CHAIR CARROLL: Ms. McLean?

COUNCILMEMBER COCHRAN: I guess you'll cross that bridge when you get there.

MS. McLEAN: Previously, well, the general way to respond to it is that it wasn't tracked before. We will be tracking, well we have been tracking it now for a while, but going back quite a ways it wasn't tracked previously. And it would really just be on a parcel by parcel, a case-by-case basis to find out if there are inadequacies. We're not going back and investigating properties that where they may be double-dipping already. And the two parties could theoretically be innocent in that not knowing that there was another property already claiming its parking. So, the opportunity for off-site will continue, but the tracking will be improved. And then as developments happen, people do renovations and so forth, that's when we can confirm where the parking's located and make sure that it's appropriately marked and tracked.

COUNCILMEMBER COCHRAN: Okay. And lastly, Chair, if you don't mind, Director that stated, the word Director, that applies to Planning Director, not Public 'cause I think Public Works was taken out. At one time it was Public Works was the director, but now it's Planning Director? Is...

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MS. McLEAN: Correct. Yeah.

COUNCILMEMBER COCHRAN: Okay. Thank you, Chair.

CHAIR CARROLL: Ms. King followed by Mr. Hokama.

COUNCILMEMBER KING: So, I just wanted to...thank you, Chair. I just wanted to clarify I think what Ms. Cochran brought up was basically enforcement, like how are we gonna enforce what's happening now? You know, and so I just wanted to clarify that's a basically a complaint-driven police issue if there are people parking on the street, you know, close to I think it's 20 feet from the stop sign or whatever. I have people on my street all the time. You know, you come around a corner, you gotta avoid that car that's right there and then there's one on the other side so, you know, you got this really narrow and not only that but there are people on my street who have laid claim to some spots and now they're putting cones on the streets to block it off for themselves and I mean it's just like baffles me how they think they own that spot and they've actually harassed people at my house that park on the street 'cause they say that's my spot. So, I don't know, I mean how do you enforce? I don't, I believe it's not a Planning Department enforcement. Is it Police?

CHAIR CARROLL: Ms. McLean?

MS. McLEAN: It would be Police if on-street parking is not allowed on that street, then Police could enforce that. If on-street parking is allowed, then Police would only enforce, you know, the closeness to the intersection and those kinds of things. If on-street parking is allowed and people are putting cones up and reserving places, then that could be something that Public Works could look into because that's a County street, it's available for the public. People aren't supposed to be claiming that for themselves.

COUNCILMEMBER KING: Yeah, and I think it's probably not allowed on my street because it's a cul-de-sac. That was my understanding is that because you need that turnaround space, but yeah, I know, okay I just wanted to clarify that that is a police issue because it's starting to get rampant. When the cones came out, that gets really irritating. Thank you.

CHAIR CARROLL: Mr. Hokama?

VICE-CHAIR HOKAMA: Chair, I'm happy the Director is saying they're gonna improve the follow through on the recordation and the requirements of the parking, especially for historic Lahaina. But then again, Chairman, that is one of their safety nets; it's a national, historic area with historic, national historic guidelines. And I recall a violation of the Building Code and I believe the County forced that property owner to tear down that construction. Okay. And if that's what we need to do, that's what we should be doing. The law is the law as currently written; that's what we enforce. Okay. We've made proposals and whatnot, community said no, so we keep enforcing the law as currently written. Okay. Chairman, 'cause I've heard a lot of complaints

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regarding some RPT bills on ag. Well, that's what BF-70 was trying to correct. Okay. We did not move that forward and so the bills are being assessed as the law is currently written and people are unhappy about it. But the Department is only doing what is currently stated as the law. With this component, Chair, I hear my colleagues' concerns, especially for the residential, but also for the businesses portion the parking should be...I need to understand what component of the requirements is for the public's purposes besides the business purposes? 'Cause, again, I believe we should be looking at providing sufficient additional reasonable parking for either the beach access or the mountain access. So, if this project, as we got in testimony, is about the beach area, then I would like to know how many stalls is for general public use and whether or not that is also to help assist our people to get access to the shoreline. 'Cause if it is, I'm very open to that. If it's not, I want to know why not. Why isn't it part of the proposal? Chairman, so if the Department can have an opportunity to respond, please? Chairman?

CHAIR CARROLL: Ms. McLean?

MS. McLEAN: Thank you, Chair. Public beach access parking is typically assessed above and beyond the requirements in Title 19 during the SMA or shoreline approvals for the project and it's based on the potential impact of the project and how that parking would mitigate those impacts and that's under the criteria of the special management area rules. And so, to just have a statement in Title 19 that says public beach access shall be provided, we don't really have that connection of what the impact of a development is based on the parking that's required for it. In all the other instances where parking is required, we know what the use is and we know the amount of traffic that it generates and so, that's the connection or the nexus. But, with public beach access that's done for good or for bad on a project-by-project basis because it depends on for example, does that property border an existing beach access and therefore having parking on that property is ideal or is there no beach access in the vicinity and so an actual physical access to the beach is a preferred option because maybe there's parking on the next parcel. So, it's really assessed on a parcel-by-parcel basis depending on the development and the details of the site. It's not...

VICE-CHAIR HOKAMA: And I appreciate your comments because you deal with it on a daily basis, Director, so thank you, yeah, and that's why for me I'm not...I think I'm done with looking at project by project. Okay. I'm thinking I rather prefer look at regional, by region and see how the region's requirements are being met and whether or not we should make additional adjustments to take care of the region 'cause I notice we lose sometimes our perspective by focusing too much on the small dot instead of the big picture. And so, I'd be more interested in how this proposal or whatnot would help us assist in implementing greater access for our residents either to the mountain or to the beach whether it's cultural, historic, I don't care. All I know is our people deserve to go where they need to go whether it's to the ocean or the mountain, we should be providing those accesses and that's what I'm gonna, be part of my position, Chairman, on this type of legislation. We take care our residential access to public areas. Thank you, Chairman. Oh I have one specific question on Page 4 of your proposal, Director. I'm just trying to get a...it's under two, commercial, business, or industrial. Then you

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have a component, you know, by . . .*(inaudible)*. . . then you hit mobile food truck, Page 4 in the middle. So, okay, so I kind of understand the verbiage on the side. Zero for mobile food trucks. So, not occupying any parking space required by this title. So, I'm thinking where would the truck park then? In an illegal area? I mean, what would be the legal area for the truck to park then if they shall not occupy any space required by this title?

CHAIR CARROLL: Ms. McLean?

MS. McLEAN: Businesses often provide parking beyond the requirement. And so, when we look at a business, let's say the Code says you need to provide 20 parking stalls and they decide you know what, we think we need more than that so we're gonna provide 25 parking stalls. The mobile food truck can park in any of those five excess parking stalls. So, it's not parking that's required by the Code, it's excess parking so food trucks can park there. And food trucks also park in rights-of-way; they get vendor licenses from the County to park in rights-of-way. So, if they park in a right-of-a-way...

VICE-CHAIR HOKAMA: Okay. So that is still a doable option then? To get a permit to take care of their parking needs in an area of where they want to do business? Right? So, let's say State/County employees say we want one lunch wagon right on Kaohu Street between 10:00 and 2:00 every day because we got enough people that want, you know, it's easy for us. We only get half an hour breaks or whatever, perfect. Could that food truck park on the side of Kaohu right now and sell?

MS. McLEAN: They would have to get...

VICE-CHAIR HOKAMA: Because they would be using a public parking stall?

