

PLANNING AND SUSTAINABLE LAND USE COMMITTEE
Council of the County of Maui

MINUTES

September 18, 2019

Council Chamber, 8th Floor

CONVENE: 9:01 a.m.

PRESENT: VOTING MEMBERS:

Councilmember Tamara Paltin, Chair
Councilmember Shane M. Sinenci, Vice-Chair
Councilmember Kelly T. King
Councilmember Alice L. Lee (in 9:24 a.m.)
Councilmember Michael J. Molina
Councilmember Keani N.W. Rawlins-Fernandez
Councilmember Yuki Lei K. Sugimura

STAFF: James Krueger, Legislative Analyst
John Rapacz, Legislative Attorney
Clarita Balala, Committee Secretary

Zhantell Lindo, Council Aide, Molokai Council Office (via telephone conference bridge)
Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)
Mavis Oliveira-Medeiros, Council Aide, Hana Council Office (via telephone conference bridge)

Don Atay, Executive Assistant to Councilmember Shane M. Sinenci

ADMIN.: Michael J. Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel
Michele McLean, Director, Department of Planning
Jacky Takakura, Administrative Planning Officer, Department of Planning
Ann Cua, Planner, Department of Planning
Kathleen Aoki, Division Chief, Planning Implementation Division, Department of Planning
Peter Graves, Geographic Information System Analyst, Department of Planning

OTHERS: Rick Trier, Pastor, Door of Faith Church

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

CHAIR PALTIN: . . .(*gavel*). . . Will the Planning and Sustainable Land Use meeting of Wednesday, September 18, come to order. The time was 9:01. If everyone could

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please silence their cell phones or any noisemaking devices. My name is Tamara Paltin, and I'll be the Chair of this Committee. I'd like to introduce my Vice-Chair Shane Sinenci.

VICE-CHAIR SINENCI: Aloha kakahiaka, Chair.

CHAIR PALTIN: Aloha kakahiaka. And joining us we have our Councilmember Mike Molina.

COUNCILMEMBER MOLINA: Good morning.

CHAIR PALTIN: Good morning. And...

COUNCILMEMBER MOLINA: Good morning, Madam Chair.

CHAIR PALTIN: Good morning. And joining us we have our Vice-Chair of the Council, Member Keani Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha kakahiaka, Chair.

CHAIR PALTIN: Aloha kakahiaka. And we have Chair of the Council, Kelly King.

COUNCILMEMBER KING: Aloha kakahiaka.

CHAIR PALTIN: Aloha kakahiaka. And Member Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: Good morning.

CHAIR PALTIN: Good morning. And I did get the word that Member Lee will be about 15 minutes late so she can greet us at that time. And non-voting Members of the Committee, we have Mr. Hokama and Ms. Kama. They're both welcome to join us at any time. Today from the Department of Corporation Counsel, we have Deputy Michael Hopper.

MR. HOPPER: Good morning.

CHAIR PALTIN: Good morning. And from the Planning Department, at this time we have Director McLean.

MS. McLEAN: Good morning, Chair, Committee Members.

CHAIR PALTIN: Good morning. And we have Administrative Planning Officer on deck with her, Jacky Takakura.

MS. TAKAKURA: Good morning.

CHAIR PALTIN: Good morning. And in the audience today we also have from the Planning Department, Ann Cua, Kathleen Aoki, and Peter Graves. Good morning. For

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Committee Staff, we have Committee Secretary Clarita Balala; Legislative Analyst James Krueger; and in our Molokai Office we have Zhantell Lindo. At the Lanai Office, we have Denise Fernandez. And at the Hana Office, we have Ms. Mavis Oliveira-Medeiros. So, we have three items on the agenda today, PSLU-39, which is the District Boundary Amendment, Community Plan Amendment, and Change in Zoning for Door of Faith Church; PSLU-26 which is Renewals for Conditional, Bed and Breakfast [sic], Short-Term Rental Home, and Special Use Permits, and considering their grace periods; PSLU-40 which is Digital Zoning Map (2) for Maui Island. For individuals testifying in the Chamber, please sign up at the desk just outside the Chamber door. If testifying from one of the remote testimony sites, please sign up with District Office Staff. Testimony will be limited to the item on the agenda today, and pursuant to the Rules of the Council, each testifier will be allowed to testify for up to three minutes per item. When testifying, please state your name and the name of any organization you may be representing. If you're a paid lobbyist, please inform the Committee. We have established a connection to the Council District Offices. Hana Office, Ms. Mavis Oliveira-Medeiros, do you have anyone wishing to testify?

MS. OLIVEIRA-MEDEIROS: Aloha, Chair. There's no one here waiting to testify.

CHAIR PALTIN: Thank you, Ms. Oliveira-Medeiros. You have a nice day. Lanai Office, Ms. Denise Fernandez, do you have anyone wishing to testify?

MS. FERNANDEZ: Good morning, Chair. There are no testifiers at the Lanai Office.

CHAIR PALTIN: Thank you. Have a nice day. Ms. Zhantell Lindo, Molokai Office, do you have anyone wishing to testify? I think she did say earlier that there wasn't anyone, but we can check back in. Is there anyone here in Wailuku that wants to testify? Looks like a no. So, last call for...oh.

MR. TRIER: I'm sorry. I would like to testify on behalf of the Door of Faith Church.

CHAIR PALTIN: Okay. I did have you scheduled for a short five-minute presentation.

MR. TRIER: Okay.

CHAIR PALTIN: Did you want to testify in addition to that?

MR. TRIER: No.

CHAIR PALTIN: Okay, that's Pastor Rick Trier. So, he was going to give a little presentation. So, looks like there's no testifiers. I will, if there's no objections, I will now close public testimony.

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR PALTIN: Okay, consider it closed.

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PSLU-39: DISTRICT BOUNDARY AMENDMENT, COMMUNITY PLAN AMENDMENT, AND CHANGE IN ZONING FOR DOOR OF FAITH CHURCH (HAIKU) (CC 19-345)

CHAIR PALTIN: Okay. So, the first item on the agenda is PSLU-39, the District Boundary Amendment, Community Plan Amendment, and Change in Zoning for Door of Faith Church. The Committee received County Communication 19-345 from Councilmember Shane M. Sinenci, transmitting a proposed resolution entitled, Referring to the Maui Planning Commission Proposed Bills to Amend the State Land Use District Classification, to Amend the Paia-Haiku Community Plan and Land Use Map, and to Change the Zoning for Property Situated at Haiku, Maui, Hawaii, Tax Map Key (2) 2-9-007:032, Door of Faith Church. At this time, Member Sinenci, did you want to say a few words on this item as this is your referral?

VICE-CHAIR SINENCI: Thank you, Chair. Thank you for agendizing this. Yes, we have Pastor Trier here and so he came to our office to just...they wanted to just keep with the community plan changes and to renovate their church at Huelo. So, we wanted to support him and his congregation and the efforts in keeping his church, the historical character and the cultural significance of the area. So, he's here to speak to the project. Thank you, Chair.

CHAIR PALTIN: Thank you, Member Sinenci. Mr. Trier, would you care to give a short presentation at this time, like five minutes or so?

MR. TRIER: I brought some plans with me, but I don't want to...I'm not going to...I'm going to be short, so. Councilmembers, God bless you for...this is new to me. This is the first time I've been in a meeting of such. But I'm the Pastor of the Huelo Door of Faith Church. The church was established in 1953 where they brought in old lumber from HC&S, I believe, from one of the old homes there. And they got a building permit and they built the church back in '53. I think I was four years old 'cause I was born in '48. But I'm the third pastor of the church. And the reason why we're going...we're trying to get a zone change is so that we don't have to be considered nonconforming, a church that's nonconforming being on ag land. And in their process, we've submitted some plans to the Planning Department to build the new church in the same location, same width, same length as the existing church. And so hopefully been following the 2006 Building Code. And basically, the old church is falling down. So, we're not in that...we're not occupying the church at this time. But the church is still standing. We belong to the Maui Food Bank, and we feed once a month on Saturdays. We feed anywhere from 20 to 30 families, sometimes more, sometimes less on a continual basis. We also have a lease from Department of Land and Natural Resources of 1.24 acres that allow us...they even gave us an easement. We have an easement to come in on our property, but they gave us an easement on their property to enter the church from the roadway also. And that agreement also states that we can use it for church activities, community activities, and parking as well. We provide meeting place like in Hana when they had the water issues with the water, they had...we had a community meeting at the church and had the public from Hana come in and voice their opinions.

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We also had meetings in the past in our church building, in our church hall for the injection wells that they were planning to do in Haiku area. In the past we've had the Taste of Huelo where we provide pastries and home-cooked things, you know, for the community to come. We have our luaus that we do every now and then. And so, we've never had any pilikia or problem with the community. I think we're in excellent standing in the community. In fact, the land that was given to the church was given to by Johnny Kahiamoe who way back in the day had 100 acres out there. His family are still Moki Kahiamoe and his wife, Pua Kahiamoe, are still out there. They still retain 15 of the acres there. They attend church faithfully. And his wife is the secretary for our little church there. But we're there to help the community. We're there to support the community in whatever ways we can. And so, I appreciate any help that you can give us so that we can proceed. And basically, like I said earlier, in closing all we're trying to do is establish a new church with the 2006 Building Code in the same location as the old church, and then in the same length and the same width, nothing different. Thank you for your open ears and all the help that you can give me. God bless you.

CHAIR PALTIN: Thank you, Pastor Trier. Do you mind staying in case if any of the Members had --

MR. TRIER: Oh, I'm sorry.

CHAIR PALTIN: --any questions? Chair King?

COUNCILMEMBER KING: Thank you, Chair. Thank you for being here, Pastor, although I have a really hard time believing you were born in '48. So, you look great.

MR. TRIER: Oh, thank you.

COUNCILMEMBER KING: Maybe as I get older, everyone's looking younger.

MR. TRIER: I got like a black eye up here, but I didn't get into a fight, and a little scar here. I had a little bit of malignant cancer removed by Dr. Crow.

COUNCILMEMBER KING: Oh, sorry to hear that.

MR. TRIER: Oh, it's okay. Being...I got haole rot growing up here in Hawaii. I was born and raised in Honolulu.

COUNCILMEMBER KING: So, I just...I have a couple questions.

MR. TRIER: Go ahead.

COUNCILMEMBER KING: One is...maybe it's for the Department. But so, the Land Use District Boundary Amendment is going from Agriculture to Rural. Does the Land Use not have a Public/Quasi-Public? Because the other two requests are for changing it to Public/Quasi-Public.

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MS. McLEAN: The State Land Use only has four districts.

COUNCILMEMBER KING: Okay.

MS. McLEAN: Urban, Rural, Agricultural, and Conservation.

COUNCILMEMBER KING: Okay. So, that's all we can do. And then the...when I was reading the justification, it said for tax purposes. But as a church, aren't you exempt from taxes?

MR. TRIER: I believe so.

COUNCILMEMBER KING: Okay. So, it's not...it's just basically for building purposes?

MR. TRIER: Yes.

COUNCILMEMBER KING: Okay. So, and you're going to be building...you don't have any issues with the State Historic Preservation?

MR. TRIER: No, I filed for that way back in the day and because it...it's more hysterical than it is historical. 'Cause it was all used lumber that was built, you know. And the State of Hawaii said that it's non-historical.

COUNCILMEMBER KING: Okay. So, yeah, I was just...I knew that --

MR. TRIER: Yeah.

COUNCILMEMBER KING: --if it was 50 years old or something that...

MR. TRIER: No, it's really...excuse me. It's really interesting 'cause the four by four posts are on like lava rocks, and that floor joists are about 32 inches apart. I was a carpenter. I retired as a carpenter way, way back. Anyway, you know, and then they have the old oak flooring over that, those joists. And so, the building...we had to move out of the building 'cause it was unsafe. I made the decision to hold services in the hall. So, anyway...

COUNCILMEMBER KING: Okay, and then the owner of that entire property is Door of Faith Church?

MR. TRIER: Yes, the owners are Door of Faith Church. And then I submitted the authority from the organization to sign off for anything that needs to be signed off, representing the Door of Faith Movement and Bible School, Inc.

COUNCILMEMBER KING: Okay. You mentioned that there was an easement given you, given to you for access from another road. But I'm just looking at the map, and I don't see another road besides the Door of Faith Road.

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MR. TRIER: Oh, it's, yeah, it's a...there's a gate up there. It's adjacent to the existing roadway there. And we come...over the years, we've been coming in through there. The Kahiamoes I believe --

COUNCILMEMBER KING: Oh, okay.

MR. TRIER: --had a lease on all of that land, the ceded...Hawaiian ceded lands. And I went to Oahu and lobbied for...to take their names off of that parcel, and put it under the Door of Faith, and separate the other land across the street that they raise cattle on from the church lands so that it would just be a lot cleaner. And so, they agreed. They did that. And we had a quorum. And then we have a month-to-month lease that we've had it, jeez, I think we've had it almost 15 years now.

COUNCILMEMBER KING: Okay. So, that's an easement on a private road then. Is that what you're saying?

MR. TRIER: It's an easement on private property, on DLNR, on ceded land.

COUNCILMEMBER KING: Okay. I think that's all the questions I have, Chair. Thank you.

CHAIR PALTIN: Thank you.

COUNCILMEMBER KING: Thank you for being here.

CHAIR PALTIN: Member Molina?

COUNCILMEMBER MOLINA: Thank you, Madam Chair. Good morning, Pastor.

MR. TRIER: Good morning.

COUNCILMEMBER MOLINA: You know with the improvements, the Fire Code currently allows for how many...up to how many people in the church?

MR. TRIER: I'm not positive of the number. They did say with the...that I might have to put up I think it was like 80,000 gallons. I talked with Mr. Gomes from Dynamic Engineering. I think it was Dynamic. And we talked about that, and I talked with Eddie Santos about you know installing the sprinkler system. So, there's some things...back prior to 2006 when we did the permit for the hall, Linda Taylor designed all that. The Fire Department required us to have was a 20,000-gallon tank that we have now. And we also have a two-and-a-half-inch standpipe. But under the new guidelines, they want a six-inch fire hydrant. And I think they wanted more water, you know. And so, but basically there's no Fire Department in Haiku, and there's no running water in...where the church is located. We use the water from East Maui Irrigation. The Kahiamoes, Hawaiian family, have water rights, and they gave the land to the Door of Faith Church 'cause his wife was a pastor, Dolly Kahiamoe.

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COUNCILMEMBER MOLINA: Pastor, thank you. You've given me more information than I need.

MR. TRIER: Oh, okay, I'm sorry.

COUNCILMEMBER MOLINA: But I'm sorry. But as far as the church, the capacity of how many people are allowed, you know, for...typically your services you have for your congregation?

MR. TRIER: Typically, our services are about 25 to 30 people.

COUNCILMEMBER MOLINA: Okay, okay.

MR. TRIER: Yeah, we have bathrooms and, you know, everything updated in the hall.

COUNCILMEMBER MOLINA: Okay, and then so, no...in anticipation of possibly adding more members into your congregation?

MR. TRIER: Oh, we'd love to have more members. But I don't, I don't...I've been there for since 2000 and that's about what we run.

COUNCILMEMBER MOLINA: On average.

MR. TRIER: We might go up to maybe 50, and then it'll come back down again.

COUNCILMEMBER MOLINA: Okay, okay.

MR. TRIER: Maybe next generation.

COUNCILMEMBER MOLINA: Yeah, I was just thinking maybe with these nice improvements you might hopefully get some more, you know.

MR. TRIER: Yeah, yeah.

COUNCILMEMBER MOLINA: Preach the...you know, preach the word, pass on the word. It would be great. But thank you for your service to the community as well.

MR. TRIER: Thank you, appreciate it.

COUNCILMEMBER MOLINA: Thank you. Thank you, Madam Chair.

CHAIR PALTIN: Sure thing. Any...

COUNCILMEMBER KING: I just have one more follow-up.

CHAIR PALTIN: Yes.

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COUNCILMEMBER KING: Thank you. So, I think Mike wants to join your congregation.

MR. TRIER: Oh, more than welcome.

COUNCILMEMBER KING: Maybe that's why he was asking how many you can fit. But, no, I have a question about the Door of Faith Road because in our previous term, and Councilmember Sugimura remembers this, we had a lot of people testifying at the Budget Session about the repairs that are needed.

MR. TRIER: Yes.

COUNCILMEMBER KING: But we couldn't really do anything because it's a private road. So, where are they at with the condition of the road and, you know, is the community interested in, you know, deeding that over to the County? I think our...not to give our Planning Department a hissy fit. But I just wondered where we're at with that?