MS. McLEAN: They would have to get, my understanding is that they would have to get a vendor license --

VICE-CHAIR HOKAMA: Okay.

MS. McLEAN: -- from the County to do that. What this is saying is that we wouldn't make them provide parking for their customers.

VICE-CHAIR HOKAMA: Even if the customers are the pedestrians?

MS. McLEAN: Right. What we're saying by mobile food truck, their parking requirement is zero parking spaces. So, if they get a vendor license to park on Kaohu, they can park there and as far as we're concerned they don't have to provide a parking stall for their customers to come and park and to buy food from their food truck. They don't have to provide parking and the landscaping that goes along with it. They have a zero parking space requirement. So, they can park down on Beach Road, they can park in excess parking at the mall, they can park on Kaohu, and...

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VICE-CHAIR HOKAMA: Okay. And then just as a philosophy, this is what we notice, yeah, everything is basically stall per X amount of square footage. Has your Department thought about, like say like take this room, our occupancy max is 187. So, wouldn't you maybe you say we're gonna change instead of square footage since this place can hold 187 people, you should have 187 stalls 'cause if each guy brings his own car, that's what you're gonna need; 187 stalls to fit 187 people in here 'cause that's the capacity of the facility.

MS. McLEAN: This Parking Code which is typical of parking codes across the country, doesn't go for the maximum peak. We don't, we're not assessing parking for Walmart at Christmas time, for example. We're assessing Walmart for its average use or for this building for its average use. So, when you folks have inauguration and the room is packed that's not the parking requirement that should be assessed. It should be assessed for well, there aren't too many people here today, but somewhere in between. So, otherwise we just have so much extra parking sitting there most of the time unused.

VICE-CHAIR HOKAMA: I mean when this was built people thought we had too much parking. Okay. In the '80s people thought oh, not too bad, at least we got little bit flexibility and today is not enough parking. Okay. Elmer was criticized that there was too much empty space in this building. Now we're even looking at spending millions to create new space because we just have outgrown our physical plants. So, again, you know, it depends on time and everything, I get that. No, I just was wondering if we've been looking at things differently because it just seems in Hawaii in general under government parking facilities whether it's the University of Hawaii or MCC, we tend to screw up under government by not requiring sufficient parking for public use. And then you get the complaints, they're in the residential, they're parking in here, they're over there because we don't provide or require adequate parking for development. And so, you know, my thing is I think we should. I rather have little bit more space and flexibility than climbing over each other and let me tell you, we all know how people are when it comes to their parking for their shopping at Christmas. Nobody gives a rip about the other person. Okay. It's every man for himself during shopping. So, you know, I get it. Unless the millennials can convince all us old-timers that driving our vehicles is not the way to go. Okay. But, I'm lazy. I'm not gonna give up my car. Okay. I admit it. So, thank you, Chairman. I just was trying to understand why we may not look at formulating requirements under a different scheme. Thank you.

CHAIR CARROLL: Anyone else at this time have anything for Planning? If not, I'm gonna let Planning proceed on any as she going through the document and concerns that she would like to bring forward. Ms. McLean?

MS. McLEAN: Thank you, Chair. So, in addition to the increases and decreases, there are also a number of uses that wouldn't have a change 'cause we feel that those are adequate. There's a section on landscaping requirements which remains the same at one tree for every five parking spaces provided, that will remain the same. The significant change that we're putting in for that one is to clarify how that tree

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requirement is imposed if they're parking garages or PV carports which we're seeing more and more of. So, essentially for those is the trees can get relocated elsewhere on the site because we still want to have the visual relief or another option if there isn't room on the site for those additional trees, tall hedges can be planted for visual screening so that gives some flexibility for the landscaping for parking garages and PV carports. For the paving requirements, there isn't a whole lot of flexibility now for the paving requirements. And so, we want to put in some flexibility where in certain areas paving is not required at all; parking spaces can be gravel or grass like for overflow parking. Also, allowing in parking lots the last two feet of the stall can be grass or bioswale. That's pretty common elsewhere and that usually works well where the trees are planted and then you have the grass for a bioswale. Also, if the community plans or design guidelines for the area call for different surfaces then that would be allowed under the Code; it would defer to those community plans and design guidelines. And then it's also allowing a greater percentage of parking spaces to use alternative surfaces than is currently allowed. So, whether it's the permeable concrete or Grasscrete or some other surface, we'd have to look at like in a really wet area we wouldn't be too supportive of gravel 'cause that would just wash away too easily, but that would be a case where Grasscrete might be a good alternative. So, there's more flexibility for surfacing so we don't end up with all the asphalt like we can. And also, with flexibility, there are opportunities for a reduction or a waiver for the parking requirements if there are shared users. For example, shared user or same user; like with same user we use the example on Molokai where the high school built a new science building and we were imposing additional parking when it wasn't going to mean more students. So, same users or shared users are when businesses have different hours. So, if you have a restaurant that's only open at nighttime and you have a bank that's only open during the daytime, then they can share parking. And again, those would have to be tracked and recorded, so if one of those uses changes we'd need to reassess parking at that time. It also makes allowance for businesses whose employees carpool or if they're located near a bus stop or there are viable walkable options. So, if it's a business that is near and has good walkability with a residential area, then they might be able to get somewhat of a reduction. And then it also allows a little bit more flexibility for temporary parking. For example, if you have an existing commercial building that's being renovated and they're gonna have machinery and equipment in their parking area, they can have temporary parking on the vacant lot next to them while their construction's underway. Also, for periodic events like First Fridays, temporary parking can be allowed on other parcels without the landscaping and other requirements that are usually imposed for parking. And that's generally that touches on all the major changes that we're proposing. Thank you, Chair.

CHAIR CARROLL: Alright. The floor is still open. Anybody that has any concerns? I do have a few changes over here, a few additions inside here that I need to go over, but I'd like everybody to go through all of their concerns first.

VICE-CHAIR HOKAMA: Chairman?

CHAIR CARROLL: Mr. Hokama?

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VICE-CHAIR HOKAMA: I'd like to ask the Department a few questions, please? On Page 8 of your revised proposal, just so I can have a good understanding of tandem parking spaces. So, tandem parking spaces is I would use for the example is like at Zippy's Kahului; that long stall. Is that would be considered a tandem stall, Director? The one at Zippy's Kahului? That two cars can fit in one of those extra elongated stall is that considered a tandem space, parking space?

CHAIR CARROLL: Ms. McLean?

MS. McLEAN: I'm not familiar with that particular site, but typically we wouldn't allow that for a business use. The tandem is allowed when both parking spaces are under the control of the same person. So, in an apartment complex, for example, if you have two units or if you have two parking spaces for one unit, they would be in tandem because it's one person who's responsible for moving those cars around. If it's a business, you can't really control when --

VICE-CHAIR HOKAMA: No, that's why I was saying --

MS. McLEAN: --someone is parking someone else in.

VICE-CHAIR HOKAMA: --at Zippy's you don't see it really work because --

MS. McLEAN: Yeah.

VICE-CHAIR HOKAMA: --nobody wants to be stuck in the inner part of the stall.

MS. McLEAN: It could perhaps be for employees. That might be something that could be better coordinated and maybe they chose to do that on their own. That's not something we would have approved for their parking requirement. That might be excess parking that they're providing for their employees because then their employees would know how to, you know, how to get their cars out.

VICE-CHAIR HOKAMA: I just thought maybe, yeah, they would do it for, you know, like big ohanas. You know, they come in with their minivan, the mini-bus, right?

MS. McLEAN: Right, right.