MR. TRIER: You know, to answer your question, I'm very akamai when it comes to paving. I work for Geolabs presently, and I did all of T.J. Gomes density testing, as well as the airports for asphalt concrete pavements. And the condition, yeah, the condition, I think it was a government road. And they paved...they paved maybe the first...the approach to the Door of Faith Road. They paved that, and it stopped maybe 50 feet in, and that's about it. And then after that the community has been using untreated top-based material to fill up the potholes and so forth. But, you know, I told them that, you know, they might want to get a petition and get everybody on the same wave, and try to find out. But right now the community pays for the upkeep of all the road there, you know.

COUNCILMEMBER KING: Yeah, just wondered because we hadn't heard anything this last session. And you know, there was a lot of talk about it. But the County kind of...we kind of had our hands tied because it wasn't a County road, so.

MR. TRIER: Yeah.

COUNCILMEMBER KING: Maybe we can...maybe that's a conversation for the future.

MR. TRIER: Yes, and you know, I'm believing that if we're allowed to process this zone change, maybe I can help at least get it paved up to where the church...to where the entrance of the church is. And I'd be more than happy to...

COUNCILMEMBER KING: As part of your project?

MR. TRIER: To do part of that.

COUNCILMEMBER KING: Okay.

MR. TRIER: As part of the project or something.

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COUNCILMEMBER KING: That would be great.

MR. TRIER: You know, that's something that I think that the contractors would be more than happy to kokua us in that area.

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

CHAIR PALTIN: Thank you. I just had one question. I just was wondering is the funding coming from your 25 congregation members?

MR. TRIER: Yeah, we sold...our finances...I'll be honest with you. We...our tithes and offerings into the storehouse are anywhere from 20 to \$25,000 a year. We had sold a piece of property that was given by the Rosa family for a little over \$200,000. But out of that money, we ceded...Huelo Church ceded \$100,000 to the movement to get a full-time pastor in Honolulu, Pastor John Rogers, who's now the President of the Door of Faith Bible School, Inc. And he's doing a wonderful job. But with that said, then we...I also had to hire through this process of trying to get a building permit, I had...I was advised to use Chris Hart and Associates [sic] which we did. So, I had to sign a \$13,000 contract. It's a labor of love as far as building the church, I have Mike Nakashima from Hawaiian Dredging, Goodfellow Brothers. I have a lot of connections in the construction world. And I'm a retired carpenter myself. So, I built the hall with children for, you know, for like \$25,000. It's a 1,600-square-foot building. But anyway, yeah.

CHAIR PALTIN: Oh, right on.

MR. TRIER: So, I'm not a paid minister. So, I'm the pastor of the church, but I do not...I'm not on...I'm not paid. I'm just doing it for God's people, for the work.

COUNCILMEMBER SUGIMURA: Nice.

MR. TRIER: And for the community.

CHAIR PALTIN: Not really a question, but yesterday and the day before the Administration been working on this Resilience Hub issues. And once you get your church rebuilt, it sounds like it may be a good candidate. I know Pastor Jay in Lahaina with Lahaina Baptist Church, he helped us out a lot during our fire and flood situation. So, maybe you might become a Resilience Hub church for your area. That would be awesome.

MR. TRIER: That would be awesome. We have a vision. I wanted to get a swimming pool and a basketball court so I could attract some young people. But now that if we need this water source, I thought, well, maybe we'll just call it a retention basin. But anyway, just trying to...we're just, you know, we're just trying to work our way through the system. Yeah.

CHAIR PALTIN: Yeah.

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MR. TRIER: And, you know, we're there to support the community. In fact, even the road to Hana, you know, the cleanup for the road to Hana, we provided, I forgot to mention that, we provided all of the food for the workers. That was really an awesome...it took out a lot of vehicles in the area. You know how they...there's problems out there with the vehicles when they leave 'em on the side of the road. If they're left there more than 24 hours, somebody comes along with a gas can and ignites 'em. And the Fire Department has to go out there and extinguish it. So, we're there to support and to monitor, to try to talk...we put feelers out and try to find out who's doing what. And we also invited in the past, I forgot to mention, we also invited the Maui's finest, the Maui Police Department, to come out to Huelo. And we initiated the Crime Watch Program, and we had really great response. The captain came out and lieutenant came out, and we had the meeting at the Kahiamoe's house down in the valley. And the...all the community came out. So, there's a high crime rate out in that area over the years. But it has gotten better with activity and with fellowship with the community.

CHAIR PALTIN: Thank you so much for your service. Oh, Member Molina, one more question?

COUNCILMEMBER MOLINA: Thank you, Madam Chair. Sorry, Pastor, just hearing your conversation, just, you know, really interesting. In terms of the type of construction material you're going to use, because all of the elements, you know, weather elements, are you looking at something like...well, this is going to be wood I presume. But any like vinyl siding or anything of that nature?

MR. TRIER: It'll be...it'll more than likely be stucco. The exterior will be five-eighths CDX plywood. And then a brown coat of stucco on top of that. You know how you see the new buildings with the stucco and...

COUNCILMEMBER MOLINA: Good for the long term, too, for another...

MR. TRIER: Yeah, except the concrete, yeah. So, that's what I'm trying to establish. Why am I doing all of this? I'm 70½ years old. 'Cause I'm a glutton for punishment. No, I'm doing this for the next generation, you know. We have six of our people that are taking pastoral classes. And in fact, we got our final exam this week. And so they're not ordained, but they're being trained as leadership. And then we also have a...we're starting up a online theological degree, bachelor's degree and master's degree for theology. And this is brand new so through the new president that we have, Pastor John Rogers. He's spearheading that. And these candidates that are just taking the first course, I think there's three of them that are going to sign up for the college degree in theology. So, I think the Huelo Door of Faith Church is the future. And I'm hoping that we can better serve the community.

COUNCILMEMBER MOLINA: Thank you.

CHAIR PALTIN: Thank you.

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COUNCILMEMBER MOLINA: Thank you, Chair.

CHAIR PALTIN: At this time, I'd like to recognize Member Alice Lee. Thanks for joining us. And thank you, Mr. Trier, or sorry, Pastor Trier. Director McLean, did you have any comments that you wanted to add before we make any motions or anything?

MS. McLEAN: Thank you, Chair. As you're aware, when we take something like this through the process, there is certain information required by the County Code for these kinds of entitlements. So, we'll be happy to work with the Pastor --

MR. TRIER: Thank you.

MS. McLEAN: --and his consultants to make sure, and with Councilmember Sinenci's Office, to make sure that we have the information we need to be able to take it through the process. And then it will come back to the Council for final action. Thank you.

CHAIR PALTIN: Thank you. Any further questions before --

COUNCILMEMBER SUGIMURA: No further questions.

CHAIR PALTIN: --the recommendation?

COUNCILMEMBER SUGIMURA: Recommendation.

CHAIR PALTIN: Ready? Okay, Members, the Chair will entertain a motion to recommend adoption of the proposed resolution entitled, Referring to the Maui Planning Commission Proposed Bills to Amend the State Land Use District Classification, to Amend the Paia-Haiku Community Plan and Land Use Map, and to Change the Zoning for Property Situated at Haiku, Maui, Hawaii, Tax Map Key (2) 2-9-007:032, Door of Faith Church; incorporating any nonsubstantive revisions.

VICE-CHAIR SINENCI: So move.

COUNCILMEMBER KING: Second.

COUNCILMEMBER SUGIMURA: Second.

CHAIR PALTIN: Moved by Councilmember Sinenci, and seconded by Chair King. Any discussion on this matter? Councilmember Sinenci, as the movant, did you want to say a few words?

VICE-CHAIR SINENCI: No, I think the Pastor had said everything.

CHAIR PALTIN: Okay. Cool.

VICE-CHAIR SINENCI: And we're looking forward to work with the Director and the Department. Thank you.

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CHAIR PALTIN: Right on. Okay. So, all those in favor of the motion on the floor, say “aye.”

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Any opposed, say “nay.” The motion passes with seven unanimous.

VOTE: AYES: Chair Paltin, Vice-Chair Sinenci, and Councilmembers King, Lee, Molina, Rawlins-Fernandez, and Sugimura.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

ACTION: Recommending ADOPTION of resolution.

CHAIR PALTIN: Thank you, Mister...Pastor Trier.

MR. TRIER: Thank you so much and may you have a blessed day. Amen.

COUNCILMEMBERS: Amen.

PSLU-26: RENEWALS FOR CONDITIONAL, BED AND BREAKFAST HOME, SHORT-TERM RENTAL HOME, AND SPECIAL USE PERMITS
(CC 19-67)

CHAIR PALTIN: Okay. So, the next item on the agenda is Renewals for Conditional, Bed and Breakfast Home, Short-Term Rental Home, and Special Use Permits, PSLU-26. The Committee received County Communication 19-67, for the...from the Planning Director, transmitting a proposed bill entitled, A Bill for an Ordinance Relating to Renewals for Conditional, Bed and Breakfast Home, Short-Term Rental Home, and Special Use Permits. The purpose of the proposed bill is to automatically extend Bed and Breakfast Home Permits, Short-Term Rental Home Permits, and Special Use Permits while applications for renewal are in process for up to six months; and to automatically extend Conditional Permits while applications for extension are in process, for up to 12 months for permits requiring Council approval and up to six months for all other permits, if either is allowed by the terms of permit's initial issuance. So, I scheduled this item. I think we had a previous presentation from Director McLean, and she was saying, you know, sometimes while people have their

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applications for renewal in, it expires. And so, wanted to help out the Administration with that. And also, I'm going to have a revised bill, proposed bill, passed out for Members' consideration, and the main revision includes that permit renewal applications must be submitted no later than 90 days prior to the expiration date. And the reason for that is we don't want folks waiting up until the last day, and then just get an automatic six-month extension. You know, the bed and breakfast and short-term rental home is a calendar-based industry. So, you know, basically they need to put on their calendar when their renewals are due. And if us, as the Administration, or as the County, cannot process their renewal within that amount of time, then we're going to give them a grace period because it's kind of on us because we haven't been able to process it in time. And I had one example of what I'm trying to do and it kind of relates to my previous line of work. I first learned CPR like way back in the '90s. And they used to have like a separate rate for infants, children, adults, and all these different numbers. And what they found out was that it was hard for people to remember, you know, like if it's a infant, oh what is it, five to one. Or, if it's a child, and what is child, one to eight years old. So, the newest CPR, not high performance but regular CPR, it's all 30 to 2, you know. So, you see an emergency, it's standard. So, that was kind of what I was trying to do with this bill, like not make different rules for different things. Like, oh, Conditional Permit, it's this many days. Or, for a Bed and Breakfast, it's this many days. I kind of wanted to standardize it all so I felt like it would lessen the number of mistakes. And, you know, everybody wants to renew their permit, get your application in 90 days, put it on your calendar just like a reservation for your...booking your bed and breakfast. You know, they look at the calendar all the time to know their bookings. And I just thought that would be a cleaner way to do it. So, at this time if Planning had any comments on the item, or any comments on the revised bill, or just let us know what you're thinking.

MS. McLEAN: Thank you, Chair. As you indicated, the bill would allow for a grace period. So, when renewal applications are submitted prior to their expiration, we're not always able to process that renewal, and certainly if they require Council action, it's difficult to process that renewal prior to when the permit itself expires. And our longstanding practice, and this goes back, I don't know, decades, is that we allow that grace period until the renewal can be processed. If the renewal is denied, then the permit is over. But if the renewal is approved, then we allow that continuity. And this bill would codify that practice. We have always held very, very firm that if the renewal is submitted after expiration, the permit is expired. There is nothing we can do about that, so that there are no ifs, ands, or buts. It's interesting that this proposal, the revisions that were just distributed, came up because we had that same discussion within the Department. And so, our feeling was that it's very difficult for the Department to tell someone who comes in 89 days prior to their permit expiring, sorry, we can't accept this. Your permit is going to expire in 89 days. You went through the process to get a permit. You've been complying with all your conditions. You came in a day late, or five days later, whatever it may be, but prior to expiration, and we have to tell them no. That's very hard for us to do. And so we did have those discussions, lively discussions internally, including people who used to be on our staff who are now with Council Services. So, maybe that's why it's coming up again, that we didn't want to have to be that hardcore. If it's in the Code, we will comply with it and that's it.

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And so on that 89th day or 88th day, we are going to have to tell them no if these changes are enacted. And we didn't want to have to do that. So, that's why it wasn't in the bill that we sent to you. If that's what you choose to do, so be it. We will follow it. But those are the reasons that we, you know, we would have concerns over the proposed changes being enacted. We would rather encourage, suggest, recommend that the applicants submit their renewals in advance, and way more often than not, they do. They do submit them in that timely manner. But on the rare occasion that they don't, we don't want to have to tell them, too bad, you can't renew. Your permit is going to expire. I feel less concerned about that, as the Chair mentioned, when it comes to B&Bs and short-term rental homes because those are calendar-driven businesses. They don't really have the same kind of reason to miss that deadline as maybe, you know, a Conditional Permit for, I don't know, we have Conditional Permits for quarrying operations that are valid for ten years. Or Special Permits that are valid for ten years and, you know, that deadline can come up quickly. But for B&Bs and STRHs, I wouldn't be as concerned. But for Conditional and Special Permits, you know, if we have to tell them no, we have to tell them no. But we'd really rather not have to be...we're the bad guy often enough. Thank you, Chair.

CHAIR PALTIN: Thank you, Director McLean. I'll just take my purview to ask the first couple questions. So, my understanding, or the purpose of this ordinance is to allow for a grace period, right. So, if they bring it in on the 89th day and you're able to process it, then you don't turn them away, right. It's only if you're not able to process it within the 89 days, and then they're not going to get the grace period extension. Or are you saying something different?

MS. McLEAN: The proposed amendment says an applicant for an extension must complete an application no later than 90 days prior to expiration, after which the Department shall not accept any application for an extension. So, if it's on the 89th day --

CHAIR PALTIN: They're not going to accept it.

MS. McLEAN: --this says we cannot accept it.

CHAIR PALTIN: Okay. And then is the wedding industry and things like that under Conditional Permit, or Special Permit?

UNIDENTIFIED SPEAKER: It says for both.

MS. McLEAN: It would depend on the zoning, but there are some on a Conditional Permit like the Haiku Mill is on a Conditional Permit.

COUNCILMEMBER SUGIMURA: For five years.

CHAIR PALTIN: And they're kind of a calendar-based industry, wedding permits and stuff like that.

MS. McLEAN: They are, yes.

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CHAIR PALTIN: I mean it's mostly these Special Permits and Conditional Permits are for like business purposes where they're making...generating an income.

MS. McLEAN: Right.

CHAIR PALTIN: Okay.

MS. McLEAN: Right.

CHAIR PALTIN: All right. I'll open up the floor to the Members. Chair King?

COUNCILMEMBER KING: Thank you, Chair. So, I understand your heartache over the 89th day. I mean if we said 60 days, then you'd have heartache over the 59th day. So, at some point there has to be a number. Maybe the number is better at 60 days. I don't know, but I'm thinking that the 90 days is to give you time to process it by the expiration date. And then there's a grace period if you can't get to that. But so, my first question is if you don't get to the processing by the 90 days and they go into extension, when you do end up processing it, the extension period starts back from the expiration date regardless of when you process it? Or, does it start from the date that you process it, and they somehow got that...whatever grace period for free? How does that work?

MS. McLEAN: Yeah, you're correct. It's...the extension starts from the original expiration date.

COUNCILMEMBER KING: The original expiration date.

MS. McLEAN: They don't get that extra...

COUNCILMEMBER KING: Yeah, so if you end up taking a year, or because it needs Council...not you, but us, you know, end up taking a year, and the Conditional Permit is for a year, then they have to reapply like before we even get it done. So, that's a little bit hinky there. But I don't...I'm not sure what the solution is to, you know, your heartache over that period, the 90-day period, because at some point we have to say no. Otherwise, you're constantly getting late...the thing and maybe the answer is to...when people are getting a Conditional Use Permit or a Special Use Permit, just tell them you really should be applying 120 days early, you know. And then you have that 30-day grace period, you know, even if you just tell them verbally that on the 89th day...because there's going to be a point where at some point you have to say no. And that's always not going to feel good, you know. So, I don't know what the answer is other than to just advise folks that, you know, if they get a Conditional Permit that requires an extension, do that extension 120 days early instead of 90 days and you won't risk missing that deadline. I don't know. I'm just...I'm trying to brainstorm here because I understand how you would feel on that 89th day. But I just don't think it's going to be any different with any other deadline we make. If they're a day late, it's always going to feel bad.

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CHAIR PALTIN: Director McLean?

MS. McLEAN: Most, but not all permits, have in their permit conditions when the renewal needs to be submitted. So, oftentimes that is still in there. For the Code though, 60 or 30 days would certainly be better because if we're telling someone no, and they say, what, it's three months away, that's kind of hard but --

COUNCILMEMBER KING: Okay.

MS. McLEAN: --two months or 30 days is, you know, that seems --

COUNCILMEMBER KING: Okay.

MS. McLEAN: --a little more --

COUNCILMEMBER KING: Okay. So, it would be easier.

MS. McLEAN: --. . .*(inaudible)*. . .

COUNCILMEMBER KING: I mean as long it's standardized. If we make it 60 days, then you know, they could still apply 90 days ahead of time.

MS. McLEAN: Right.

COUNCILMEMBER KING: There'd be plenty of...plenty ahead. And maybe that's a little less confusing for the public because, you know, it just seems like, well, there's still almost three months. We're just one day short. So, yeah, I could live with that, Chair. If we, you know, we'd still be standardizing it and giving the hard deadline, but it would be a little less harsh than the 90 days.

CHAIR PALTIN: Yeah, that's a good idea. If I may, just interject one other question. You know, the case where Chair King was saying about the Council one, and then they might need to renew before they get their...renew for the second year before they get their first year, would we as the Council in the process of renewing it be able to up the length of that type of permit? Like say, we're at ten months in our grace period of not having renewed it and it comes up before us, can we say like, oh, you know, at this point, if we renew it, you're only good for two more months and you got to renew it again. So, when we're renewing it now, we're going to make it for two years this time, or three years, or five. So, that would be an option if we run into the situation that Council Chair King mentioned.

MS. McLEAN: Yes, that would be well within the Council's authority to do that.

COUNCILMEMBER KING: Okay.

CHAIR PALTIN: Okay, thank you.

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COUNCILMEMBER KING: That would be a consideration. But I would support changing that 90 days to 60 days if that works better for the Planning Department and also for the general public. Then I mean to go...

CHAIR PALTIN: Director McLean, is that...

COUNCILMEMBER KING: Yeah, if you don't get your application within two months, you probably can't even expect it to be done by the time you expire.

CHAIR PALTIN: Is 60 days amenable to you folks?

MS. McLEAN: It's better than 90.

CHAIR PALTIN: Okay. All right. Well, at the proper time maybe you want to make the amendment.

COUNCILMEMBER KING: Okay.

CHAIR PALTIN: I got Councilmember Sinenci, followed by Councilmember Yuki Lei, and then followed by Councilmember Molina.

VICE-CHAIR SINENCI: Thank you, Chair. Just a couple questions for the Director. Clarification. So, the 90 days is a grace period for the applicant after their expiration date?

MS. McLEAN: No, what's being proposed is that the applicant has to submit for renewal 90 days prior to expiration date.

VICE-CHAIR SINENCI: Was there a grace period in that?

MS. McLEAN: And then the grace period would be if we're not able to complete processing that renewal by their expiration date, this bill would give a grace period as long as they submit their renewal, and we're not able to process it for whatever reason, if the permit technically expires, they still have a grace period until we complete...till we can complete processing the renewal.

VICE-CHAIR SINENCI: So, strictly for the Department to give the extra time for you to process?

MS. McLEAN: Yes.

VICE-CHAIR SINENCI: Oh, okay. And then does the Department notify the applicants of their expiration dates?

MS. McLEAN: Typically, we do not.

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VICE-CHAIR SINENCI: Okay. Thank you. Thank you, Chair.

CHAIR PALTIN: Thank you, Member Sinenci. Member Sugimura?

COUNCILMEMBER SUGIMURA: Yeah, I just wanted to hear from the...I just want to hear from the Department what you want. You know, what in practice, right. 'Cause sometimes we have great ideas, but I just wonder in practice and theory for what your Department has been doing and what works. I mean you have the hands-on frontline.

CHAIR PALTIN: Member Sugimura, do you mind if we bring up Ms. Cua who might have more...

COUNCILMEMBER SUGIMURA: She probably has...

CHAIR PALTIN: She has a wealth of knowledge --

COUNCILMEMBER SUGIMURA: Yeah.

CHAIR PALTIN: --on this subject and --

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR PALTIN: --we can have her chime in.

MS. McLEAN: She was all anxious sitting there listening. So, we'd love to have her input.

MS. CUA: Thank you so much for letting me speak. I was...can I testify please, please? So, I work for the Current Division, and so we are the ones that process all these time extensions. So, we...our conditions used to say before submit the application 90 days prior, the renewal application, the extension application. And in a perfect world that's great. Not all Conditional Permits, Special Use Permits are for weddings, B&Bs, short-term rentals. We have the churches that might have a parking lot. We have the schools that might have something. For a while Seabury Hall came in for a Conditional Permit for their parking lot. Now, I believe they're zoned, so they're okay. But for those kinds of use...for the Korean Church that needs, you know, to come in and extend their permit, for them we felt bad because they passed. Like Michele said, once they pass the deadline when the permit expires, there's nothing we can do. But what we find with churches is sometimes they change their --

COUNCILMEMBER SUGIMURA: Leadership.

MS. CUA: --what do you call that? Their, yeah, their leadership, and it's not leadership from here. It's from Korea or whatever, and the whole translation process. And so, there's issues. And we feel so bad to turn people away. We feel bad to turn them away when we say...not really turning them away, saying we can't extend your permit 'cause you really don't have a permit. So, that's one issue we can't do anything about. This issue, though, is for us it...and because you're doing a grace period, it really doesn't

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matter for us if they give it to us 90 days, 60 days, 30 days, or 10 days. Yeah, it's a bummer, but we can still process it. Now we have a grace period. Every permit approval letter states that you need to submit your request...we use the word "within." We changed it to "within" because the reality of what was happening. Our permit approval, like I said, always said you submit it by this day. And we knew that people didn't submit it 90 days before. They submitted it 60 days. So, we finally changed it to reflect the reality, within so many days. And if they were off a few days, you know, we didn't see it as a real big deal. In terms of staff time, for us to process an extension, so the amount of money the County is spending for us to process an extension versus sending somebody all the way back to square one, that's a big expense on the County. It's a big expense for an applicant coming in. I agree with what Michele said. If it's, you know, a short-term rental, I'm not as concerned. But I'm very concerned about the Joe and Mary Souza who may need a Conditional Permit or Special Use Permit to do a business in their home. And that's where it's heavy on our hearts to have to say I'm sorry, you know, it's 89 days and you didn't get it in by 90 days, so I can't extend your permit. You have to go do a brand-new application. We're going to take you back to the Planning Commission all over again. That's kind of what I'm struggling with.

COUNCILMEMBER SUGIMURA: Excellent. Right? 'Cause that's really the people --

MS. CUA: That's the reality.

COUNCILMEMBER SUGIMURA: --the greater people. I think we focus on the ones...

MS. CUA: That's the reality.

COUNCILMEMBER SUGIMURA: Yeah, the short-term and bed and breakfast.

MS. CUA: Yeah, it's to help applicants 'cause it does not feel good when we have to...

COUNCILMEMBER SUGIMURA: So, what do you want us to do?

MS. CUA: I would like you to keep the language to "within."

COUNCILMEMBER SUGIMURA: Within. The way you submitted it to us?

MS. CUA: Within, yeah. And again, the condition says within 90 days. We tell people get your application in time. But sometimes people are on a trip or whatever. I mean it is what it is. We've heard it all.

COUNCILMEMBER KING: Chair?

COUNCILMEMBER SUGIMURA: Okay. Thank you.

CHAIR PALTIN: Thank you, Member Sugimura. Member Molina, followed by Member Rawlins-Fernandez, and then Chair King on her second time.

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COUNCILMEMBER MOLINA: Thank you, Madam Chair. And first of all, good morning, Madam Director and Ms. Cua. I would just preface my question by just telling you folks you guys did a wonderful conference in West Maui last week --

MS. CUA: Thank you.

COUNCILMEMBER MOLINA: --the State conference. So good, I think Maui should do it again. I know Ms. Cua is giving me stink eye over that, but I know it took a lot of time. But it was very informative and I heard a lot of positive things, so great job. Staying on that topic, I guess, Ms. Cua, you had mentioned about the expiration dates. First of all, how much does it cost an applicant to reapply, apply for an extension? And I ask that because I mean one, is it legal where we could say if you process ten days before the deadline...ten days or less before the deadline, you pay a higher fee. I mean is that legal? Can the County consider that as an incentive for applicants to do their extension sooner so they don't have to wait till the 89th day or whatever, yeah.

MS. CUA: Well, you set the fee schedule, and so I guess, you know, you could do whatever you want. I think the fee varies. I'm not sure the exact amount. You just upped it a little bit. But no matter what you decide today, the fee is what it is. I think it's...it's either 165, or it's either 500. I'm not exactly sure. It's something around...we're looking it up. But it has increased a little bit. But we don't...it doesn't right now...the structure of the fee schedule right now doesn't allow us to do something like what you're saying.

COUNCILMEMBER MOLINA: Okay.

MS. CUA: It's definitely an interesting thought, but.

COUNCILMEMBER MOLINA: Yeah, maybe I wonder if Corp. Counsel can comment on it? Could we put something in there with the fee schedule where, you know, the applicant has, say, ten days before the deadline, the Department has the right to, you know, charge you even higher? So, that way it motivates the applicant to get their application in a lot sooner rather than later. I don't know. Mr. Hopper?

MR. HOPPER: Well, Madam Chair, again you, as Council, you've got control over the fees set forth in the budget. I wouldn't necessarily recommend saying something like the Department has the discretion to charge a higher fee in this case. If you want to set a higher fee and define when that would apply, you could look at that. Generally, as long as...fees have to be...the purpose of a fee rather than a fine is to recover the County's costs in, you know, the time it spends in processing the application. And I think in general...I think there was fee study done some years ago. And I think in general they found that the County isn't getting full...really anywhere near full cost recovery on all of its fees. And so, I think as long as you're still under the total amount that it would...that the County would say its costs are to process that fee...or that application, then you're okay. You generally can't have a fee that is higher than

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what it would cost the County to process that. So, we would want to look at that and confirm that. But I think the Council could look at that as a fee, not as part of this legislation right now. But I think when you review your budget, or if you wanted to amend that to go over the fees, you could look at something like that potentially I think.

COUNCILMEMBER MOLINA: Yeah, yeah. Thank you.

MR. HOPPER: But depending...making sure that it's still under the total amount that it would cost the County to process the application.

COUNCILMEMBER MOLINA: Great. Well, something certainly for discussion with our Budget Chair, Ms. Rawlins-Fernandez, maybe down the road. For the Department again, and the average time to process, you know, Conditional Permit extensions and who causes...I mean on the part of the applicant, what is the...on their part, 'cause they cause a delay too, right. I mean sometimes it's the Department. Sometimes it's the applicant in itself. What is the average processing time for the Department first?

MS. CUA: You're speaking just --

COUNCILMEMBER MOLINA: You mentioned the time cost...

MS. CUA: --Conditional Permits --

COUNCILMEMBER MOLINA: Yeah.

MS. CUA: --or Special Use Permits.

COUNCILMEMBER MOLINA: Yeah.

MS. CUA: So, that really depends. If we can do...if we can do a time extension...I'm talking about all spectrum of permits. If we can do a time extension just administratively and we don't need to send it out for agency comments, we could maybe get it done in one or two months. If we have to send it out for agency comments, that's usually a 30-day review. If it has to go to the Planning Commission, we have to get it on the Planning Commission agenda, three to four months. If it has to...if for some reason it has to go back as a public hearing, then that could be six months plus. It's...there's all kinds of...

COUNCILMEMBER MOLINA: Yeah, all different variables, I guess.

MS CUA: Yeah, variables.

COUNCILMEMBER MOLINA: Okay. Well, thank you for your responses. I appreciate it. Sorry, Director.

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MS. McLEAN: Chair, I looked up the rates and fees. For new Conditional Permits and County and State Special Use Permits, for new ones the application fee is \$687.50. The renewal is \$137.50. For Bed and Breakfast and Short-Term Rental Home permits, for Bed and Breakfast the new permit ranges from 500 to 1,000 depending upon the length that's requested. The renewal ranges from 375 to 1,375 depending on the length requested. Short-Term Rental Homes starts at 812.50 and goes up to 1,375 depending on the length. The renewal starts at 375 and goes to 1,375.

COUNCILMEMBER MOLINA: Okay. Thank you for that information. Thank you, Madam Chair.

CHAIR PALTIN: Thank you, Member Molina. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Miss...Director McLean and Ms. Cua. Mahalo for being here and answering our questions. I...so the stories and examples that Ms. Cua shared with us, it sounds like a lot of them have to do with the Conditional and Special Use Permits. So, I think there is like maybe a little less sympathy for B&Bs and STRs. So, would we be able to separate that out? I think that was what I heard from the Molokai Planning Commission that they would like to support time extensions for Special Use Permits and Conditional Permits, but not for B&Bs and STRs. So, I'm trying to work on amendments on the fly right here. But if...I don't know if you have any recommendations on how to do that.

MS. McLEAN: I think that those kinds of amendments could pretty easily be figured out to treat B&Bs and STRHs differently. Again, because they are based on a calendar, it should be easier for those operators to put in those notes in their calendars.

COUNCILMEMBER RAWLINS-FERNANDEZ: Exactly, yes.

CHAIR PALTIN: Pau?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah, I guess...I mean if I wouldn't be able to come up with those amendments like right here and now, then I would be more inclined to want to defer so that those items could be included.

CHAIR PALTIN: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR PALTIN: I know Chair King wants to ask a question, and I had a question after. So, I mean we're not ready for the motion just yet.

COUNCILMEMBER RAWLINS-FERNANDEZ: And I'll continue working on it, and maybe I'll get it ready before we take the vote.

CHAIR PALTIN: Okay.

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COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR PALTIN: Chair King?

COUNCILMEMBER KING: Thank you. Yeah, I think we're still trying to figure out what version we're going to be starting with as well. But I have a little bit of issue with that word "within" because if somebody waits till the last day, and then they get a six-month extension or a year extension because...which is perpetuated because of the fact that they were late. But I was actually...Member Molina must be turning into a business person because I was going to say exactly what he was going to say. But kind of from the opposite point of view where if we could give different...if we could give a discount for people who apply early, you know, to...that might be a better way than looking it as punitive where, you know, this is the fee if you're within 60 days. If you do a 90-day renewal application, you get 20 percent off or 25 percent off. That would encourage I think folks to calendar that date on their, you know, their...for their extension. And it wouldn't be looked at as, you know, could be looked at as more of a discount off of, even if we raised the rates at some point when we find out what the actual cost is to the Department, to give people a discount to apply early and give you more time to process. And then we wouldn't...and because I think, you know, that we should be rewarding people for good behavior. And then that would hopefully keep them from exercising that grace period because they'd be getting their permit processed in time. So, that was another idea I had that I thought...I think is probably a little more positive.

CHAIR PALTIN: Ms. Cua?

MS. CUA: I really...I really like that thought process. I would, though, just check with Finance because I don't know if the system is set up to do a 20 percent discount. I think it might be easier if you just put a fee if you do it within so many days, that the system could just accept it again. I don't know anything about how the system works, but before anything is written in, you know, in Code, I would make sure that our system, Finance, is acceptable to whatever language.

COUNCILMEMBER KING: Right, whatever you have to do. If you have to just figure out what that discount would be and put the number in for each type of permit, you could do that. But, you know, the point being that we want to encourage people to...you know, as a business person, I think if it was significant, it was \$100 or \$200, I would make sure I got my extension in 30 days earlier than it was required by law. So, thanks, Chair.

CHAIR PALTIN: Mr. Hopper, did you want to weigh in on that?

MR. HOPPER: I'm sorry, Chair, no.

CHAIR PALTIN: Okay. I...

COUNCILMEMBER LEE: After you.

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CHAIR PALTIN: Okay. I had a question for Ms. Cua. You know for the Special Permits and Conditional Use Permits, like say it's a church or something, and they get their renewal in say the day before, what is the current process? Like do they get a grace period, or you can't process it in one day, it expires?