VICE-CHAIR HOKAMA: They got like 15 family members or, you know, they take the big stuff and they unload their whole mini, you know, maybe their, they have their --

MS. McLEAN: Right.

VICE-CHAIR HOKAMA: --own family basketball team right or something. No, I'm just I just was trying to understand what is this tandem since part of your language is tandem parking is allowed for parking spaces that are not required.

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MS. McLEAN: Right. So, if it's excess parking.

VICE-CHAIR HOKAMA: Okay. And then I know you still show us and for only certain considerations, but do we really need compact parking stalls anymore? Why don't we just two standard parking stalls? I mean, you know, are there really compact cars like the old Datsuns and whatnot? No? I mean, maybe the Cooper, Mini Coopers, but, I mean, I'm tired of seeing an Expedition take two stalls in parking lots.

MR. RAPACZ: Mr. Chair, I was the, maybe the only member of the team fighting for that same position. Especially since there is no control of who parks in the compact stalls and as cars have gotten bigger over time, I was pushing hard for them not to be allowed and I think we did reduce it, but not eliminate it. But...

VICE-CHAIR HOKAMA: Yeah, you have before certain accessory dwellings, you know, and farm dwellings kind of thing, as I read the current revised proposal, Department, but my thing is why not just eliminate and just say it, the County shall only allow standard parking stalls and this is the minimum dimensions, period.

MR. RAPACZ: Well, despite my boss sitting next to me here, I would agree with that.

VICE-CHAIR HOKAMA: No, I mean what is the advantage of compact stalls? Like I said, I just see a large car take two stalls instead of use one 'cause they cannot fit in the one stall.

MR. RAPACZ: Yeah. I think part of the purpose of the Code as well is to not use up too much space for parking purposes. We don't want to see a parking lot...

VICE-CHAIR HOKAMA: If a business needs it for their viability of their pro forma, hey, that's what they gotta do. They gotta do it, period. Okay. Don't ask us to take care of it on the street or anything else. That's not our responsibility. That's the private side of the business proposal's job to take care of those things. Thank you, Chairman.

CHAIR CARROLL: Thank you, and I will comment on that because I was wrong when I did that compact, for compact cars and the rationale was that a lot of smaller cars were coming out and they didn't need all the spaces for the big cars. And even at that time, we had complaints from seniors and others because an older person has to open the door all the way because he has to put, him or her has to put their arm on the door to enable them to stand up. So, it never did really work as it was designed to work. And the other reason was so that they could put more stalls, talking about space, into a parking lot to meet the Code and now this was an advantage, of course, to the developer and who was ever making it, but the people that had to park there, it didn't work very well for them. And obviously I'm saying this 'cause I never did like those slots and the general public was not well-served by having these compact stalls and I'd like to see it put out of there to tell you the truth. But, I will leave, after my comments, I will leave it up to the Committee.

VICE-CHAIR HOKAMA: Thank you, Chairman.

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CHAIR CARROLL: Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. Yeah, I'm looking at the steep slopes and grading and I think I brought this up about parking lots; it's very irritating when you have your cart and it's rolling away from you. You're trying to unload your groceries and you gotta stick your foot down or prop it up against your car and make a scratch. And I know drainage, right, you gotta make sure water doesn't puddle and but so you want somewhat of a slope, but when it becomes that point where a cart cannot sit still on the ground, I don't know. Is there anything in here that can be adjusted to assist that or 'cause there's some wonderful parking lots and there's others that just your cart wheels away from you and, you know, I don't know. Is there something we can do about that 'cause it's not like they only have this hilly part of their lot to build the parking stalls? They just have it this grade that doesn't let your cart sit.

MS. McLEAN: Yeah, I've gotten my foot run over more than once by my shopping cart.

COUNCILMEMBER COCHRAN: Yeah.

MS. McLEAN: I think that would, what you'd hear to counter that would be that that would make the site development cost a lot higher 'cause you'd have to terrace it. You know, so rather than it being at this angle, you'd have two levels and that would, so you'd have some, even though small, have some sort of retaining wall to have those levels. We didn't contemplate that in the rules; that's not to say that it couldn't be addressed in some way, but we didn't think of that particular calamity when we were going through this.

COUNCILMEMBER COCHRAN: I know cars get damaged. They just kind of wheel away and my niece's brand new BMW had a cart run right into it and 'cause it _____, so yeah. Okay. I don't...that just seems to be kind of a pet peeve of mine when I go shopping. And I think, other than that, the new section that they want to insert for some explanation I guess if we're ready for that or the new area you want to add in.

CHAIR CARROLL: Ms. King?

COUNCILMEMBER KING: Thank you, Chair. Couple of questions. One is on the section that refers to entertainment and is that for...let me try to find those pages...is that for commercial entertainment? I mean, 'cause you've got...I was just looking at the section that says that swimming pools you have to have one parking spot for every 600 feet of a swimming pool and I can't imagine that that would apply to a resident. If you put a swimming pool in and you had to have, you know, a parking spot for it. But just that whole section...swimming pool, tennis courts, passive recreation. The heading is recreational entertainment, but it doesn't specify commercial. It's on Page 4.

CHAIR CARROLL: Ms. McLean?

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MS. McLEAN: I think it would be appropriate to clarify that swimming pool, commercial or public.

COUNCILMEMBER KING: Okay, and same thing for tennis courts? I mean --

MS. McLEAN: Right. Right.

COUNCILMEMBER KING: --if you have a private tennis court.

MS. McLEAN: Right.

COUNCILMEMBER KING: Okay, and then the other question I had is on the landscaping section on Page 9. Oh wait, maybe that's not it. There was a section that said 50 percent, 10 spaces or 50 percent can be on gravel or other...let me see, that's Page 13, number 2. So, if we're looking at in South Maui a parking lot that a hotel basically pays for, the one at Keawekapu, which is coming up tomorrow, and the hotel and the community agree that they don't want it paved because they see it as, you know, that environmentally it's not a good idea; it's too close to the ocean, the runoff goes right into the ocean rather than down into the ground. And so, there is a consent agreement that's been modified to accept leaving it all gravel. So, would that violate this Code? How would that, this Code apply to a situation like that?

CHAIR CARROLL: Ms. McLean?

MS. McLEAN: In that situation, I think we might be lucky in that I don't know that those spaces are all required spaces. And if they're not required spaces, then they don't have to be paved.

COUNCILMEMBER KING: Okay.

MS. McLEAN: So, we would have to look at that and see because my recollection in talking with Staff in preparation for tomorrow's meeting is that the latest parking analysis that they saw for the private user is that they only needed like three parking spaces there in terms of required parking. They might want to use more for overflow. But, in terms of what we would require to be paved, there weren't that many.

COUNCILMEMBER KING: Okay.

MS. McLEAN: So, it might just be the luck of these circumstances that it might not have to be paved at all.

COUNCILMEMBER KING: Okay. So, if they're providing parking spots for the public, those aren't required?

MS. McLEAN: Right.

COUNCILMEMBER KING: Those aren't considered required, so --

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MS. McLEAN: Right.

COUNCILMEMBER KING: --those could be all remain gravel.

MS. McLEAN: That's right.

COUNCILMEMBER KING: Okay.

MS. McLEAN: That's right. But I can verify that.

COUNCILMEMBER KING: Okay. Yeah, I just want to make sure we're not maybe addressing the situation tomorrow that we're going to make invalid today. So, that's all I have. Thank you.

CHAIR CARROLL: Members, I'd like to...are you finished? I'm sorry.