MS. CUA: So, our current process is as long you get, that's why we use "within," as long as you get the renewal or extension application in prior to the expiration, we will process. But as the Director mentioned, when we do an extension, it's from the date that the permit would expire. We don't adjust that date based on, you know, when you submit it. We can't. We don't have the ability to adjust that date. It expires on this date, and we are going to extend it from that date. Sometimes the Commission or the Department will add a little bit of time so that they don't only have a year or whatever it is. But we have to go from that date no matter when you've submitted for a time extension.

CHAIR PALTIN: So, currently there is no like six-month grace period or anything. It's indefinite amount of time as long as they got it in before the date that it expires.

MS. CUA: Yes, as long as they've gotten it in. And that's why this whole purpose is to memorialize what we actually are practicing right now.

CHAIR PALTIN: And is the same true for Bed and Breakfast and Short-Term Rental Homes?

MS. CUA: The same is true for everything. We changed the wording to "within." So, as long as they submit it, even though we strongly encourage people to, you know, get it within 90 days or whatever the language of the condition it allows, we accept it as long as it's prior to the expiration date.

CHAIR PALTIN: Member Lee? Thank you, Ms. Cua.

MS. CUA: Thank you, Chair.

COUNCILMEMBER LEE: Thank you, Madam Chair. Ms. Cua, I like that "within" word. But I was also wondering how many Conditional and Special Use Permits do you manage? Five hundred? Four hundred?

MS. CUA: Oh, no.

COUNCILMEMBER LEE: Four thousand?

MS. CUA: Yeah, maybe a couple dozen. I mean, a year. There's not a lot, maybe a few dozen. I...--

COUNCILMEMBER LEE: Oh, dozen.

MS. CUA: There's not a lot.

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COUNCILMEMBER LEE: Okay.

MS. CUA: Yeah. We're not in the hundreds at all.

COUNCILMEMBER LEE: Okay. But overall, it's probably hundreds, right?

MS. CUA: Overall, with everything, maybe 100.

COUNCILMEMBER LEE: Yeah, but annually about 24?

MS. CUA: Of each, maybe.

COUNCILMEMBER LEE: Yeah. Okay. I know that the County workers aren't accustomed to doing this but, not your Department, but others. Is it possible to send them a reminder e-mail or a reminder, you know, just something that's automatically generated that doesn't require a whole lot of staff time?

MS. CUA: You know, the challenge with that...that discussion has happened before. The challenge with that is that then the County...it becomes the County's responsibility to remind people. And you know, we go back to that whole issue of...a lot of these businesses, they're calendar, they're based on a calendar. And they're making lots of money. And it really should be on them to be able to come in and remember. This permit is extremely valuable. And it really should be on them to remember to come in.

COUNCILMEMBER LEE: But isn't it true that the ones that have big businesses like B&Bs and short-term rentals, they're the ones that remember. And then the other people don't, you know, the ones that have small businesses and you know, like special event or something, they're the ones that don't remember...

MS. CUA: It varies. I can't really say that it's just one category, one type of permit that we may have issues. It's all...it's kind of all over the place. But again, I don't...I wouldn't prefer to put the County, for anybody, on the hook of, you know, remembering. You know, sending out reminder notices to people.

COUNCILMEMBER LEE: Okay. Can you say once again what the renewal process entails?

MS. CUA: So, it's basically the applicant submitting an application or a letter to the Planning Department. It gets assigned to a Planner. The Planner takes a look at the conditions to see if they're in compliance with the conditions. We may, depending on what the conditions say, depending on maybe the complaints if there have been complaints that have come forward, we may send it out to agencies for review. And then when we assemble all information, we look at it and decide if we should renew it and for how long. It may need to go to Planning Commission for renewal. It just depends. There's a lot of extenuating circumstances.

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COUNCILMEMBER LEE: So, actually the process that you have now is...suffices then. It's comfortable for you.

MS. CUA: It is.

COUNCILMEMBER LEE: And it's comfortable for our clients, our customers.

MS. CUA: I can say it's comfortable for the Department. I believe it's...I would say that it is comfortable for people because it does give them --

UNIDENTIFIED SPEAKER: It's working.

MS. CUA: --it gives them the front end --

COUNCILMEMBER LEE: Okay. So --

MS. CUA: --grace and the back end.

COUNCILMEMBER LEE: --it's...if it's not broke, why are we fixing it?

COUNCILMEMBER SUGIMURA: You're codifying it.

MS. CUA: Yeah, what we want...what...our intent in codifying was to allow the practice of when somebody submits an application and it may take the Department longer to process for whatever reasons, we had to send it out, getting on the calendar, the permit...the expiration date comes into play. It's like, you know, it's there.

COUNCILMEMBER LEE: Okay, right now it's a rule?

MS. CUA: I'm sorry. What was that?

COUNCILMEMBER LEE: Right now, is it a rule? A rule, r-u-l-e.

MS. CUA: A rule. No, there's nothing.

COUNCILMEMBER LEE: Oh, just a policy?

MS. CUA: Yeah, if they --

COUNCILMEMBER SUGIMURA: A practice.

MS. CUA: --submit prior to the expiration, we process. Even though it passes the expiration, as long as they file the extension prior to the expiration, they're good.

COUNCILMEMBER LEE: It's a practice.

MS. CUA: It's a practice.

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COUNCILMEMBER LEE: Okay. We got it.

MS. CUA: So that's why we're trying to codify it.

COUNCILMEMBER LEE: All right. I got you.

MS. CUA: Thank you.

COUNCILMEMBER LEE: Thank you, Madam Chair.

CHAIR PALTIN: Thank you. Mr. Hopper?

MR. HOPPER: I just want to clarify just a couple points in the discussion. There's different expiration...or application processes for different kinds of permits, or at least deadlines. The Conditional Permit currently says that it has to be received...it says, the current Code says in any case extensions must be applied for no later than 90 days prior to expiration. Both the Short-Term Rental Homes and Bed and Breakfast Home Permits say, permit renewal application shall be submitted to the Department within 90 days prior to the permit expiration date. So, that's different than no later than 90 days prior. And then for County Special Permits which is the last part in your Ramseyered Code amendments, my understanding of that is that a County Special Permit timeframe for applications would be by condition of the Planning Commission. And then State Special Permits are done by HRS 205-6, and that's a separate process under State law. But that would involve conditions as well as far as when the extension applications have to be received by. So, there are different timeframes for different permits. They don't all say within 90 days. It's going to depend on conditions for County Special Permits. For the Conditional Permits, it has to be prior to 90 days. And for B&Bs and STRHs, it's within 90 days.

CHAIR PALTIN: I had some questions based on Member Lee's questions for Ms. Cua. Just wanted to clarify when she was asking you about the Conditional Permits and Special Use Permits. It's about 24 Conditional Permits a year and 24 Special Use Permits a year roughly.

MS. CUA: We have more Special Use Permits than Conditional Permits. Conditional Permits, very few. New ones, probably even under ten.

CHAIR PALTIN: And those are like for the churches, the Conditional Permits?

MS. CUA: It's for whatever. It could be to operate a wedding, a wedding business. It could be...see, if a use is not a permitted use or it doesn't qualify as a Special Use, it would have to get a Conditional Permit. So, anything that doesn't fit into those two categories would need a Conditional Permit.

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CHAIR PALTIN: So, then my other question is say they hand it in the day before the deadline for expiration, the application for extension or with renewal, and the six months isn't an adequate amount of time for you to process it. Then does the permit expire?

MS. CUA: So, as long as...you're saying if they submitted the application the day before it expired? So, technically we'd have a day to process. I mean if you...but because they've submitted it prior to the expiration date, our practice has been we will process. And we'll take it through whatever process it needs. And when we extend, we're going to extend from that expiration date for whatever period of time we're extending. So, we don't necessarily have like six months, three months, or whatever to process.

CHAIR PALTIN: I understand that part. But I was under the impression that us codifying the grace period for six months now gives you six months. So, I guess my question should've been like if we pass this legislation that codifies it to a six-month grace period extension, what happens if they turn it in the day before the expiration, and six months that we're codifying it to, isn't enough time. Then do you have to not renew the permit?

MS. CUA: That would be a yes.

CHAIR PALTIN: So, then it's kind of a little bit on them if they choose to the last minute to turn it in, then they take their chances that you'll be able to renew it within six months because we're codifying this right now. And if you're not able to then, it's like well, you got your permit in the day before it expired. The Council passed this legislation to give you a six-month grace period and you should've got it in earlier.

MS. CUA: Yeah.

CHAIR PALTIN: Is that kinda...

MS. CUA: That's correct.

CHAIR PALTIN: And the six-month grace period was on the recommendation from the Department?

MS. CUA: The Director is saying yes.

CHAIR PALTIN: Okay. How do Members feel about taking a short recess to work on some amendments? And then we can come back in say at...how's folks feel about 10:30?

COUNCILMEMBER SUGIMURA: Fine.

COUNCILMEMBER MOLINA: No objections.

COUNCILMEMBER RAWLINS-FERNANDEZ: No objections.

CHAIR PALTIN: Okay. We'll take a short recess till 10:30. . . .(gavel). . .

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RECESS: 10:12 a.m.

RECONVENE: 10:30 a.m.

CHAIR PALTIN: . . .*(gavel)*. . . Aloha, the Planning and Sustainable Land Use Committee meeting of September 18, Wednesday, at 10:30 will please return to order. I trust everyone's had sufficient time to work on any types of amendments to the bill that they would like to see. Seeing as there might be multiple amendments proposed, I would ask that as we propose them, if we can just ask for consensus. And then if it looks like we're not getting consensus, then we can take a vote on it. And if I can take the privilege of proposing the first amendment.

COUNCILMEMBER KING: Chair?

CHAIR PALTIN: Yes.

COUNCILMEMBER KING: Just for point of information, which ones...which one are we starting with? Because are we starting with your version, or the Department's version?

CHAIR PALTIN: My version.

COUNCILMEMBER KING: Okay.

CHAIR PALTIN: Okay.

COUNCILMEMBER LEE: The colored lines?

COUNCILMEMBER KING: The one with the colored lines.

CHAIR PALTIN: Yeah. So, the only proposal that I have is, I'm asking for consensus to change 90-day requirements for application submittal to 60 days for all...four permit types.

COUNCILMEMBER KING: Consensus.

CHAIR PALTIN: Okay, I got one...so it's for, you know, where, everywhere where it says needs to be submitted within 90 days, I'm changing it all to 60 days for short-term, bed and breakfast.

COUNCILMEMBER KING: Okay. So, not within but it says, no later than.

CHAIR PALTIN: Yeah, that's my first amendment, or only amendment.

COUNCILMEMBER MOLINA: Madam Chair?

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CHAIR PALTIN: Yes.

COUNCILMEMBER MOLINA: Could we get comment from the Department?

CHAIR PALTIN: Sure. Director?

MS. McLEAN: Thank you, Chair. So, this is just to change 90 to 60 in that first section?

CHAIR PALTIN: Yeah, that's the first proposed amendment.

MS. McLEAN: Okay.

CHAIR PALTIN: 'Cause you kind of said like, you know, 90 days is --

MS. McLEAN: Right.

CHAIR PALTIN: --far in advance.

MS. McLEAN: We had talked during the break about perhaps leaving it at 90 days, but leaving in that following language that's been bracketed that says, however, the Director may waive this requirement if the Director finds that unusual circumstances prevented an applicant from filing a timely extension request.

COUNCILMEMBER SUGIMURA: I like that.

MS. McLEAN: And not including that additional language that was proposed to be added. I don't mean to jump ahead, but --

COUNCILMEMBER SUGIMURA: Chair?

MS. McLEAN: --it could stay at 90 days if there's discretion to allow it to be shorter for unusual circumstances.

CHAIR PALTIN: Okay. I'm kind of not a big discretionary person. But...Ms. Sugimura?

COUNCILMEMBER SUGIMURA: I like that suggestion. And I think the other thing the Department said is you've been using "within." So, that seems to be a important factor. And I just want to realize what is reality. And I think when we do policy, words are so important that if we do something that works contrary to what the Department's practice is, that we may be hindering something that is already working, right. They're the frontline people. We're just looking at things...and we think we know what goes on. But we don't. So, I want to hear, you know..."within" was another word...the words that you said earlier and I think you need to have discretion because things happen that we don't know all the circumstances today. I mean there may be a hurricane, who knows. There may be something disastrous, or there may be something that applies only to the applicant that is relevant to be considered. So, I

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would like to, you know, take your suggestion and also add in the word “within,” or use...be cognizant of that.

CHAIR PALTIN: Okay. So, no consensus for the 60 days. Yes, Ms. King?

COUNCILMEMBER KING: Okay. Yeah, I just wanted to say that I support the 60 days. And I’m not a big give discretion fan either because I think it leads to accusations of favoritism. And yes, circumstances are always going to come up that are difficult to deal with. But we’re trying to limit those issues. And that’s...I think that’s what the purpose of this bill is, is try to streamline it and make it clear and not fuzzy. And so, everybody knows what to expect when you’re, you know, applying for a permit. So, you know, I would support the, you know, no later than 60 days prior to.

CHAIR PALTIN: Okay. Member Lee?

COUNCILMEMBER LEE: Yeah, I don’t think any of us are supportive of, you know, blatant and unchecked discretion. But, you know, being on both sides of being a legislator and an administrator, please believe me that, you know, you don’t want to tie the hands of someone who’s trying to implement the ordinance, any ordinance. And when we develop and create ordinances, we have to understand that we cannot foresee and anticipate every unusual circumstance. So, you know, one of the best things that we could do is to try to be fair and firm, but also understand that there needs to be the ease and practicality of administration of ordinances and rules. So, therefore, you know, I would agree with Ms. Sugimura on this particular point. Thank you.

CHAIR PALTIN: Thank you, Member Lee. Member Molina, followed by Member Sinenci.

COUNCILMEMBER MOLINA: Thank you, Chair. Question for Director McLean. In terms of the issue of discretionary approval, if I were late, say you know, over 60 days, what would be a --

CHAIR PALTIN: Under 60 days.

COUNCILMEMBER MOLINA: --justifiable excuse?

CHAIR PALTIN: Under 60 days.

COUNCILMEMBER MOLINA: Oh, under 60, yeah. Well, what would be a justifiable excuse for me to get approval to go above the...pass the deadline? What could I use potentially that is justifiable?

MS. McLEAN: We’re using the...

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

COUNCILMEMBER MOLINA: Yeah, I mean without revealing too much. Yeah, you know what I’m saying? I mean, you know, I know we use the term, broad term “hardship.”

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CHAIR PALTIN: Mr. Hopper, should we go into executive session for this?

MR. HOPPER: No, but I want to note for special...for Conditional Permits, 19.40.090, the current language is, however, the Director may waive this requirement, that's applying before the 90 days prior. The Director may waive this requirement if the Director finds that unusual circumstances prevented an applicant from filing a timely extension request. That's being deleted. That's proposed for being deleted. So, I'm not sure how much discretion, at least with Conditional Permits, the Director would have in accepting anything after the 90-day, or in this case, potentially 60-day period.

CHAIR PALTIN: Yeah, it's proposed for being deleted, but it hasn't been deleted yet I think is Mr. Molina's point. So, if we don't delete it, he wants to know something that would be considered an unusual circumstance and not something that can be replicated by everyone as an excuse.

COUNCILMEMBER MOLINA: Yeah, yeah. I mean without getting into too much detail. But just what would be a justifiable excuse, so to speak?

MS. McLEAN: Using the example that Ann gave earlier, if there's a change in leadership with the church. And you don't have that continuity of management like you did before, and they're getting their paperwork sorted out and realize, oh, we have this permit and it's going to expire soon and, you know --

COUNCILMEMBER MOLINA: Okay.

MS. McLEAN: --are we too late?

COUNCILMEMBER MOLINA: Something really extreme.

MS. McLEAN: So, something like that is...it seems legitimate to us.

COUNCILMEMBER SUGIMURA: Somebody dies, right? You could have somebody dies that actually is the permit holder and there's...

MS. McLEAN: Well, if the permit holder dies, that might be a different situation 'cause permits are often given in the name of --

CHAIR PALTIN: Oh, nontransferable.

MS. McLEAN: --an individual, so if it's an individual --

CHAIR PALTIN: Maybe like a --

MS. McLEAN: --that would be something...

CHAIR PALTIN: --hospital stay? Maybe like a coma or something, temporary coma?

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MS. McLEAN: Or a serious medical condition.

COUNCILMEMBER SUGIMURA: It happens, right?

CHAIR PALTIN: Can't really fake that I guess.

COUNCILMEMBER MOLINA: Yeah. Okay. That's good enough. Thank you.

CHAIR PALTIN: Okay. Member Sinenci?

VICE-CHAIR SINENCI: Thank you, Chair. Just for clarification. So, is the current bill already has 60 days, or no?

CHAIR PALTIN: The current bill says, I believe it says like within 90 days.

VICE-CHAIR SINENCI: Okay. So, this is your copy, Chair, that has 60 days for Conditional Permits?

CHAIR PALTIN: My original one had 90 days. But at one point I did hear the Planning Department say 60 days is a little bit easier for them to turn people away than 90 days because not everyone thinks about renewing things three months in advance. So, it's hard for them to say no for the person that tries to renew on the 89th day. And that 60 days, being closer to the deadline, is a easier. We felt that we needed to pick a day because, you know, we're creating policy.

VICE-CHAIR SINENCI: Oh, okay. Oh, so this is your...

CHAIR PALTIN: That's my proposed amendment --

VICE-CHAIR SINENCI: That's your proposal with this.

CHAIR PALTIN: --to my current revised bill is to change the 90 days to 60 days. That's --

VICE-CHAIR SINENCI: Okay.

CHAIR PALTIN: --what we're discussing on at this moment.

VICE-CHAIR SINENCI: Thank you.

CHAIR PALTIN: Before we go back to Ms. Sugimura, did anyone that hasn't spoken yet have any comment? Ms. Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Sorry, I was trying to work on another amendment. I...

CHAIR PALTIN: No need if you didn't.

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COUNCILMEMBER RAWLINS-FERNANDEZ: I did want to make one point. I didn't hear anyone make that point. I know there was discussion about making the...amending the "no later than 90 days prior to expiration" to "within 90 days prior to expiration." And what that would essentially do is allow anyone to come in the day before the expiration. Because if you're saying "within," it can be all the way up to the day before the expiration date.

CHAIR PALTIN: And were you proposing that for all four, or specifically for the Conditional Permit and the Special Use Permit?

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, no, that's what the language is right now. And so the discussion was changing the "no later than 90 days" to "within 90 days." And so I just wanted to make that point since that was something that was being discussed.

CHAIR PALTIN: Oh, I thought the discussion was my amendment was to change all the 90 days to 60 days was what we were currently discussing.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, yeah, Member Sugimura was talking about the "no later than" and changing it to "within."

CHAIR PALTIN: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Sixty days.

CHAIR PALTIN: Within 60 days is what...

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Sure. So, within 60 days the same, you know, principle would apply. If it says "within," then it would still give the applicant all the way up to the day before the expiration.

CHAIR PALTIN: I'm okay with that for the Conditional Permits and the Special Use Permits, but not for the Short-Term Rental Homes and B&B homes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So, for the 19.40.090, that would be within 60 days, and for the...and that's for Conditional and Special Use Permits. But you want to change it to...or leave it at "no later than 90 days" for the STRs and B&Bs.

CHAIR PALTIN: I think they said 60 would be preferable on those. Is that...

MS. McLEAN: There are a couple of intersecting issues here. If, and the Chair has commented on this, the language in 19.40.090 at the end that's bracketed that gives discretion to allow extensions, if that's deleted, then we would like for the language to be "within" because that gives the leeway. If that bracketed language stays in, though, then the "no later than" language can stay. So, we just...one way or the other, there's some leeway. And so, if there's one way that the Council prefers over another, then

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either one would work for us. And if there is that leeway, then the difference between 60 and 90 days isn't as great because there's still that leeway.

CHAIR PALTIN: Yes, Mr. Hopper?

MR. HOPPER: And just to clarify, there's currently not a 60, 90, or any other renewal timeframe for County Special Permits. It just says if...it's by condition. So, there's nothing there. So, I think the 60 would apply to the Conditional, STRH, and B&B permits.

CHAIR PALTIN: Sixty, you said.

MR. HOPPER: I think your proposed amendment was to change 90 to 60 in all cases. And the cases that it appears is in 19.40, 19.64, and 19.65, not in 19.510.070. So, just to clarify that.

CHAIR PALTIN: Thank you. Okay. So, I'm okay with either 60 or 90 for Short-Term Rental Homes and B&Bs. For the Conditional or Special Use, I'm okay with "within 60 days." Do we have a consensus on those?

COUNCILMEMBER KING: Chair? Question.

CHAIR PALTIN: Yes.

COUNCILMEMBER KING: So, you know, I guess I have...my issue is if someone waits till the day before and automatically gets a six-month extension, because obviously they can't get a permit done in one day, so that means the more you procrastinate, the more you benefit from it because you're going to get that grace period. So, that doesn't seem right to me. That's why I like the not later than, you know, has to be prior...60 days prior because then you at least have...the Department has two months to get that done before you get an extension. If it's something that you're doing, then you...then it's on you. But if it's something that the Department is holding up, then they get that extension. But to allow people to go all the way up to the day before, and obviously the Department can't get the permit done in one day, then they're going to get an automatic extension. So, you know, if I was a business, I would wait till the day before, and then I get free six months.

CHAIR PALTIN: So, this doesn't preclude us for doing the fine thing in the Budget Committee as well. If the Department gets it the day before and they're not able to process within the six months, it still does expire.

COUNCILMEMBER KING: But I don't think...I'm not sure if it's fair to fine somebody for something that's allowable by law. So, we're telling them in the one ordinance you can take up till the day before. And then if we're going to turn around and fine them for that in another bill, that's seems a little bit, you know, counterintuitive so...

CHAIR PALTIN: That's why my initial proposal was 60 days flat, but --

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COUNCILMEMBER KING: Right.

CHAIR PALTIN: --it doesn't seem to have consensus, so.

COUNCILMEMBER KING: Well, that's why I support that because I think at some point we have to equalize out the, you know, the benefits in the --

CHAIR PALTIN: We can take a vote --

COUNCILMEMBER KING: --and the requirements.

CHAIR PALTIN: --on that after we hear from Ms. Lee. And if that's your wish, we can vote on 60 days flat. But I kind of not sure if we have the votes to pass it. Yes, Mr. Hopper?

MR. HOPPER: Just to clarify. I'm not sure which version we are working from. I presumed it was from the Planning Department's...

COUNCILMEMBER KING: No, it's from the Chair's version.

MR. HOPPER: Okay. So, we're presuming that all of these, unless they're changed, are going to be adopted, I suppose. And then if we're going with the Chair's, the Chair is also adding new language that's not currently in the Code with respect to County Special Permits. And those would require a 90-day prior to expiration submittal of any extension request, which is currently done by the Planning Commission by condition. So, that is new to the Code. And so, I guess if your motion is to change 90 to 60, it would apply to County Special Permits. Again, this section wouldn't apply to State Special Permits because those are something that under HRS, the Planning Commission has the discretion to determine the timeframe. So, I do believe that for County Special Permits, I suppose the Council could say, this is your extension request timeframe. But this is something that's being added to this section. So, the 60 days would apply to County Special Permits as well. So, I had misspoke earlier, presuming that we were working on the Planning Department's version rather than the Chair's version.

CHAIR PALTIN: Thank you. Member Lee?

COUNCILMEMBER LEE: Okay. I still don't agree with your version. I still like the idea of...okay, now instead of 90 days, 60 days. Sixty days, within 60 days, and even though a person is able to apply for their extension one day before the deadline, their permit, their use permit, is still the original date, yeah. So, they're not gaining anything. They're not gaining any more time on the permit. They're just gaining time to apply for the extension, right?

CHAIR PALTIN: True. It makes it a little bit harder for the Department because they have that much less time.

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COUNCILMEMBER LEE: I know.

CHAIR PALTIN: But they're not gaining anything, correct?

COUNCILMEMBER LEE: I know. But they don't seem to be worried about that. At least from what I hear. Okay, thank you.

COUNCILMEMBER SUGIMURA: We haven't gotten to that section.

CHAIR PALTIN: Okay. Member Sugimura?

COUNCILMEMBER SUGIMURA: Yeah, so I like hearing...whenever Member Lee talks about her experience, I like it 'cause she was a director, everybody, right. We only can guess what that's like. When you do the actual day-to-day frontline when you have these real-life people who we serve, right. And I know that sometimes we get frustrated because the people who call us are the ones who are upset at the short-term vacation rentals, my neighbor, and whatever. So, we get kind of looped into that. So, I really would like to support the Department saying "within" and that 60 or 90, whatever. If you guys are fine with 60, I mean I think that's, you know, that's a compromise. But you did propose 90. And I really would like to give the Director some discretion for those unusual circumstances because it happens. That's why we're a community, right? These unusual...that's why we had the church come before us, you know, this morning. So, things happen.

CHAIR PALTIN: Director McLean?

MS. McLEAN: If that language allowing that discretion stays in, then the wording "no later than" can also stay in. It doesn't have to go to "within." And we're good with that. So, whether it's 60 days or 90 days, that's your folks' call.

COUNCILMEMBER SUGIMURA: But keep that...

MS. McLEAN: But if...yeah, we don't need "within" and discretion, 'cause both give discretion, yeah. So, or both give leeway.

COUNCILMEMBER SUGIMURA: And 60 days, you're good?

MS. McLEAN: If it's --

COUNCILMEMBER SUGIMURA: You would rather have 90?

MS. McLEAN: --no later than 60 days and that discretion stays in, then we're good.

COUNCILMEMBER SUGIMURA: You would rather have 90? Nine-zero.

MS. McLEAN: Either one is...either one.

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COUNCILMEMBER SUGIMURA: Okay.

CHAIR PALTIN: Okay. So, the proposed amendment on the floor that we'll be voting on right now is to change all the 90 days to 60 days, and leave everything else the same. There's not the discretionary part. There's not the "within" part. All those in favor, please say...

COUNCILMEMBER SUGIMURA: Wait, wait --

CHAIR PALTIN: Yes.

COUNCILMEMBER SUGIMURA: --before...so, are you eliminating the bracketing part, or are you going to put that back in? 'Cause I think that has to go back in.

CHAIR PALTIN: Yeah. I'm eliminating it, and the only change I'm making is from 90 days, everywhere where it says 90 days, I'm changing it to 60 days.

COUNCILMEMBER SUGIMURA: Okay, no.

CHAIR PALTIN: Okay. All in favor say, "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Can I have a roll call, please? Member Sinenci?

VICE-CHAIR SINENCI: Aye.

CHAIR PALTIN: Member Molina?

COUNCILMEMBER MOLINA: I pass. Nah. Aye.

CHAIR PALTIN: Kanalua. Member...

COUNCILMEMBER LEE: Yes. Lee.

CHAIR PALTIN: Lee? Yes. Member Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Rawlins-Fernandez.

CHAIR PALTIN: Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: I...really quick before I vote, there's no main motion and we're just...we're really just --

CHAIR PALTIN: Working on the amendments.

COUNCILMEMBER RAWLINS-FERNANDEZ: --getting those amendments.

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CHAIR PALTIN: That's 'cause we didn't have consensus.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah, okay.

CHAIR PALTIN: So, we're voting on...

COUNCILMEMBER RAWLINS-FERNANDEZ: I see. Okay, aye.

COUNCILMEMBER KING: Aye.

CHAIR PALTIN: Kanalua. Or, what?

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

COUNCILMEMBER RAWLINS-FERNANDEZ: Actually, can you repeat what we're voting on?

CHAIR PALTIN: Sure. We're voting to...on my proposed revised bill to change all the 90 days to 60 days, and that's it.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, okay. Yeah, aye.

COUNCILMEMBER SUGIMURA: Oh, that's it.

CHAIR PALTIN: That's it. Member King?

COUNCILMEMBER KING: Aye.

CHAIR PALTIN: Aye. Member Sugimura?

COUNCILMEMBER SUGIMURA: Okay, if it's only that, and the Department said yes, then fine. But there's more discussion.

CHAIR PALTIN: Okay. Five "ayes." I'll go aye. Are you still kanalua?

COUNCILMEMBER LEE: No, he said yes.

COUNCILMEMBER MOLINA: Yes.

CHAIR PALTIN: Okay. So, that's a unanimous...yeah, okay. So, our revision to the proposed bill is simply to change all the 90 days to 60 days, and that passed unanimously. Any further discussion at this time? Yes, Member Sugimura?

COUNCILMEMBER SUGIMURA: So, I want to, on your proposed bill, which is right after that, right, eliminated, Ramseyered out. So, I want to include, "however, the Director may waive this requirement if the Director finds that unusual circumstances prevented an applicant from filing a timely extension request." So, because we're

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going to leave it in, was my hope, I voted yes on previous. And I like...I want to add the word "within" as the Department requested.

CHAIR PALTIN: Both of those?

COUNCILMEMBER SUGIMURA: Yeah.

CHAIR PALTIN: I thought they said one or the other.

COUNCILMEMBER SUGIMURA: Oh, you don't need both. Okay, okay. I'll take the...

CHAIR PALTIN: So, which one would you like to submit?

COUNCILMEMBER SUGIMURA: So, the sentence versus...

CHAIR PALTIN: The discretionary.

COUNCILMEMBER SUGIMURA: However the Director...yeah...may waive to...keep that in the bill.

CHAIR PALTIN: Okay, re-put that in.

COUNCILMEMBER SUGIMURA: Keep that. Do not eliminate it.

CHAIR PALTIN: Okay. All those in favor of re-putting in the Director's waiving the requirement if the Director finds that unusual circumstances prevented an applicant from a timely extension request. All those favor of re-putting that in, say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: And those opposed, say "nay."

COUNCILMEMBER RAWLINS-FERNANDEZ: I wanted to say discuss it before we voted, but...

CHAIR PALTIN: Okay. We can...I'm sorry, my bad. We can discuss.

COUNCILMEMBER RAWLINS-FERNANDEZ: Can?

CHAIR PALTIN: Sure. If that's okay with the body?

COUNCILMEMBER SUGIMURA: Yes.

CHAIR PALTIN: Okay. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: So, I understand, you know, we have a good Director right now. And Member Sugimura wants to help our good Director right now,

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but when we...if there comes a time when, you know, our good Director is no longer there and it's not a good Director. And, you know, we're giving a lot of discretion, I think that's what the intent of the amendment was, was to, you know, try to keep everything baseline. There's no...less, you know, any...reduce the risk of accusations of --

CHAIR PALTIN: Are you saying --

COUNCILMEMBER RAWLINS-FERNANDEZ: --special treatment.

CHAIR PALTIN: --you prefer the "within" language, or --

COUNCILMEMBER RAWLINS-FERNANDEZ: No, I don't want "within."

CHAIR PALTIN: --. . .*(inaudible)*. . . You don't want "within?"

COUNCILMEMBER RAWLINS-FERNANDEZ: No.

CHAIR PALTIN: Oh, okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: No. We're talking about --

CHAIR PALTIN: So, you're against it.

COUNCILMEMBER RAWLINS-FERNANDEZ: --re-putting in "however, the Director may waive this requirement," so that discretion. And I just...I'm still debating how I'm going to vote on this. And so that's why...

CHAIR PALTIN: You wanted to discuss it.

COUNCILMEMBER RAWLINS-FERNANDEZ: I'm discussing it.

CHAIR PALTIN: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: And to hear all the points being made and to share my points. And people, you know, can...and my colleagues can...are welcome, of course, to --

CHAIR PALTIN: Comment.

COUNCILMEMBER RAWLINS-FERNANDEZ: --counter, you know, the points that I'm making and to share their perspective. And I'd like to hear it and because I haven't decided yet how I'm going to vote on this. Mahalo, Chair.

CHAIR PALTIN: Okay. I'll take Member Sugimura, followed by Member Sinenci. Member Sugimura?

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COUNCILMEMBER SUGIMURA: I think that I understand what Member Rawlins-Fernandez is saying, right, 'cause we're talking about people. And we like Michele and her work. But I also know that look who's talking to us. It's Ann Cua. So, you have staff person who's adamantly fighting for the Department to do the right thing. And I believe that it's all the people in the Department that makes the decision. And you have these leaders like Ann, totally respected in the Department. Or Kathleen Aoki, right. I mean these people who...you cannot only look at the Department Director and the Deputy because as we know, that will change over time. But who is the foundation of the Department are the people who sit there and fight for the people, are people like Ann Cua. And she will be there. You better not retire.

CHAIR PALTIN: I so agree, but I think she has 26 years. So, I mean...

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

CHAIR PALTIN: Oh, 30...sorry, my bad, 30...let's give her a round of applause, guys.