COUNCILMEMBER KING: Yeah, I am good. Thank you, Chair.

CHAIR CARROLL: Members, there are five other sections in the Maui County Code referring to the old Chapter 19.36 or 19.36A which should be changed to 19.36B. From the Chapter on Landscape Planting and Beautification, Section 12.24A.020 and 12.24A.050; from the Chapter on Needs Assessment Study relating to Parking Assessment Fees, Section 14.72.010 and 14.72.020; and from the Chapter Relating to Maui Project District 5 (Pulelehua), Section 19.393.050 [sic]. Planning, would you care to comment on this before I continue? That is not the one, Planning.

MS. McLEAN: I'm sorry. These were the other sections of the Code? Yeah, we don't have any comment. It would appropriate to use the new Code section in those chapters. Yeah, thank you, Chair.

CHAIR CARROLL: Ms. King?

COUNCILMEMBER KING: Thank you, Chair. I just thought of one other thing and I think it had to do with testimony. On Page 2, it addresses short-term rental homes as two, if the short-term rental home has four or fewer bedrooms or as required for the dwelling, whichever is greater. But then on the bed and breakfast, it appears to be one per bedroom in addition to other parking requirements. So, we don't have that language of, you know, can we put that language in there, whichever is, you know, or the square footage, whichever is greater? Something like that? It's the first square on Page 3. Just to make it, to clarify that we're not putting that one per bedroom on top of the other requirements.

MS. McLEAN: Right. Yeah, that's a hard one to nail down because you can have different circumstances. Fundamentally, we want to make sure that there's one bedroom or one parking space for each room used for B&B plus whatever's needed for the owner because the owner lives on site. But the owner doesn't always live in the same

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structure that's being used as the B&B; sometimes it's the cottage. So, I think the easiest way to address this is just to revert back to the language that's in the current Code now which says one parking space for each bedroom used for bed and breakfast home use in addition to any other parking spaces required by this section for dwellings not used for short-term rental.

COUNCILMEMBER KING: Okay.

MS. McLEAN: Stalls may be situated in tandem. So, just keeping that's what's currently in the Code now and just putting that in for B&Bs.

COUNCILMEMBER KING: Okay. So, you would revise that on Page 3 to say that?

MS. McLEAN: Yes.

COUNCILMEMBER KING: Okay.

MS. McLEAN: Yes.

CHAIR CARROLL: Alright. Members, in order to make this work the Chair would entertain a motion to amend the revised proposed bill by inserting new sections to update the outdated reference to Chapter 19.36 or Chapter 19.36A in Sections 12.24A.020, 12.24A.050, 14.72.010, and 14.72.020, and 19.93.050, Maui County Code, to the new Chapter 19.36B, as appropriate, along with any housekeeping revisions to those sections that may be needed.

COUNCILMEMBER SUGIMURA: So moved.

VICE-CHAIR HOKAMA: Second.

CHAIR CARROLL: Moved by Ms. Sugimura, seconded by Mr. Hokama. And, of course, this is more of a housekeeping, getting rid...forwarding the necessary sections into the new bill before us today in the Code. Any further discussion?

COUNCILMEMBER KING: Just a question, Chair? I didn't catch what, the new section that's being proposed is there a separate section number for that? The section that talks about allowing the projects that have been substantially complete by the Department processing the application, shall comply with the requirements of Section 19.36B.020, unless the applicant can demonstrate to the satisfaction of the director that the project does not have sufficient land available to meet these requirements. So, I just got a paper that just said new section so I don't...did they put a number on that?

CHAIR CARROLL: You're looking at this? We're not looking at this right now, though. This is not the one...

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VICE-CHAIR HOKAMA: Chairman, can we have Staff hand out your motion in writing?
What you just read?

COUNCILMEMBER KING: That would be good.

CHAIR CARROLL: Okay.

COUNCILMEMBER KING: Maybe take a short recess.

MS. NAKATA: Mr. Chair, I don't have it in writing. I don't know if you'd like to recess or if
you'd like Staff to restate the motion?

CHAIR CARROLL: Yes, Corporation Counsel?

MR. HOPPER: Just, I think, a clarification. I think the Code section change they're talking
about is that throughout the Code there are references to the current Code
Section 19.36 or 19.36A. And because that's being repealed and 19.36B is being
added, I think the motion found a few extra sections that were not listed in the
ordinance where that change is being made to 19.36B and those are going to be
added. For example, the latter part of the ordinance before you has several sections
where the only purpose is to make that change from 19.36 or 36A to 36B. So, what I
think the motion would do would have the remaining sections that are not changed,
have those be changed. And so, what you would have is several more sections
because each section of the Code where that's being changed would be another section
of the ordinance. And so, I think those would be added as appropriate.

CHAIR CARROLL: Thank you. Corporation Counsel is much better at explaining that...

COUNCILMEMBER KING: I don't really know what you just said. I was...

VICE-CHAIR HOKAMA: Chairman, have Staff write it out for us.

CHAIR CARROLL: Alright. We have the motion on the floor. Any further discussion?

UNIDENTIFIED SPEAKER: Recess.

CHAIR CARROLL: Oh, I'm sorry, Ms. Cochran?

COUNCILMEMBER COCHRAN: Oh, Mr. Hokama.

CHAIR CARROLL: Oh, Mr. Hokama? Oh okay.

VICE-CHAIR HOKAMA: Chairman, we want Staff to give us the copy of the motion as stated,
Chairman.

CHAIR CARROLL: I'm sorry?

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VICE-CHAIR HOKAMA: We would like Staff to give us a copy of the motion as you stated it on the record, please.

CHAIR CARROLL: Do we have that? Very short one-minute recess. . . .(gavel). . .

RECESS: 2:48 p.m.

RECONVENE: 2:53 p.m.

CHAIR CARROLL: . . .(gavel). . . This Land Use Committee meeting is now back in session. And Staff is handing out the motion that is on the floor before us. We have the motion on the floor and that has been distributed. Any comment?

COUNCILMEMBER KING: Chair?

CHAIR CARROLL: Ms. King?

COUNCILMEMBER KING: Thank you. I just, I want to make a, propose an amendment on Page 13 to add under 19.36B.080, Paving and Other Surfaces B, number one, add the words after “guideline,” “or conditional permit approval” so that it reads “surface material other than asphalt or concrete may be allowed or required if it is consistent with the community plan, zoning district and design guidelines or conditional permit approved” or “approved conditional permit.”

MS. NAKATA: Excuse me, Mr. Chair. Excuse me, Mr. Chair. I believe there’s a motion pending.

CHAIR CARROLL: I’m sorry?

MS. NAKATA: There’s a motion pending on what was just distributed.

CHAIR CARROLL: Yeah, we have a motion on the floor.

COUNCILMEMBER KING: Oh, I thought there was a motion on the floor. We don’t have a motion?

CHAIR CARROLL: We have the motion on the floor right now.

COUNCILMEMBER KING: Right. A main motion, correct?

CHAIR CARROLL: Yes, we have the main motion on the floor.

COUNCILMEMBER KING: So, I was making a motion for an amendment.

MS. NAKATA: The motion on the floor is the one that was just distributed in writing to amend the revised proposed bill.

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COUNCILMEMBER KING: Okay. But, do you want to do this first before my amendment proposal? Is that what you're saying?

CHAIR CARROLL: Staff?

MS. NAKATA: Mr. Chair, I think it would be cleaner if we voted on the motion that's currently pending before the body and then entertain another motion to amend.

COUNCILMEMBER KING: Okay. That's fine.