COUNCILMEMBER SUGIMURA: No, but...so, you have people like her, right. I mean --

CHAIR PALTIN: True.

COUNCILMEMBER SUGIMURA: --why is she here?

CHAIR PALTIN: But I mean we're making --

COUNCILMEMBER SUGIMURA: Because she believes...

CHAIR PALTIN: --the legislation to last for a long time.

COUNCILMEMBER SUGIMURA: Yeah.

CHAIR PALTIN: So, I mean 37, she could leave us anytime she wants. I don't want her to.

COUNCILMEMBER SUGIMURA: Yeah, we don't want her to.

CHAIR PALTIN: But that's the scary part. You know, like these guys are long-termers. And what if we get somebody else? That's the scary...like I mean I don't want her to leave.

COUNCILMEMBER SUGIMURA: But and they're asking...

CHAIR PALTIN: We can try force her to stay. I don't know that's legal.

COUNCILMEMBER SUGIMURA: You know, they're asking us to codify what practices they've been doing so I mean this is all good. But I don't want to not do something because we're not going to have Michele McLean there in, you know...

CHAIR PALTIN: Yeah. I don't know if discretionary is considered codifying or...I mean...

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COUNCILMEMBER LEE: It is.

CHAIR PALTIN: Oh, okay. It is.

COUNCILMEMBER KING: Well, it's codifying what they're doing right now.

COUNCILMEMBER SUGIMURA: Yeah.

CHAIR PALTIN: Oh, okay.

COUNCILMEMBER SUGIMURA: So, that's the good thing about this.

CHAIR PALTIN: Yes, Director McLean?

MS. McLEAN: The language that's in the Code now that Councilmember Sugimura is talking about leaving in, that's been applying to existing Conditional Permits. So, for new permits that come through that get approved by the Council, you could put a requirement in there that makes the renewal process more strict. So, if for that particular application or that particular applicant, you could put a renewal requirement in there that doesn't allow for discretion. So, that doesn't fully address concerns over discretion. But that would be a way for Council to take away that discretion. It would be on a permit-by-permit basis. But that would be an opportunity that would be available.

CHAIR PALTIN: Okay. Member Sinenci?

VICE-CHAIR SINENCI: Just clarification. Is this for the Conditional Permits, the Director's discretion on all four?

MS. McLEAN: No, what's being discussed is on that first page is just for Conditional Permits.

VICE-CHAIR SINENCI: So, we mentioned like maybe a change at the church, the new Korean pastor.

MS. McLEAN: Correct.

VICE-CHAIR SINENCI: That would be one of the circumstances, okay.

MS. McLEAN: Correct.

VICE-CHAIR SINENCI: Thank you.

CHAIR PALTIN: Thank you, Member Sinenci. Chair King?

COUNCILMEMBER KING: Thank you. And thank you, Member Rawlins-Fernandez, for bringing this back to discussion because I think it's a good discussion to have. As

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a...you know, I'm...my earlier comment about discretionary notwithstanding because I do think that it's easier when we know what to expect, but I also, being a businessperson, and understanding the HR processes, that we...I don't think we go down into the depths and ask every employee what they think about things. But we do ask our managers, you know, the people that we have control over, and then, you know, they make the decisions. And so, I think when we make processes, we have to make them for whoever is going to be in that position, not because we like one person or we don't like the next person. So, I would just say that if it...if we haven't found anything egregious happened to this point, the discretionary clause should be acceptable in at the point that it starts being abused, we go back in there and we say maybe it's not working now. But it shouldn't be based on who's in that position now or who might be in that position because that will change. And really, that's up to the Mayor and us, and we put this person in here based on how they're going to serve the ordinances and the laws that we create. So, I am willing to go along with the discretionary clause and, you know, if we do see at some point some abuse of it, then we might want to look at it at that point. But I don't want to make decisions based on who's in that position at this particular time, or who might be in that position because that's going to change, and that's up to, you know, ultimately it's up to the voters 'cause the voters vote in the, you know, the top administrator, and then that person makes those decisions. So, we're trying to put in good processes and, you know, all we can do is look at what's been working. And if it stops working or we get some complaints about that...an abuse of discretionary authority, then we can take another look at this, I think. And then maybe we need to adjust it then. So, I think just after thinking about it that I haven't gotten any complaints about...in this particular instance about any abuse of discretion. I actually have seen abuse of discretionary authority by other directors, not this director. But so, that's why, you know, I don't like that term a lot of times, discretionary. But we do have to create processes that work for our directors until they don't work for the people.

CHAIR PALTIN: Thank you, Chair King. Member Lee?

COUNCILMEMBER LEE: Thank you. I agree with that, what the Chair just said. Also, I'm thinking would it be inconvenient for you to just report to the Council when you do use your discretion in a particular instance? Or, maybe you could just do a general report to the Council once a quarter or something on all your renewals? I know that's extra work, but...

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

CHAIR PALTIN: If I could interject along the same lines, when you were...if you were to give a discretionary exception, is it noted in the permit application? Like, oh, applicant was in the hospital in Guam, or something, and like note why the discretion was given, or discretion was given in this case. Like so, in case people come to us with questions, it's easily trackable, like this was given a discretion permit for this unusual circumstance, it was a medical condition or something. Ms. Cua?

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MS. CUA: Sorry. Because our past practice hasn't had to really deal with that because as long as somebody submitted it within, we would process. However, moving forward if that language, giving the Director some discretion if someone was late in submitting an application, and using the reasons that we said could come up, like let's say, you know, a new pastor, the new leadership of the church has changed, or there was some severe medical situation, especially in the area of medical situation --

COUNCILMEMBER LEE: Yeah, Ms. Cua.

MS. CUA: --I wouldn't think...

COUNCILMEMBER LEE: Yeah. Ms. Cua.

MS. CUA: Oh.

COUNCILMEMBER LEE: The medical situation would be if the person was in the hospital in Guam in a coma, yeah, okay. Just to help you there.

MS. CUA: Again, that kind of information I can't even imagine us putting that kind of information in any kind of public letter. I just...I don't feel that's appropriate. I think if we were...if the Director was asked, I mean, why did you process this if it was two days too late, I mean they could respond. But I think to put that in a letter, it's going to be a very unusual --

COUNCILMEMBER SUGIMURA: Yeah, privacy.

MS. CUA: --situation. It's not going to happen the way the language is...it's not just going to happen because the person --

COUNCILMEMBER LEE: I rescind --

MS. CUA: --oh, I forgot.

COUNCILMEMBER LEE: --my request. Thank you.

COUNCILMEMBER SUGIMURA: Yeah, good.

MS. CUA: Thank you.

CHAIR PALTIN: Any further discussion, Members? Yes, Chair King?

COUNCILMEMBER KING: Chair, I think it would be good to, you know, I don't think we have to have all the details, but I think it would be good to know. And we're talking about unusual circumstances. This should not be happening all the time. So, I think it would be good to know when that does happen that, you know, we get a report of, you know, this quarter we had this many discretionary's. You don't have to say why or give names, but if it ends up being like 50 discretionary decisions a quarter, then

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we've done...then this is not working because something is wrong with the Code if you have to keep making exceptions to it.

CHAIR PALTIN: How about like an annual report of just the number of discretionary times it was used?

COUNCILMEMBER KING: Yeah, I mean I don't...I mean I'm hoping they're not anticipating having that many. So, you know, just to let us know when you do make discretionary decisions, I wouldn't think it would be that difficult. But, you know, it would worry me if there were 100 per year because then there's something wrong with the Code if everybody needs to get an exception from it.

CHAIR PALTIN: So, Director McLean or Mr. Hopper, do you mind commenting on if that would be a possibility giving us again an annual report about how many times that clause was used?

MS. McLEAN: Of course, it's possible. When all of our permits get some sort of permit number and it's a four-letter code, and then the year of the permit and then goes in numerical order. So, if a renewal comes in for a Conditional Permit that was originally issued in 2006, that permit...that time extension gets filed under the CP 2006 0001 code. So, we don't have...we don't track them by year. So, it would be...it's just something we'd have to keep track of manually. It's not a report that we could generate every year because we don't track them by year. We code them based on their original permit number. And in that permit folder we have, you know, 2010 extension, 2015 extension.

COUNCILMEMBER KING: Can you put on there 2015 extension, and then some D with a...that means discretionary, you know, that means it was...it didn't fall within the time, you know, that it was late, and then there was some discretionary decision made?

MS. McLEAN: What we would do is when the renewal application comes in, we just have to make sure every planner knows to, you know, document this came in late and this is the reason why.

COUNCILMEMBER KING: And then it's basically up to you for your discretion, I guess as Director, not every planner, correct?

MS. McLEAN: Right, right.

COUNCILMEMBER KING: Okay. So, you would be making the decisions on who gets a discretionary exemption?

MS. McLEAN: Ultimately.

COUNCILMEMBER KING: So, yeah, I think as policymakers it would just help us know if our policy is working because if it's...if everybody that comes...if every other person

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needs a discretionary exemption then, like I said, then something's not working in the Code.

CHAIR PALTIN: Director McLean, did you want respond to that?

MS. McLEAN: We can put...we can figure out a way to put that together --

COUNCILMEMBER KING: Okay.

MS. McLEAN: --a way to track it.

COUNCILMEMBER KING: Yeah, and that way you don't have to disclose any personal information or anything.

CHAIR PALTIN: Member Sugimura?

COUNCILMEMBER SUGIMURA: What did Mr. Hopper want to say?

CHAIR PALTIN: Oh, Mr. Hopper?

MR. HOPPER: I didn't necessarily want to say anything. But just to add to the question, there is a requirement in the Code, that's 19.40.110, that says the Department of Public Works shall submit to the County Council quarterly reports on the status of all Conditional Permits. And that's from 1988 so that's back when the Department of Public Works did all these permits. But that would generally apply to the Department of Planning. So, that's something in the Code already. So, and I don't know if it's done or how often it's done or not. But I don't know how many there are every year. But, you know, if that's something that would be part of that...

CHAIR PALTIN: So, that might be an additional Code change. We need to scratch Public Works and put Planning because Planning actually is the Department in charge of Conditional Permits in this day and age.

MR. HOPPER: Well, I mean, yeah. And in general, I don't think...I don't know if there's any other places in 19.40 where it says Public Works, but at least with respect to 19.40 I would recommend changing Public Works to Planning. And unless there's something in there that's actually supposed to be Public Works, but I think it's all...I don't think Public Works does anything with respect to Conditional Permits processing.

CHAIR PALTIN: But we wouldn't be able to do that because that's not agendized for today, right?

MR. HOPPER: It's not, but I would think that'd be a nonsubstantive change, to be frank, because it's already being done that way. And the Charter gives the responsibility to the Department of Planning, not the Department of Public Works.

CHAIR PALTIN: Okay, let's do it.

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COUNCILMEMBER KING: Is Planning okay with that, or did he just open up a can of worms for you guys?

MS. McLEAN: And Mr. Hopper is coming off my Christmas card list.

MS. CUA: Yeah, if I could, yeah --

CHAIR PALTIN: Sure thing.

MS. CUA: --we don't...I guess because...in all my 37 years that I've been here, I've never seen that we do these reports telling you how many Conditional Permits we processed because you approve 'em all. And there's hardly any. So, in all honesty, it's not something that I've ever seen the Planning Department do, tell you every quarter how many we have. So, I would even ask that that be taken out.

COUNCILMEMBER SUGIMURA: Not necessary.

MS. CUA: Because you...I don't think it's necessary. You approve every Conditional Permit --

COUNCILMEMBER SUGIMURA: Every Conditional Permit.

MS. CUA: --and there's hardly any.

COUNCILMEMBER KING: But what, we don't approve extensions.

MS. CUA: Right. Does that . . . *(inaudible)* . . .

COUNCILMEMBER KING: That's what we're talking about right now.

MS. CUA: It just says the status so it's for anything.

COUNCILMEMBER KING: Yeah, the status would be extensions. So, we don't get that right now. That's what Mr. Hopper is saying, is in the Code that Public Works used to do. And we're not getting that now.

MS. CUA: Yeah, I don't think anybody ever did it, to be honest. It says Public Works, but I don't think you've ever received...like I said, as long as I've been here, I don't think you've ever received something like that.

CHAIR PALTIN: So, I might have possible solutions. Let me know what you guys think. So, Member Sugimura's proposed amendment was, "however, the Director..." that whole bracketed portion.

COUNCILMEMBER SUGIMURA: To remain.

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CHAIR PALTIN: How do Members feel about, for discussion, “the Director may issue a written waiver of this requirement.” So, that way there’s, you know, documentation. If she’s not just waiving it, she’s going to issue a written waiver. And then if there’s questions down the road, it’s documented within the file. Like they get --

COUNCILMEMBER KING: Right.

CHAIR PALTIN: --write the waiver and issue it to the person who missed the deadline and they include a copy of that in the file. So, it’s you know, a little bit more transparent and trackable. Yes, Ms. Cua?

MS. CUA: As a...well, in line with what you’re indicating, because it’s going to happen so infrequently, maybe we can just in the letter to the applicant indicate that the Director did make an exception in this particular case to process your extension request even though it came in late for whatever, for medical reasons, for whatever...you know, something just very general, not very specific. And we could, you know, CC the Council on that. And I think that would alleviate us trying to remember to do a report of what may have happened.

COUNCILMEMBER KING: Yeah, that’s a good idea.

MS. CUA: It would be in the individual letter.

COUNCILMEMBER KING: Right.

MS. CUA: I think we would appreciate that.

COUNCILMEMBER KING: Okay, that’s great.

CHAIR PALTIN: Okay. So, Member Sugimura, that’s kind of like an amendment to your amendment. Are you okay with that amendment?

COUNCILMEMBER SUGIMURA: So, what is the final wording going to be?

CHAIR PALTIN: The final wording would be in the bracketed portion we’re reinserting that, “however, the Director may issue a written waiver of this requirement, if the Director finds that unusual circumstances prevented an applicant from filing a timely extension request.” And then as a matter of practice, they would just CC us so then we know, oh, this is happening. And then we would have to keep track for ourselves like how many times it happens in a year. Yes, Ms. Cua?

MS. CUA: And just to clarify, so that written waiver could also be in the form of the approval letter. It wouldn’t have to be yet a separate letter. Yeah, it would all just be in the same letter ‘cause I think it’s just easier to track that way.

COUNCILMEMBER SUGIMURA: Yeah, okay.

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MS. CUA: Okay. Thank you.

COUNCILMEMBER SUGIMURA: Good.

CHAIR PALTIN: So, all...we have consensus on that amendment?

COUNCILMEMBERS: Consensus.

CHAIR PALTIN: Okay. Right on. So, moving right along, shall we vote on...shall we make a motion?

UNIDENTIFIED SPEAKER: Motion.

CHAIR PALTIN: Okay, my recommendation...

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair, I have amendments.

CHAIR PALTIN: Oh, more amendments, okay. Ms. Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: I wrote it down.

CHAIR PALTIN: Okay. Cool.

COUNCILMEMBER RAWLINS-FERNANDEZ: So, I don't have to repeat it plenty times. I think Committee Staff has it.

CHAIR PALTIN: Okay. We're going to get it passed out right now.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. All right. All right. On Page 3, Section C, I move to strike the language in the first sentence where it says, "up to one year on Molokai" and replace it with the following, "may be granted by the Molokai Planning Commission for a term of up to one year on Molokai." And the same amendment on Page 4, 19.65.070, Section B, where it says, "up to one year on Molokai," I would strike that and replace it with "may be granted by the Molokai Planning Commission for a term up to one year on Molokai." So, those are for the...so, the first one is for B&B, and the second one is for STRHs. And this would give the Molokai Planning Commission the authority to renew applications.

COUNCILMEMBER LEE: Second.

CHAIR PALTIN: Oh, are we still doing consensus amendments?

COUNCILMEMBER KING: Consensus.

CHAIR PALTIN: Is there consensus on those?

COUNCILMEMBERS: Consensus.

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CHAIR PALTIN: Yes, Mr. Hopper?