CHAIR CARROLL: All those in favor of the motion on the floor.

COUNCILMEMBERS: Aye.

CHAIR CARROLL: Opposed? Motion carried.

**VOTE: AYES: Chair Carroll, Vice-Chair Hokama and
 Councilmembers Cochran, Crivello, King, and
 Sugimura.**

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Atay, Guzman, and White.

MOTION CARRIED.

ACTION: APPROVED AMENDMENT.

CHAIR CARROLL: Ms. King?

COUNCILMEMBER KING: Okay. Thank you, Chair. I'd like to move to amend Section 19.36B.808, oh .080, Paving and Other Surfaces under Section B1 to insert the words "or approved conditional permit" after the word "guidelines" so that it reads "surface material other than asphalt or concrete may be allowed or required if it is consistent with the community plan, zoning district design guidelines, or approved conditional permit or is in keeping with the character of the historic district or country town."

CHAIR CARROLL: I heard your motion.

COUNCILMEMBER KING: Okay.

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CHAIR CARROLL: Is there a second?

VICE-CHAIR HOKAMA: Second.

CHAIR CARROLL: Been moved and seconded by Mr. Hokama. Discussion?

COUNCILMEMBER KING: Okay. So, this is, I just worked this out with Department, this would allow if there's a conditional permit to do what we're trying to do in South Maui which is avoid the paving then it would be consistent with this section.

CHAIR CARROLL: Any further discussion to the motion? All those in favor signify by saying "aye."

COUNCILMEMBERS: Aye.

CHAIR CARROLL: Opposed? Motion carried. Six "ayes," no "noes," and one, two, three excused.

**VOTE: AYES: Chair Carroll, Vice-Chair Hokama and
 Councilmembers Cochran, Crivello, King, and
 Sugimura.**

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Atay, Guzman, and White.

MOTION CARRIED.

ACTION: APPROVED AMENDMENT.

CHAIR CARROLL: Alright, Members, does everyone have before them the new section that was passed out? It's the one paragraph new section. Alright. This over here I will read it. Application for development of such building permits and special management area use permits, that was submitted to the County on or before March 1, 2019, were deemed substantially complete by the department processing the application, shall comply with the requirements of Section 19.36B.020, unless the applicant can demonstrate to the satisfaction of the director that the project does not have sufficient land available to meet these requirements, in which case the director may instead apply the project, to the project the requirements in effect at the time of the submittal. Discussion? Oh, excuse me, I was asking for a motion and then discussion. And this would be for a new section 16 and to renumber 16 to 17.

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VICE-CHAIR HOKAMA: Chairman, may I have a question --

CHAIR CARROLL: Yes.

VICE-CHAIR HOKAMA: --first? Why should we allow the director to make this call instead of the Planning Commission?

CHAIR CARROLL: Planning Department, Ms. McLean?

MS. McLEAN: Thank you, Chair. This may involve a project that has either, like in the case of Hotel Ike has already gone through Planning Commission or one that doesn't have to have Planning Commission review. Basically, we want the new requirements to be in place, but if there's a project that's well along in the development process and they have done that according to the current Code, if they can show look here's my plan and I got, you know, can I, you know, can I...

VICE-CHAIR HOKAMA: So, why wouldn't they go to the Board of Variance?

MS. McLEAN: They could. They could. They could, but that's its own process where up to this point they have proceeded with a development proposal that meets all current requirements and then mid-stream those requirements change, it would be allowing them to proceed under the requirements that were in place when they put their whole plan together.

CHAIR CARROLL: Planning, do you have any comments on the language of the proposal?

MS. McLEAN: And again it would only be if they show that they don't have sufficient land. If it's just 'cause they don't feel like it, but they have a whole lot of space available then they probably would not get the okay. But if their site plan is fully put out and like in the case of Hotel Ike, the Commission approved the site plan, then we feel that they should be allowed to continue with that site plan as it was approved if it meets the Code that's in effect today.

VICE-CHAIR HOKAMA: Okay. Thank you for your response, Director.

CHAIR CARROLL: Corporation Counsel, do you have any comments on the language of the proposed amendment?

MR. HOPPER: To note, for the Council, it's not your typical language that would say that applications...I mean normally the law is that if somebody, you know, already has their approvals, they're considered non-conforming and so, that's a separate issue. Occasionally, there are ordinances that say if you have a complete application at the time that your permit was submitted that you can proceed under the standards in place at the time you submitted your application. That is not what this says. This says that if you submit and you can also demonstrate, if you submit prior to the March 31, 2019 deadline and you can show that you have...do not have sufficient land available to meet the requirements, the required parking for your use, then you can

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proceed under the prior ordinance and those requirements. It does not give you essentially the, an exemption that says you follow the prior ordinance in all cases. So, it would depend on how comfortable the Council is with the Planning Department making a determination whether or not the project has sufficient land available to meet the requirements of the parking in place. If you're satisfied with the Department making the determination whether or not there's enough parking available or enough space available to meet the required parking of the new Code, not the old Code that was in place at the time of the application.

CHAIR CARROLL: Mr. Hokama?

VICE-CHAIR HOKAMA: So, Chairman, just so that we're pretty clear on what we're hearing from the Department and Corporation Counsel. So, we'll take an example, a current application is in the process, went through the Commission, as the example provided by the Department, and let us say we enact this proposed section that you having us consider. So, it gets built. They come in two years later for an adjustment to the building. Are they then now held to the new ordinance standard of parking or will they still be under what was old and replaced upon the initial approval? What happens then?

MS. McLEAN: Any new changes would be subject to the new Code.

VICE-CHAIR HOKAMA: So, if they didn't have enough space the first time, how would they do any adjustments or changes then 'cause they'll never fit the new Code? So, they'll be now legal, non-compliant, right?

MS. McLEAN: They would be legal, non-conforming. If, for example, you have a restaurant that is allowed to proceed under the current Code and then a few years later they want to change to a different use which might have a lower parking requirement, then maybe they could expand and still be conforming because their parking requirement is less. But, if they wanted to expand their restaurant, they would have to provide parking and if they couldn't provide the parking, then they couldn't expand.

VICE-CHAIR HOKAMA: Okay. Thank you for that clarification on the record, Department. Thank you, Chairman.

COUNCILMEMBER KING: Chair?

CHAIR CARROLL: Ms. King?

COUNCILMEMBER KING: Yeah, can we just get an explanation of what, why you chose that date, March 1st, and how that's going to affect whatever's in the pipeline right now?

CHAIR CARROLL: Ms. McLean?

MS. McLEAN: Thank you , Chair. If the bill moves out of Committee today then it would pass second and final reading in December and so could become effective at the end of

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this year. So, that would give applicants three months to complete their plans and get them turned in. So, there could be plans that are being put together now that we're not aware of. They may not need Planning Commission approval. It may be a project that has its entitlements and is now moving forward with building permits or maybe is just getting ready to submit building permits. So, it gives them a little bit of time to put their applications together and get them submitted if they've, you know, been spending time and money through March to put those together they would be allowed that additional time.

COUNCILMEMBER KING: Okay. Well, this is March 1st so it's like it's through February. But, that's the date I think we...

MS. McLEAN: Two months.

COUNCILMEMBER KING: But, you don't anticipate that, you know, new projects are gonna be, there's enough time to submit a bunch of new projects just to get under that deadline at this point?

MS. McLEAN: No, I don't think so because there really aren't all that many uses that have a greater requirement; either the requirements are the same or they've been decreased. But, hotels is one where it's being increased which is why Hotel Ike is concerned with being able to fit in under the current Code. We're not aware now of others. But if it's a single-family home or a short-term rental home, you know, those should have to comply with the new...

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

COUNCILMEMBER SUGIMURA: Chair?

CHAIR CARROLL: Ms. Sugimura?

COUNCILMEMBER SUGIMURA: So, this then would then assist the testimony we heard regarding the hotel, right? We don't have to do any other special language and they would be grandfathered in, so to speak?

MS. McLEAN: Yes. We would read this to apply to them.

COUNCILMEMBER SUGIMURA: Okay.

CHAIR CARROLL: Corporation Counsel?

MR. HOPPER: Just with the caveat, I don't know if the language saying not having sufficient land available to meet those requirements, I'm not sure. This is the first time I've seen the language was earlier today. If that would mean that, you know, if they got rid of other landscaping and things could they meet the, you know, the requirement or how that would apply. If you want to be sure that the use will be grandfathered in, you could do that in a more direct way than the current language. You would say that if

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their application's deemed complete by that date, then the standards in place at the time of their application shall apply to them. Now, that's obviously the Department doesn't want to do that because they proposed this language and why that's there you can discuss, but this current language, you know, would require a discretionary decision made by the Director whether or not the project has sufficient land available to meet the requirements. And so, how that would be determined would be something the Director would need to review and apply to any project.

COUNCILMEMBER SUGIMURA: So, Chair, can we have --

CHAIR CARROLL: Ms. Sugimura?

COUNCILMEMBER SUGIMURA: --the Director then make a comment about that?

CHAIR CARROLL: Ms. McLean?

MS. McLEAN: And the reason that we put in the language about land area available and not just a blanket the old requirement shall apply up until a certain point is because if we said the old requirements apply, there are a lot of uses where the requirements are going to be more lenient. So, we don't want to impose stricter requirements longer than we have to. So, once the bill becomes effective, we want the new lenient standards as well as the stricter standards to apply. And the only situation where we could see where the new standards would be problematic is if there isn't enough land area to accommodate it. And so, that's why we proposed the language that we did. In their situation in particular, they do have, you know, they have a pool, they have other amenities on the site so I guess in theory you could say that they have land available for the parking. But, we would look at the hotel development in its entirety that those are part of the development of the property. We wouldn't look to those areas for, as land that could be made available for parking. We believe that should be allowed to continue as it was approved.

COUNCILMEMBER SUGIMURA: Okay. So, that would take into account their concerns about that they've been approved and they would not have to change their plans then?

CHAIR CARROLL: Ms. McLean?

COUNCILMEMBER SUGIMURA: Correct? Yeah? Okay.

MS. McLEAN: Correct.

CHAIR CARROLL: Ms. Cochran?

COUNCILMEMBER COCHRAN: And so this new language here goes on to Page 2. Is that where? I'm just trying to see where it actually fits in to the actual document.

CHAIR CARROLL: Ms. McLean?

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MS. McLEAN: For the language we're talking about now for projects in the pipeline that would be a new next to last section of the bill. So, it wouldn't become part of the County Code, it would just be part of the bill in relating to when it takes effect.

COUNCILMEMBER COCHRAN: Its own section?

MS. McLEAN: It would be at the very end of the bill.

MR. HOPPER: Yes. Right now, Mr. Chair, Section 16 says this ordinance shall take effect upon its approval. That would be amended to something like this ordinance shall take effect upon its approval except that and then have the new language in there; that's normally what's done with these types of language changes. So, I think that would be added. And Section 16 will probably change too because we're adding several other sections to deal with the 19.36A to B situation. But, it would basically be in the last section and added to the current Section 16, the language.

CHAIR CARROLL: So, this would be Section 16. Section 16 would be renumbered to 17.

COUNCILMEMBER SUGIMURA: No.

MR. HOPPER: Well, it would be renumbered depending on how many additional sections we have to add in for the previous amendment which was to change other sections of the Code. But, worrying about the actual numbers probably, at this point, not the major issue. The language, though, in Section 16, whichever its renumbered to, will be changed to add this language in to that section.

CHAIR CARROLL: Thank you.

COUNCILMEMBER COCHRAN: Okay. And then as for coming down the pipeline, do you have projects, particular projects in mind other than the testimony today?

CHAIR CARROLL: Ms. McLean?

MS. McLEAN: That's the only one that I'm aware of.

COUNCILMEMBER COCHRAN: Okay. And where, how do we treat hotels that converted into timeshare as for parking? Is there any changes when they do that?

CHAIR CARROLL: Ms. McLean?

COUNCILMEMBER COCHRAN: Is it in here somewhere?

MS. McLEAN: Both of those uses are together or are considered hotel/motel/other transient vacation rental which is one per rental unit. So, that continues to be or in the proposed new Code that's the proposal is one per unit. The Code right now for hotel is one space for every two rooms. And so, that's why that's one of the ones we're proposing to increase because we found that to be insufficient. So, we're proposing

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that it be one parking space per room or per unit. And that would be the same for timeshares.

COUNCILMEMBER COCHRAN: Timeshares? Okay. Okay. Thanks, Chair.

CHAIR CARROLL: Alright, Members, let's see. Alright, we did have a motion on the floor with a first and second. We're in discussion now.

MS. NAKATA: Mr. Chair, I don't believe we had a motion pending to include the language from the Planning Director. I think the Chair read the language, but I don't believe we had a motion.

CHAIR CARROLL: Yeah, I think we got into discussion before we had a motion, before we had somebody approve it.

COUNCILMEMBER KING: So moved.

CHAIR CARROLL: Alright.

COUNCILMEMBER KING: Somebody has to leave in two minutes.

CHAIR CARROLL: What was amended.

MS. NAKATA: And, Mr. Chair, could Staff please clarify whether there was a date inserted into the...

CHAIR CARROLL: We have a date of March 31st.

MS. NAKATA: March 31, 2019?

CHAIR CARROLL: Two-thousand nineteen.

MS. NAKATA: Thank you.

COUNCILMEMBER KING: I think it was March 1st, Chair. I believe the original proposal was March 1, 2019.

CHAIR CARROLL: Alright. Members, it was moved by Ms. King. Do we have a second?

COUNCILMEMBER SUGIMURA: Second.

CHAIR CARROLL: Seconded by Ms. Sugimura. Alright. Further discussion? I see everybody thinking outside here.

COUNCILMEMBER SUGIMURA: So, clarification as a date, on the 31st or March 1st?

CHAIR CARROLL: March, March 31st.

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COUNCILMEMBER SUGIMURA: March 31st? Okay.

CHAIR CARROLL: Yeah.

COUNCILMEMBER SUGIMURA: Okay.

CHAIR CARROLL: March 31st.

COUNCILMEMBER KING: Can I ask the Department was that the original intent? March 31st? Okay.

CHAIR CARROLL: Any further discussion to the motion on the floor? Seeing none, all in favor signify by saying "aye."

COUNCILMEMBERS: Aye.

CHAIR CARROLL: Opposed?

VICE-CHAIR HOKAMA: No.

CHAIR CARROLL: Do we have a no? Okay. Six "ayes," no "noes," three excused.

VICE-CHAIR HOKAMA: One no.

CHAIR CARROLL: Pardon?

VICE-CHAIR HOKAMA: One no.

UNIDENTIFIED SPEAKER: . . . *(inaudible)* . . .

CHAIR CARROLL: Okay. Five "ayes." One "no."

COUNCILMEMBER SUGIMURA: Oh, two "noes."