MR. HOPPER: Just to clarify. Not all permits are reviewed by the Molokai Planning Commission for Short-Term Rental Homes and Bed and Breakfast Home Permits. For those that are, I think you can certainly say that the Commission...that the extension process is to be done by the Commission only. I mean, unless I'm mistaken on that. I don't believe all STRH and B&B permits are approved by the Commission. If there's going to be a change to require the Molokai Planning Commission to review all Short-Term Rental Home and Bed and Breakfast Home Permits, that can be done. I do not believe it can be done as part of this bill because it's a different subject matter. I do think that for permits that the Planning Commission currently under the Code is required to approve, that this language can be added to say that it's not up to one year on Molokai. I think it would say, "and up to one year on Molokai provided that for permits approved by the Molokai Planning Commission, the Commission"...and then it say, "may grant extensions for a term of up to one year," or something like that. But I don't believe that in this legislation you could require all Bed and Breakfast and Short-Term Rental Home Permits to be reviewed by the Molokai Planning Commission and approved. And there would other sections of the Code that would need to be amended and not just this one in order to do that. But I think this can be made applicable with language to any permit that is granted by the Commission to say, extensions are not granted by the Director. They would have to be granted by the Commission.

CHAIR PALTIN: Member Rawlins-Fernandez, any comment on that?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Mahalo for your advice. So, the item on today's agenda is renewals for conditions...Conditional, B&B Home, STRHs, and Special Use Permit, and it's on this bill. If you will look at the...on Granicus and the County Communication that we received from the Planning Department on Page 2, the Molokai Planning Commission unanimously voted to not pass this bill, and if it's passed, exclude Molokai. And so, this was the discussion that the Molokai Planning Commission had and that they would like to have the authority to review and renew all permits, initial permits and permit renewals. And I do plan to make it consistent to that intent throughout the Code.

CHAIR PALTIN: Mr. Hopper, any comment on that?

MR. HOPPER: I think that's certainly something that can be done. I don't believe that that can be done as part of this legislation. But that's certainly...I mean the Council gets to decide ultimately who reviews the permits and who gets to grant or deny the permits and the criteria for the permits. But currently you have a Code in 19.64 and 19.65 that goes over which permits go to the Planning Commission and which ones go...are reviewed and approved by the Department. And to change all those sections, I think is broader than what this current bill is doing. Again, I think with respect to extensions...and if the option is to exclude Molokai from this bill, I think that's something that you could consider as well. And just say, except on Molokai that the current procedures will apply. That's an option as well available to the Committee. I

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think to get as close to the intent as possible, it could say that for permits that are approved by the Commission, that the Commission shall have the authority to grant...to determine the extension process, or to say extensions, if you want to limit that, you could say the Commission can grant an extension of up to one year, or something like that. But I don't think that you can require the commissions to review and approve all STRH and B&B permits without significant additional amendments to these Code sections that aren't before the body right now. Ultimately, yes, that is something the Council can do, is say the Molokai Planning Commission reviews all Short-Term Rental Home and Bed and Breakfast Home Permits. It would just need to change the Code, a bit broader than is contemplated by these amendments.

CHAIR PALTIN: And so, where did you want to go with this, Member Rawlins-Fernandez? I can...I mean you can submit a item to Committee and we can get it done on another agenda, or we can exclude Molokai, or...

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Molokai, yeah...all right. I'll make a new agenda, a new item for discussion on agenda. But, yeah, the Molokai Planning Commission requested to be exempted from these amendments.

CHAIR PALTIN: And I can try get it there faster and put it on the agenda.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

MR. HOPPER: And, yeah, Madam Chair, I think the...currently, just to note, I believe that it says, permit renewals can be up to one year on Molokai. Those are director renewals, and in some cases could be director renewals of permits the Planning Commission grants, as I understand it. And so, to say no, the Director can't grant those one-year extensions, they would have to be done by the Commission at the time, is a potential option. But I think that's as close as you can get to the intent. I don't think that currently you can say stuff that is approved by the Department is now approved by the Commission without a different bill. Just wanted to clarify that.

CHAIR PALTIN: Did you want to make that change that...for the ones that go through the...whatever Mr. Hopper said?

COUNCILMEMBER RAWLINS-FERNANDEZ: Sure, and then I'll fix it up entirely with a amendment and submit it to this Committee --

CHAIR PALTIN: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: --for a full review.

CHAIR PALTIN: Mr. Hopper?

MR. HOPPER: I could maybe help with some proposed language. I think you could say, permit renewals may be...this is...I'm sorry. I should back up.

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COUNCILMEMBER SUGIMURA: What page?

MR. HOPPER: Sorry, this is a little hard. It's on the fly. Nineteen-six-four-oh-six-oh, so this would be Page 3 of the Chair's proposal, Section C on Page 3. Permit renewals may be granted by the Director for terms up to five years on Lanai and Maui and up to one year on Molokai, provided that for permits approved by the Molokai Planning Commission, the Commission shall...and then depending on what you want, either determine the permit renewal process, if any. Or, if you wanted to use the one year and you could say the Commission may allow for a permit extension for up to one year, or something like that. But to make clear that the Commission does that rather than the Director. And then you would also need to add that same language on Page 5...

COUNCILMEMBER RAWLINS-FERNANDEZ: Section C.

MR. HOPPER: Yeah, five for...

COUNCILMEMBER RAWLINS-FERNANDEZ: For STRs.

MR. HOPPER: For STRHs on Page 5 right after...in the same place. So, permit renewal may be granted by the Director for terms of up to five years on Lanai and Maui, and up to one year on Molokai, and then provided that for permits approved by the Commission, the Commission shall determine the permit renewal process or determine the duration of permit renewal, something along those lines depending on what the body would want to do.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo, Mr. Hopper. That's pretty much what I said. That was pretty much my amendment. What Mr. Hopper is proposing for, Members, is to include language that limits the permit renewals to only those that the Commission now reviews. My question then is, would...how would that look if after I amend the other areas where the...all initial applications for STRs and B&Bs go through Commission, go through the Molokai Planning Commission? Will that still be consistent, or will I then have to go back and make that change here?

MR. HOPPER: Madam Chair, yes. You would want to change that section as well as...along with the other sections. So, this would be in place until, or unless that Code amendment passes. And then I would advise, yes, that you would make the 19.64 and 19.65 entirely consistent. So, for Molokai you would say...you would take out the provisions about the Director approving the applications, and say, on Molokai that they would have to go through the Planning Commission in all cases for those types of permits. And then you'd want to amend this section again, yes, to say...it would be inapplicable because the...all of the permits would come...it would be applicable but it would...every permit would --

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, we can do it.

MR. HOPPER: --come from the Commission.

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COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Hopper. I think we had consensus. So, I'll go with what --

COUNCILMEMBER KING: Wait, wait...

COUNCILMEMBER RAWLINS-FERNANDEZ: --Mr. Hopper suggested.

COUNCILMEMBER KING: I have a question whether we could just put language in there that says, up to one year on Molokai upon approval by the Molokai Planning Commission. So, that makes it clear the Molokai Planning Commission has to approve it first, then the Director can issue that one-year extension.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh...yeah. That's what Mr. Hopper said.

COUNCILMEMBER KING: I mean does that make it simpler?

MR. HOPPER: Well, the problem is that the Planning Commission doesn't initially approve all applications. The Director does. So, the Commission doesn't see, currently, a lot of these applications. This is to say that for those they do, they can determine the renewal process. But to change that would require the review and approval by the Commission. So, I think limiting it to permits that the Commission approves is what the body can...I think that's the most that you can do today.

COUNCILMEMBER KING: Oh, okay.

CHAIR PALTIN: Okay. So, I think we were on consensus on Mr. Hopper's amended version. I had...sorry, I had one more for my version. If we are having the Director have the discretionary written waiver, then can we also scratch that last part in red because it no longer makes sense? If the Director has the...

COUNCILMEMBER SUGIMURA: Page 1?

CHAIR PALTIN: Yeah, Page 1.

COUNCILMEMBER SUGIMURA: Okay.

CHAIR PALTIN: If the Director has that discretionary authority, then we don't need the part that says, after which the Department shall not accept any applications for an extension because she is able to do it under her discretion. So, do we have consensus on waiving that?

COUNCILMEMBERS: Consensus.

CHAIR PALTIN: Okay. We have consensus, minus Member Sinenci, had to take a quick break. So, consensus of six. Any more amendments, Member Rawlins-Fernandez?

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COUNCILMEMBER RAWLINS-FERNANDEZ: Those were all my amendments. Mahalo, Chair.

CHAIR PALTIN: Okay. Member Sugimura?

COUNCILMEMBER SUGIMURA: Can we...can you read back, or can you read, somebody, what the Molokai...and page number, and what the amendment is, please?

COUNCILMEMBER RAWLINS-FERNANDEZ: Sure. Chair?

CHAIR PALTIN: Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Okay, on Page 3, Section C, permit renewals may be granted by the Director for terms of up to five years on Lanai and Maui. And I think this is...for permits that...okay, go ahead. What I had was, may be granted by the Molokai Planning Commission for up to one year on Molokai. But we need to put language in that --

CHAIR PALTIN: Provided that --

COUNCILMEMBER RAWLINS-FERNANDEZ: --gives them...yeah.

CHAIR PALTIN: --for permits approved by...

COUNCILMEMBER RAWLINS-FERNANDEZ: Go ahead. Ms. --

CHAIR PALTIN: Mr. Hopper? Sorry.

COUNCILMEMBER RAWLINS-FERNANDEZ: --McLean...or Director McLean?

CHAIR PALTIN: Or McLean?

MR. HOPPER: Director McLean has . . . *(inaudible)* . . .

MS. McLEAN: It would read, permit renewals may be granted by the Director for terms up to five years on Lanai and Maui, and up to one year on Molokai, provided that for permits approved by the Molokai Planning Commission, the renewal may be granted by the Molokai Planning Commission for a term up to one year.

COUNCILMEMBER RAWLINS-FERNANDEZ: Perfect.

CHAIR PALTIN: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: And that would be the same amendment on Page 4, Section B.

COUNCILMEMBER KING: Which is actually on Page 5, that part.

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COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah.

COUNCILMEMBER KING: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: That would be the same amendment.

COUNCILMEMBER SUGIMURA: So, I only know of one family that has...I think it's bed and breakfast on Molokai, and the von Tempsky family. So, if they would then have...miss the...the mom lives there, right, on Molokai? You know that?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yes, I know them.

COUNCILMEMBER SUGIMURA: Okay. So, what this is going to do then is that every time they want to renew, or every year, they would have to renew every year now.

COUNCILMEMBER RAWLINS-FERNANDEZ: They already have to renew every year. And the Director...it's administratively approved. And the Molokai Planning Commission has asked to have that authority of review to renew.

COUNCILMEMBER SUGIMURA: Okay.

MS. McLEAN: For the permits that the Molokai Planning Commission approves initially, until it's changed --

COUNCILMEMBER RAWLINS-FERNANDEZ: Right, that's correct.

MS. McLEAN: --so, if the Molokai Planning Commission had to approve that B&B permit, they now have to be the ones to renew it.

COUNCILMEMBER SUGIMURA: Every year.

MS. McLEAN: Every year.

COUNCILMEMBER RAWLINS-FERNANDEZ: That's one family. And there are many other situations that the Molokai community has been struggling with. So, in weighing the pros and cons, for our island, that's one family. And the struggle that we've...

COUNCILMEMBER SUGIMURA: It's not that, it's others.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah. So, we would like to...the Molokai Planning Commission would like to have more control over that because of the abuse that is happening on the island. So, maybe that one family is not. But all these others are.

COUNCILMEMBER SUGIMURA: Okay.

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COUNCILMEMBER RAWLINS-FERNANDEZ: And so, you know, my apologies to the one family that will have to go before the Molokai Planning Commission. But if they're not abusing the, you know, the permit and they're actually following the rules, and there aren't any complaints filed against them, then there should be absolutely no problem.

COUNCILMEMBER SUGIMURA: Okay. So, I hope it doesn't hinder business and prosperity from happening.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, that is not prosperity on Molokai. Mahalo, Chair.

CHAIR PALTIN: Okay. Members, if there's no objection, the Chair will entertain a motion to recommend passage on first reading of the revised proposed bill that I distributed at today's meeting entitled, A Bill for an Ordinance Relating to Renewals for Conditional, Bed and Breakfast Home, Short-Term Rental Home, and Special Use Permits; incorporating any nonsubstantive revisions and revisions made by consensus and vote by the Committee; and filing of County Communication 19-67.

COUNCILMEMBER KING: So moved.

COUNCILMEMBER SUGIMURA: Second. Oh, sorry. Second.

CHAIR PALTIN: Okay. Before I accept the move and second, may I hear from Mr. Hopper?

MR. HOPPER: Very sorry, Madam Chair. I just noticed a provision in the Bed and Breakfast Home that talks about permit renewals and...

COUNCILMEMBER KING: What page?

MR. HOPPER: I'm sorry. This is in the existing ordinance.

COUNCILMEMBER KING: Oh.

MR. HOPPER: I just realized that if the Commission's going to be in some cases granting permit renewals, the Code goes over how permit renewals would be granted. And so, for...let's see. I just want to make them consistent. I wanted to make them consistent. So, it's actually in the bill. For Subsection C where the same amendment is made, it says, in reviewing a renewal application, the Director shall require evidence of compliance with conditions, et cetera. No permit shall be renewed without written verification of appropriate State and County tax filings. I would say, the Director or Molokai Planning Commission as appropriate shall require, just so this gives some criteria for the Commission. And if there's a corresponding 19.65 section...if there's a corresponding 19.65 section on renewals, just to make clear that it would apply...to give the Commission some criteria in determining the renewal so that they wouldn't get a challenge on that issue.

COUNCILMEMBER RAWLINS-FERNANDEZ: Consensus.

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CHAIR PALTIN: Members, we have consensus on that --

COUNCILMEMBER KING: Consensus.

CHAIR PALTIN: --kind of friendly amendment there? Okay. All right, so...

MR. HOPPER: And then I'm very sorry again. For Bed and Breakfast Home Permits, not STRHs, all Bed and Breakfast Homes do go to Molokai. The Director just pointed that out to me. So, that's important...or do go to the Commission. Obviously, they go to Molokai. But yes, they go to the Commission. So for Bed and Breakfast Homes, which is not for STRHs, and then --

CHAIR PALTIN: That's awesome.

MR. HOPPER: --and then for that language, I'm not sure if there's corresponding 19.65 language. But maybe you'd want to give the Staff authority to make appropriate corresponding changes in 19.65 to make clear that that criteria for renewal the Director currently reviews, would be done by the Commission in those cases.

CHAIR PALTIN: Yeah, let's keep the criteria the same. We have consensus on that?

COUNCILMEMBERS: Consensus.

CHAIR PALTIN: Okay. Cool.

MS. McLEAN: Chair, can I...

CHAIR PALTIN: Yes.

MS. McLEAN: Sorry.

CHAIR PALTIN: Director McLean?

MS. McLEAN: On the last page of the bill on Page 5 which relates to County Special Use Permits, right now the proposed new language does not allow that kind of leeway that we talked about before. I don't know if the Committee would consider adding the same language from Conditional Permits that the Director may issue a written waiver of that requirement, if there are unusual circumstances. Because right now with the language as proposed, there would be no leeway at all for County Special Permits.

COUNCILMEMBERS: Consensus.

CHAIR PALTIN: Consensus. And would that also include the removal of the same line that was from Page 1 as well?

MS. McLEAN: Yes.

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CHAIR PALTIN: And we're on consensus on that as well.

MS. McLEAN: Yes, thank you.

CHAIR PALTIN: Okay. So, we're just cleaning it up so that Special Permits and Conditional Permits are similar, is what we're doing. Everybody clear? Okay. And so, we don't need to move again and second again. I think Chair King moved on the motion, and Member Sugimura seconded. Would anybody like to discuss this?

COUNCILMEMBER SUGIMURA: We have.

CHAIR PALTIN: No?

COUNCILMEMBER KING: No.

CHAIR PALTIN: Okay. All those in favor of the main motion...

COUNCILMEMBER SUGIMURA: But before we vote, I want to make sure the Department is fine with all the changes because we've gone through iterations.

MS. McLEAN: We're fine and actually I think it's a better bill than --

COUNCILMEMBER SUGIMURA: Oh, good. Yay.

MS. McLEAN: --what we transmitted to you. So, thank you.

COUNCILMEMBER SUGIMURA: Yay.

CHAIR PALTIN: Good work, Members, good work. And Staff and Administration. Okay. So, are we ready to vote?

COUNCILMEMBER SUGIMURA: Yes.

CHAIR PALTIN: Okay. All those in favor, say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Those oppose, "nay." Motion passes unanimously.

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VOTE: **AYES:** **Chair Paltin, Vice-Chair Sinenci, and**
 Councilmembers King, Lee, Molina,
 Rawlins-Fernandez, and Sugimura.