CHAIR CARROLL: Two "noes." The motion fails.

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VOTE: AYES: Chair Carroll and Councilmembers Crivello, King, and Sugimura.

NOES: Vice-Chair Hokama and Councilmember Cochran.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Atay, Guzman, and White.

MOTION FAILED.

COUNCILMEMBER SUGIMURA: The motion fails.

CHAIR CARROLL: Alright. Motion has failed. Let's move on. That means this will not go in. Alright, Members...

VICE-CHAIR HOKAMA: Chairman?

CHAIR CARROLL: Yes, Mr. Hokama?

VICE-CHAIR HOKAMA: I make a motion to amend by deleting all references that allows compact stalls.

CHAIR CARROLL: Do we have a second?

COUNCILMEMBER COCHRAN: Second.

COUNCILMEMBER SUGIMURA: Second.

CHAIR CARROLL: Been moved by Mr. Hokama, seconded by Ms. Sugimura. Mr. Hokama?

VICE-CHAIR HOKAMA: Chairman, I think we had discussion. I expressed my concern that it's something that really doesn't work in my experience and observation at various sites throughout the County and, again, I think we just trying to be real and in dealing with what is actually there with actual vehicle sizes. I mean, we gotta come to terms. We have bad people who cannot park in this County. Right? We get hard time just driving regardless of parking. So, you know, my thing is let's be smart and make parking appropriate size, even the parallel. I cannot tell you how much people cannot even do half a parallel parking nowadays either. Just look at Main Street and other areas. So, you know, for me, Chairman, let's just be a lot smarter, a lot safer, and create stalls that work for us instead of trying to save space and all it does is then take two stalls for that one vehicle. I'm tired of that already. And I'm tired of us not

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enforcing handicapped stalls either, Chairman, for those that really need those stalls. Thank you for that editorial.

CHAIR CARROLL: Chair agrees and would support the motion on the floor. Further discussion?

MS. NAKATA: Chair, could Staff please clarify the intent of the motion? So, for instance, in Section 19.36B.050, size or dimensions of parking spaces. If the reference is to compact stalls is stricken, then the assumption is that all parking spaces required are standard size parking spaces, not that the number is less. Is that correct?

VICE-CHAIR HOKAMA: Correct. The standard dimensions that the bill propose is your minimums.

MS. NAKATA: Thank you, Chair.

VICE-CHAIR HOKAMA: You want to make bigger stalls, that's fine with me. This is the minimum size of a standard stall that you are required to provide.

COUNCILMEMBER KING: Chair?

CHAIR CARROLL: Ms. King?

COUNCILMEMBER KING: I just want to say I don't support that motion because I do support the efficiency of compact cars. I think that's one of the purposes of that, of going to those stalls is to encourage smaller and more efficient cars, so.

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

COUNCILMEMBER SUGIMURA: Chair?

CHAIR CARROLL: Ms. Sugimura?

COUNCILMEMBER SUGIMURA: So, I was curious the impact of this motion. On Page number 14, and if you look at it talks about 19.36B.00, I mean .110, parking modification reduction or deferral and it says A, for the proposed use, the director may reduce by up to 50 percent the number of required parking spaces and loading spaces and may also increase the percentage of compact spaces. So, what happens with situations like that where compact spaces are allowed after making a written determination that adequate parking will be reasonably provided and it goes on and on and on. But, just the impact of this motion to that section. Mr. Rapacz, you look like you're gonna say something.

CHAIR CARROLL: Planning, do you have any comment?

VICE-CHAIR HOKAMA: Chairman? Chairman?

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CHAIR CARROLL: Yes, Mr. Hokama?

VICE-CHAIR HOKAMA: My intent as making that motion is to eliminate all references and everything as regards to compact stalls, Chairman. So, under this section, that won't be allowed anymore.

CHAIR CARROLL: I think that's very clear. Staff, do you have that? Alright. Any objections to that language? Ms. King?

COUNCILMEMBER KING: Chair?

CHAIR CARROLL: Ms. King?

COUNCILMEMBER KING: So, just a question of how this might impact current parking places that have compact stalls?

CHAIR CARROLL: Planning?

MS. McLEAN: Thank you, Chair. The current Code allows compact stalls to be used the same way that the proposed changes are which would just be for single-family dwellings, accessory dwellings, farm dwellings, farm labor dwellings, and duplexes. So, those are the only uses under the current Code that can use compact. Certainly, in the past, it was allowed in commercial areas and at some point in the past that was taken out. So, if it's taken out, I don't think it would have a huge impact; any ones that were existing as approved would be allowed to keep them as non-conformities which is the same case for where they're used in commercial areas.

COUNCILMEMBER KING: Okay. So, but going forward then you wouldn't be able to, for your resident, count a parking space as a compact? You'd have to have a larger requirement per parking space?

MS. McLEAN: If it's a new residence then both, then any parking spaces would have to be standard size and could not be compact.

COUNCILMEMBER KING: Okay.

MS. McLEAN: Right.

CHAIR CARROLL: Any further discussion? Seeing none, all in favor signify by saying "aye."

COUNCILMEMBERS: Aye.

CHAIR CARROLL: Opposed?

COUNCILMEMBER KING: No.

CHAIR CARROLL: One "no," four "ayes." Motion fails.

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VOTE: AYES: Chair Carroll, Vice-Chair Hokama, and Councilmembers Cochran and Sugimura.

NOES: Councilmember King.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Atay, Crivello Guzman, and White.

MOTION FAILED.

CHAIR CARROLL: Alright. We are...any further discussion before the Chair gives his recommendation?

MS. NAKATA: Excuse me, Mr. Chair? Mr. Chair?

CHAIR CARROLL: Yes.

MS. NAKATA: I apologize. Staff is unclear whether two revisions previously discussed were being incorporated as friendly amendments or whether you're wanting a motion on them. One of them was on Page 5 of the bill relating to swimming pools whether there's a need to add in language to clarify that's for commercial or public swimming pools. Was that integrated as a friendly amendment or is there a motion on that?

COUNCILMEMBER KING: I believe I asked for a friendly amendment. The Department was supportive.

MS. McLEAN: Yes. We, we're supportive of the amendment. But, it might be better for that to apply to that whole section of uses rather than just swimming pools.

COUNCILMEMBER KING: Right.

MS. McLEAN: So, the heading of that section begins on Page 4, Recreation or Entertainment. And if that could be amended to say Recreation or Entertainment, Public or Commercial. So, that if any of those uses are conducted privately at your home you don't have to provide that parking.

COUNCILMEMBER SUGIMURA: Okay. So moved for clarity. So, do you need a motion?

CHAIR CARROLL: Somebody want to make a motion?

COUNCILMEMBER KING: We can make a motion, yeah. Okay. So moved.

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COUNCILMEMBER SUGIMURA: Second.

CHAIR CARROLL: Been moved by Ms. King. Second?

COUNCILMEMBER SUGIMURA: Yes. Second.

CHAIR CARROLL: Seconded by Ms. Sugimura. Discussion? Further discussion? All in favor signify by saying "aye."

COUNCILMEMBERS: Aye.

CHAIR CARROLL: Opposed? Motion carried. Five "ayes," four excused.

VOTE: AYES: Chair Carroll, Vice-Chair Hokama, and Councilmembers Cochran, King, and Sugimura.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Atay, Crivello, Guzman, and White.

MOTION CARRIED.

ACTION: APPROVED.

CHAIR CARROLL: Was there anything else?

COUNCILMEMBER SUGIMURA: How about the short-term?