NOES: **None.**

ABSTAIN: **None.**

ABSENT: **None.**

EXC.: **None.**

MOTION CARRIED.

ACTION: **Recommending FIRST READING of revised bill and**
 FILING of communication.

CHAIR PALTIN: Okay. Members, do you guys want to try tackle Digital Zoning Maps in 25 minutes?

COUNCILMEMBER SUGIMURA: Sure.

CHAIR PALTIN: Or, Ms. Aoki, do you think it could be started?

MS. AOKI: . . .*(inaudible)*. . .

COUNCILMEMBER SUGIMURA: Can finish.

CHAIR PALTIN: Okay. All right. Sorry, I didn't realize we were such overachievers here.

PSLU-40: DIGITAL ZONING MAP (2) FOR MAUI ISLAND (CC 19-346)

CHAIR PALTIN: Okay. So, the next item up for discussion is PSLU-40, Digital Zoning Maps...Digital Zoning Map (2) for Maui Island. The Committee received County Communication 19-346, from the Planning Director, transmitting a proposed bill entitled, A Bill for an Ordinance Adopting Digital Zoning Map (2) as the Official Zoning Map for the Island of Maui. The purpose of the proposed bill is to adopt Digital Zoning Map (2) as the official zoning map for the island of Maui. Map (2) includes 13 corrections to Map (1). And the reason that I scheduled this is I kind of think it's a really exciting thing, you know, from like when it was all in paper maps and it was like, you know, Sharpie markers and not super...they've been working on this for a long time. And I'm excited to see what the presentation is. And I do have some pre-questions, but I'll save them 'till after the presentation 'cause maybe it gets answered in the presentation. So, very excited. Thank you for your hard work and --

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MS. AOKI: Thank you.

CHAIR PALTIN: --have at it.

MS. AOKI: All right. Good morning, Members. My name is Kathleen Ross Aoki, and I'm the Division Chief for the Plan Implementation Division. Today we are coming before you to hopefully get your approval to adopt what we call the Maui Digital Zoning Map (2). I'm just going to be giving you a brief overview, and then we'll have Ann Cua, and Peter Graves, and Jacky do their portion of the presentation. So, you can keep it there. Some of the Members weren't here when we adopted the Digital Zoning Map, the original one. So, please if you have any questions, if we're going too fast or there's something that you don't understand, please, please ask us. We're more than happy to explain what happened in the past. But primarily what we...what we're here before you today is to request changes to the current version of the map because we have found some errors. And anybody who wants to go back and look in the minutes, we have repeatedly said that this will always be an ongoing project. We are human. We cannot find every single mistake or change in over 4,000...in 4,000 [sic] lots. So, with that I'm going to turn it over to Ann Cua.

MS. CUA: Good morning again, Chair and Members. So, just to give some of you again a little bit of background on this project. This digital mapping project began back in 2001, and it was transferred to the Planning Department in 2005. And we had staff from each division of the Planning Department pool together to create a team. And we were called the Dead Sea Scroll Replacement Team. And the makeup of this team was people within the Department that had historical knowledge of permit processing, zoning, and GIS skill sets. And as the Chair alluded to, for any of you that have ever come into the Department to try and get zoning verified, you know that the age and quality and lack of detail in our maps has been an issue for many years now. And that was one of the reasons why we created a digital map. Secondly, you know, the Department does not have...the County does not have...or did not have a single complete set of maps for the island. Zoning is a patchwork of State and Interim zoning ordinances. Our original 1960 land zoning maps for urban areas exist. We adopted the County Agricultural and Rural zoning ordinances. And then as you see on a daily basis, the individual zoning maps when people come in, one family at a time, or one project at a time to zone their properties, that is the County of Maui's zoning. It's a patchwork of all these different things. And what this digital map would do, it just puts everything together, and we all deal with just one map. It gives the public greater access to accurate zoning information. The...a big issue in creating a digital map is the public, staff, everybody comes into our Zoning Department, or calls in, and we got between Fiscal Year 2014 and 2018, over 20,000 requests for zoning verification. And so, one of the goals of this project is to have people eventually be able to go online and get all that information without having to get out of their house and without having to come to the Planning Department to do that. And then one of the most important things, as you all know, we have the permit process, the MAPPS permit process that is going to replace our KIVA process. This digital map is a key role in that process. So, on October 18, 2018, excuse me, October 10, 2018, the Council adopted zoning map...our Digital Zoning Map No. 1. We held public meetings in

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March and April of 2017. We went out to the Maui, Molokai, and Maui...Maui, Molokai, and Lanai Planning Commissions for their review of the map and recommendations to the County Council. And as Kathleen alluded to, all through the process, you know, we've made corrections. We've addressed mapping alignments. We've updated parcel zoning with zoning districts that had standards. We've eliminated nonexistent zoning districts and we've corrected oversights. And all through the process we've told the public, we've told the Planning Commissions, and we've told the Councils that we are giving you the best information that we have at the time that we're giving it to you. And that we knew, and we've disclosed from the get-go that we know we're going to find errors. And that's what's happening. And we've known that this was going to be an ongoing process. When you're dealing with 40,000 parcels, it's really hard to get it right the first time, and maybe even the second time. But what we anticipate is that there's going to be less and less updates as we go on. So, for this proposed Map (2), the Planning Commission reviewed and recommended approval of the proposed bill...

CHAIR PALTIN: Ms. Cua?

MS. CUA: Yeah.

CHAIR PALTIN: Do you mind if I ask a question?

MS. CUA: Yes.

CHAIR PALTIN: So, every time this Committee processes a zoning change or a community...or I guess zoning change, would we then update the map to keep it current? And would it always be called Map 1, 2, 3? Or would it be reflective of the date that the Change in Zoning...or would the map be called like the date that the change of the map is made? Like every time we process a change in zoning, doesn't the digital zoning map then need to be updated? Or just a question, sorry.

MS. CUA: So, yes, every time you update...you grant zoning, the map would be updated. But the map is not going to change number. It's going to maintain Map No. 1. But when the paperwork all comes down that the zoning was enacted for a particular parcel, our GIS staff actually goes in and changes the zoning so that the map is updated.

CHAIR PALTIN: Oh, so you wouldn't need Council approval to update the map?

MS. CUA: No, because your Council approval of the zoning change was the legislative approval.

CHAIR PALTIN: Okay. And then we're just doing it now because of the errors found in Map 1.

MS. CUA: Correct. Because unlike when individual changes in zoning applications come before you, when we find errors, they're not coming before you unless we bring it to

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you. So, when we find errors, we, you know, list them, and when we feel, you know, we have a good amount, then we're going to formally bring it to you.

CHAIR PALTIN: And then why is it called Map (2) then, instead of Map (1)?

MS. AOKI: Map (2) because again we are coming before you and asking you to make these amendments to Map (1). So, because there's going to be changes, we need to be able to keep sort of a...in order to know what's happening, what got adopted in Map (2) that's different from Map (1).

CHAIR PALTIN: Would we...would it be a big problem to call it Map, and then the date that we adopt it? In case folks wanted to know like prior to --

MS. AOKI: Well, on Map 2 --

CHAIR PALTIN: --September 18...

MS. AOKI: --there'll be a date.

CHAIR PALTIN: Okay.

MS. AOKI: There'll always be a date for each one.

CHAIR PALTIN: That it was changed.

MS. AOKI: Yes.

CHAIR PALTIN: Okay. Thank you.

COUNCILMEMBER KING: So, Chair?

CHAIR PALTIN: Chair King?

COUNCILMEMBER KING: Yes, just to follow up on that. That's why you put the language in this...the proposal. It says, the most recently adopted digital map on file, and then in parentheses it says (2). So, if you ever change this to Map 3, that's when you would come back again for a change.

MS. CUA: That's correct.

COUNCILMEMBER KING: Otherwise, we're talking about Map (2).

MS. CUA: That's correct.

COUNCILMEMBER KING: Okay.

MS. CUA: That's correct.

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COUNCILMEMBER KING: Thank you.

MS. CUA: So, we're here today to ask for your approval to update this zoning map, as Kathleen mentioned, to adopt Digital Zoning Map No. 2. And today we have 11 updates, corrections that we are asking you to approve in the update of Map No. 2. And at this point in time I'd like to have Peter, our GIS Analyst, to go through those changes with you.

MR. GRAVES: Okay, I just want to explain some of these changes. First one is in Kihei, off of South Kihei Road. This is actually what the pre-adoption zoning looked like. This is sort of...just a digital rendering of what the paper zoning map looked like. And at that point in time, you had...let me see if I can maneuver this. You had what was being called this drainage here which was something that was just drawn on the map in 1967 or 1969. There was no actual drainage there. That was just where they believed there might have been one. This is actually, you know, a residential parcel. This is the driveway. So, the change we wanted to make was just to fix this, or to turn this drainage zoning to R3 zoning to match the rest of the parcel. This is what...and that's what we proposed in our list of changes. And this is what the change should've looked like. The whole parcel changed to R3. What someone in Zoning noticed afterwards though, was after adoption is that well, this section did get fixed and changed to R3. Somehow this bottom section was B2. And I had to look into why that happened. So, and this is probably on me. There was...what happened was there was a Change in Zoning, Map 5120, which was...oops, sorry...just a minute...got no mouse...which was supposed to apply to this upper lot you see in the cross-hatched area. Somehow that number got transposed into the database row for this lower area as well. So, when that change was made, it changed both of them to B3...I'm sorry, B2, rather than just the upper one that it was intended to do. So, our proposed correction for this parcel is to remove that accidental B3 zoning and bring this whole parcel into R3 as it...as it was intended to be.

CHAIR PALTIN: Member Sugimura?

COUNCILMEMBER SUGIMURA: Totally understandable. And so, what is the impact to the landowner? Just curious, as...I mean have we told them, or are they trying to build something and it's going to impact their decision? No. So, it's just kind of a clerical correction. There's no impact to a person.

MS. AOKI: There could be a lot of impact because they're Residential. They have homes and now all of a sudden they have business zoning. And they're existing, nonconforming. So, that's why this was the kicker on why to get this back to you folks very quickly, as quickly as we could because it's not a good situation to be in. We did notify them. All properties got notified. We got no response. I did not confirm this, but I was told that the property was being foreclosed on, and that's why it was a realtor that was calling to ask what the zoning was. And that prompted us to start this process to get it correctly put back in to what it has always been.

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CHAIR PALTIN: I'm sorry, B2 you're saying is Business zoning? Is that what you said? B2?

MS. AOKI: It got changed --

MR. GRAVES: Yes.

MS. AOKI: --inadvertently to B2.

CHAIR PALTIN: Oh, okay. And then what was the part about the drainage?

MS. AOKI: So, originally, originally that parcel was Residential and a little bit of drain. So, this is historic 1960s. So, when we came in for our first Digital Zoning Map (1), this was one of the 800, 900 corrections that we were going to make. All that drainage was going to be taken out and put all into R3 to match what was built on the property. There's no category for drainage zoning. So, that's what it was supposed to look like. However, in October, I would say November, it was just after the map got adopted, that's when we got a request for zoning confirmation on this parcel. And the Zoning Division discovered that we had inadvertently only changed...well, we had changed the drainage into R3, but then the rest of the parcel got Business, which it should never have had. That was a complete honest mistake. So, that's what we're trying to correct today.

CHAIR PALTIN: Chair King?

COUNCILMEMBER KING: Okay. So, thank you. This is my district so I'm just...I'm not familiar with Kupuna Street. That's the only reference on here. But that one on top that got changed to B2 is that the...was that the veterinarian? Was that the...the one that was the home and then...I mean I remember when the zoning got changed for the --

MS. AOKI: No.

COUNCILMEMBER KING: --Dr. Kepler's or...

MS. AOKI: No. Sorry, Chair, no.

COUNCILMEMBER KING: Okay. So, that...but the one on top at some point got changed from Residential to Business? That's what you're saying? That when it did that...

MS. AOKI: That hash tag...

COUNCILMEMBER KING: Right.

MS. AOKI: This is the original zoning map. And it inadvertently got applied to both.

COUNCILMEMBER KING: I understand that. What I'm saying is that originally that was R3 and that got changed to B2.

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MS. AOKI: Correct.

COUNCILMEMBER KING: And then for some reason they changed the bottom one, the one underneath it, to B2 as well. Is that the...

MS. AOKI: Correct.

COUNCILMEMBER KING: Do you know what that business is, that's B2?

MS. AOKI: No.

CHAIR PALTIN: Is that the swap meet?

MS. AOKI: I'm not sure.

CHAIR PALTIN: It's right across from Kukui Mall, like makai of Kukui Mall.

COUNCILMEMBER KING: Yeah, because isn't that the one that was the...it was a home and then it got rezoned for...so the veterinarian could keep doing his business in that area? Or no, that's further south.

MS. AOKI: Yeah, I...

COUNCILMEMBER KING: Okay.

MS. AOKI: I want to...Shaka Pizza keeps coming to my head. I'm not sure. That's where Shaka...

COUNCILMEMBER KING: Shaka's right across from Kukui.

MS. AOKI: Okay.

COUNCILMEMBER KING: So, that might be what that was, what that is.

MS. AOKI: If you...Peter, if you can bring back the aerial, they might be able to tell. Kukui Mall is there on the bottom right. So, the parcel we're talking about is in yellow. The parcel that has B2, and there's no problem with that. It's identified correctly on the map. So, the focus is more on that parcel in yellow.

COUNCILMEMBER KING: Yeah.

MS. AOKI: That we're trying to correctly show that it's Residential.

COUNCILMEMBER KING: Okay. I was trying to figure out what the reference point was for the actual businesses that are on that South Kihei Road. But that one has never proposed to be business, correct? The one that's R3.

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MS. AOKI: No.

COUNCILMEMBER KING: Okay.

MS. AOKI: They don't...yeah, they didn't know this even happened until we sent them a postcard or a letter.

COUNCILMEMBER KING: Okay.

CHAIR PALTIN: I was wondering, too, does the accuracy of the Digital Zoning Maps have anything to do with Real Property Tax Pictometry parcel lines being slightly off from the actual parcels? Or, is that totally unrelated?

MR. GRAVES: At this point we're working on updating the zoning layer to match the latest parcels. But in terms of their assessment of property, that doesn't hinge on us.

CHAIR PALTIN: It has nothing to do with these --

MR. GRAVES: No, they --

CHAIR PALTIN: --this project?

MR. GRAVES: --I mean they...the way they classify it...the way they...it's taxed, it isn't tied to our zoning map. It's taxed, I believe, on use.

CHAIR PALTIN: Okay. 'Cause when you go to the Real Property Tax website and you look at the Pictometry, it's all like shifted a little and the lines are going right through the houses.

MR. GRAVES: Yeah, it's been kind of an ongoing...and this parcel layer started way back in 1996. And up until about 2008, most of the attention was focused on just adding new parcels. It wasn't until really, you know, Pictometry and imagery became much more available that people started to notice how off these things were. So, since 2008 Real Property has been working on fixing them. They changed their methodology in 2014 and I think ran into some problems. So, it's an ongoing thing with updating the accuracy and it's...

CHAIR PALTIN: Thank you.

COUNCILMEMBER KING: Okay. I think we ascertained that that lot that's B2 is Ki Hana Nursery.

CHAIR PALTIN: Okay. So, we're at 12 o'clock. I'm sorry, and it looks like we kind of have a bit more left. Is it okay if we look these over in our free time, and then I'll schedule this again, and if that's okay with you guys. Unless you guys want to work through lunch --

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COUNCILMEMBER KING: No.

CHAIR PALTIN: --and go straight into the next...

COUNCILMEMBER KING: Let's defer.

CHAIR PALTIN: Just checking, overachievers. Okay. So, with no further objection, I'll defer this item.

COUNCILMEMBERS VOICED NO OBJECTIONS.

ACTION: DEFER PENDING FURTHER DISCUSSION.

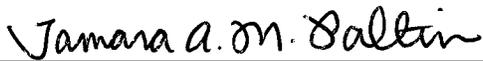
CHAIR PALTIN: And with no further objections, I'll adjourn the meeting.

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR PALTIN: Okay. Meeting adjourned. . . .(gavel). . .

ADJOURN: 11:58 a.m.

APPROVED:



TAMARA PALTIN, Chair
Planning and Sustainable Land Use
Committee

pslu:min:190918:rlk

Transcribed by: Reinetta L. Kutz

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CERTIFICATE

I, Reinette L. Kutz, 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 this 7th day of October 2019, in Makawao, Hawaii.


Reinette L. Kutz