MS. NAKATA: Mr. Chair, so that's only for bed and breakfast homes or was there also a proposal for the short-term --

COUNCILMEMBER KING: No.

MS. NAKATA: --rental home? Was it just for B&Bs?

COUNCILMEMBER SUGIMURA: That was just B&Bs.

COUNCILMEMBER KING: Chair? Chair, the language for short-term rental already says whichever is greater so the language is fine.

CHAIR CARROLL: Okay.

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COUNCILMEMBER SUGIMURA: Can the Department...

CHAIR CARROLL: Any comment, Planning?

MS. McLEAN: Chair, may we ask for a short recess?

COUNCILMEMBER SUGIMURA: Yes.

MS. McLEAN: I apologize.

CHAIR CARROLL: Short recess. If everybody could hang around because we only have five Members. Recess. . . .(gavel). . .

RECESS: 3:25 p.m.

RECONVENE: 3:28 p.m.

CHAIR CARROLL: . . .(gavel). . . Land Use Committee is called back to order. Planning?

MS. McLEAN: Thank you, Chair. We needed to rework the language for the bed and breakfast home because it gets complicated 'cause the operator is sometimes in the dwelling where the bed and breakfast home rooms are and sometimes not. So, trying to make one requirement that applies to all situations. So, instead we would propose that it read one parking space for each bedroom used for bed and breakfast home use plus two parking spaces for the dwelling occupied by the operator of the bed and breakfast home.

COUNCILMEMBER SUGIMURA: Can you say it again? You're revisiting the bed and breakfast?

MS. McLEAN: Yes. Yes. Yes.

COUNCILMEMBER SUGIMURA: Oh.

MS. McLEAN: Because what we had proposed didn't contemplate the situation where the operator lives in the same dwelling as the bed and breakfast home rooms and because we're increasing the parking requirement for single-family dwellings, if it's a large home and you have one parking space for each of those rooms, it would almost be double-dipping that the requirement for the owner would also be added for the entire house on top of that. So, it could end up to be many more stalls than are needed. So, we want to make sure that a space is required for each bed and breakfast home room plus two spaces for the operator. So, that's what...

COUNCILMEMBER KING: Chair, can I ask a question?

CHAIR CARROLL: Ms. King?

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COUNCILMEMBER KING: But the way that we worded it, it just makes the rest of the house not used for bed and breakfast required underneath the existing. So, if you have say 2,000 square feet that's not part of the bed and breakfast, you're still saying you only need two spots.

MS. McLEAN: Right.

COUNCILMEMBER KING: But then, I mean, that kind of contradicts what you're, you know, I mean if you're making a house, a normal house, have a parking requirement based on square footage, then you're kind of contradicting that by making whatever's leftover of the bed and breakfast not have to adhere to that same square footage. I mean I think the way we have it worded now just makes whatever's not used for bed and breakfast have to adhere to the requirements as listed. So, if you have 5,000 square feet that's not being used then you have however many required parking spaces you need. That's the part that, you know, I mean I don't really, personally I don't really care for that anyway, I think it should be by bedroom, but if we're gonna make a residential single-family home have to adhere to those same square foot requirements then those same requirements should be for whatever part of the bed and breakfast is not being used.

MS. McLEAN: Okay. I might have a solution for that. If we go with one parking space for each bedroom used for bed and breakfast home use plus two parking spaces for the dwelling occupied by the operator of the bed and breakfast home or the requirement for a dwelling unit in the chart, whichever is greater.

COUNCILMEMBER KING: Okay.

CHAIR CARROLL: Members?

COUNCILMEMBER KING: Alright. So moved.

CHAIR CARROLL: We're gonna have to have a motion to reconsider 'cause we already...

COUNCILMEMBER KING: Oh, yeah.

CHAIR CARROLL: And the person that prevailed has to make the motion to reconsider.

COUNCILMEMBER KING: Okay.

CHAIR CARROLL: I guess that would be Ms. King since she prevailed.

COUNCILMEMBER KING: Move to reconsider to the new motion.

CHAIR CARROLL: Do we have a second?

COUNCILMEMBER SUGIMURA: Second.

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COUNCILMEMBERS: Aye.

CHAIR CARROLL: Opposed? Motion carried. Five “ayes,” four excused.

VOTE: AYES: Chair Carroll, Vice-Chair Hokama, and Councilmembers Cochran, King, and Sugimura.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Atay, Crivello, Guzman, and White.

MOTION CARRIED.

ACTION: APPROVED AMENDMENT.

CHAIR CARROLL: Members, do you have anything else before the Chair gives his recommendation? I think we have covered the entire bill already. Alright. Members, the Chair will entertain a motion to recommend passage on first reading of the further revised proposed bill entitled A Bill for an Ordinance Repealing Chapter 19.36A, Maui County Code, Establishing a new Chapter 19.36B, Maui County Code, Relating to Off-Street Parking and Loading and Amending Relevant Sections of the Maui County Code to Incorporate the New Chapter 19.36B, Maui County Code; incorporating any non-substantive revisions; and any revisions made in today’s meeting; and to file County Communication 18-304. Been moved by Mr. Hokama.

VICE-CHAIR HOKAMA: Chairman, Chairman, no I cannot make the motion, Chairman.

CHAIR CARROLL: I’m sorry.

VICE-CHAIR HOKAMA: I cannot make the motion.

CHAIR CARROLL: You not making the motion?

VICE-CHAIR HOKAMA: Yeah, I cannot, Chairman, because --

CHAIR CARROLL: Alright.

VICE-CHAIR HOKAMA: --I won’t be voting affirmative.

CHAIR CARROLL: Anybody that...it’s the Chair’s recommendation. Anybody make the motion? Alright. There is no motion.

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COUNCILMEMBER SUGIMURA: We're gonna vote and it's gonna fail.

COUNCILMEMBER KING: Yeah, I move to defer. Can we defer it?

CHAIR CARROLL: We can either defer or file. Defer. Obviously, this won't be heard again this year.

COUNCILMEMBER SUGIMURA: Say again.

CHAIR CARROLL: That there is no motion on the floor. There was no first and no second. Any other further discussion before the Chair defers this item?

COUNCILMEMBER SUGIMURA: So, Chair?

VICE-CHAIR HOKAMA: Chairman?

COUNCILMEMBER SUGIMURA: Oh, go ahead.

CHAIR CARROLL: Having...

VICE-CHAIR HOKAMA: I appreciate your effort, Chairman. I think we did some good work today. But, the current version, I'm not too happy with. I still think there's things that we should consider. And again, you know, for me I'm gonna...if you want to discharge it to Council, that's one thing, Chairman, and have the full body consider it and I'm sure we'll have amendments and whatnot. But, what is the current form right now I won't vote for it, Chairman. Thank you.

CHAIR CARROLL: This year will go on to next year's agenda. Of course, none of us know what's going to happen then. But, anyway it will go on the agenda for next year. I'm deferring this item.

COUNCILMEMBERS VOICED NO OBJECTIONS. (Excused: AA, SC, DG, MW)

ACTION: DEFER PENDING FURTHER DISCUSSION.

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CHAIR CARROLL: This item now stands deferred. . . .(gavel). . .

ADJOURN: 3:36 p.m.

APPROVED:



ROBERT CARROLL, Chair
Land Use Committee

lu:min:181114:kt

Transcribed by: Kimberly Tabon

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

DATED the 5th day of December, 2018, in Kahului, Hawaii

A handwritten signature in black ink, appearing to read "Kimberly Tabon", written over a horizontal line.

Kimberly Tabon