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**MAUI PLANNING COMMISSION
PORTION OF REGULAR MINUTES
ITEM B.3
FEBRUARY 23, 2021**

Ms. McLean: Chair, the next item is also a bill that was transmitted to the Commissions for review from the County Council. And this one would establish that the consumption of intoxicating liquor in recreational areas under the jurisdiction of the Department of Parks and Recreation is unlawful in Historic Districts 1 and 2 which are both in Lahaina and some minor updates are also proposed. And for this one, Jacky Takakura has a brief overview for the commission

Ms. La Costa: Thank you, Director. Ms. Takakura, if you will please.

- 3. MS. MICHELE CHOUTEAU MCLEAN, AICP, Planning Director, transmitting County Council Resolution 20-166 referring to the Maui Planning Commission a proposed bill to establish that the consumption of intoxicating liquor in recreational areas under the jurisdiction of the Department of Parks and Recreation is unlawful in Historic Districts 1 and 2 (Lahaina). Some minor updates are also proposed. (J. Takakura)**

The entire text of the proposed bill for ordinance is available at <https://www.mauicounty.gov/1127/Legislation---Proposed>

Ms. Takakura: Thank you. Thank you, Chair and Commission Members. So, I just have a short presentation. I'm going to share screen now. Can everyone see that blue?

Ms. La Costa: Yes, we can see it.

Ms. Takakura: Okay, thank you. So, this is specifically regarding kind of a specific area, the Historic Districts Number 1 and 2 in Lahaina, and they are under their own chapter, Chapter 19.52 of the Maui County Code. So, at the end of last year, the Planning Department received Resolution 20-166 from the County Council, which proposes to amend Section 19.52.090, Maui County Code to prohibit the consumption of intoxicating liquor in recreational areas under the jurisdiction of Parks and Recreation in the Historic Districts 1 and 2 which is Lahaina. The bill also proposes to revise the definition of intoxicating liquor so it is the same as in HRS 281-1.

In addition, the Department is proposing to make some updates to this very old part of the Code. Some terms are obsolete, some are redundant and some fit in with terms that we already have in 19.04.040, which is the section on zoning code definitions. So, I don't know if you had a chance to look at the memo report, but it has those terms. Remember, we talked about some of these terms in Airport District, haberdasheries, magazine stands and just these terms that are antiquated and no longer in use. So, when we received this resolution, we took this as a chance to say, hey, why don't we bring this into, you know, 2021 and just revise these terms so that they're, you know, terms that we use now, and there's also a lot of terms that are redundant, like dry goods and department stores and so forth when they're all basically the same. So, we want to revise the uses and also put them in order because for some reason they're not in order.

And then in addition, we're proposing to make the height limit for single family dwellings and duplexes consistent with the height limit in other chapters of the Code, and I'll go into each of these in more detail.

1
2 Okay, so I'm going to go in order of the way the Code is, and this is 090.B and that's use
3 regulations. Right now, there's 53 uses, and so we're going to...we're proposing to consolidate
4 them down to 19, and that would be with no loss or change in use. A lot of the terms that we're
5 putting them into, consolidating them into are already in existence in our definitions, and ones that
6 don't fit in, we're just going to leave them as is and that results in 19 instead of 53. And, you
7 know, I put all of them in the memorandum and that's why it's so long, but I really wanted to make
8 it clear that we're not trying to delete anything, we just want to modernize it and consolidate it.

9
10 We are adding, proposing to add one new use, subordinate uses and structures which are
11 determined by the Director of Planning to be clearly incidental, customary to the permitted uses
12 and structures listed herein. And this language is the same language that we have in eight other
13 chapters of the Zoning Code. So, it's also adding this to make it consistent with other parts of the
14 Code. So, taking 53, reducing it to 19, adding one, and so then, we would end up with 20. And
15 by the way, these photos are reminiscent of the time when these use regulations were in
16 existence, you know, haberdasheries, servant's quarters, dry goods, meat markets and so forth.
17 It's just kind of interesting going back in time and seeing how it used to be.

18
19 So, the next part is 19.52.090.C and this is regarding the height limit. Right now, the height limit
20 for all buildings is 35 feet, but this is rather high for dwelling units. In other dwelling units like
21 Residential, Rural, Ag, the height limit is 30 feet, so we're proposing that new single family and
22 duplexes be limited to 30 feet just like in the other zoning districts. It would have no impact on
23 existing structures or structures that are not single-family dwellings or duplexes.

24
25 The next change for 090.D, is just changing the language from yard spacing to setback, and that's
26 to be consistent with the general direction of the Department on the use of those words, and you'll
27 see this more as we get into the Title 19 proposed revisions and other updates, but we're not
28 proposing any change in the size of the setback areas.

29
30 And, 090.F, this is the where the resolution comes in and this recommendation actually came
31 from the Clean and Safe Lahaina Program. There's a Clean and Safe Wailuku and a Clean and
32 Safe Lahaina Program, and drinking in public parks has become an issue over the years, and
33 some of these parks, especially in the Historic Districts, are culturally significant, and I'll show you
34 a map of these in the next slide. By having this prohibition at the County parks that would also
35 make it consistent with the alcohol prohibition at other County parks. According to the minutes
36 from the November 20th, County Council meeting, there's broad community support for this bill,
37 including from the Lahaina Town Action Committee and the Lahaina Restoration Foundation.

38
39 Just so you know, the Planning Commissions review changes to Title 19, but there would be one
40 other provision that would also need to be amended in relation to this, and that's Maui County
41 Code, Chapter 13. So, the two would have to change in order for this to take effect. And what
42 will happen is Corporation Counsel will work with the County Council's office and Department of
43 Parks and Recreation to be sure that once this part, 19.52 passes the Planning Commission
44 reviews that that Section 13.040.A would also be included for revision in the committees and then
45 for Council approval.

46

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1 This is a map of the two Historic Districts. The light blue is Historic District 1, and the pink is the
2 Historic District 2, and then you can see the little green outlines of the parcels that are parks. And
3 some of them, I'm sure are familiar to you, the Banyan Tree area, the courthouse, Mokuula, so
4 you know, these are pretty important places and significant places, and those are the ones that
5 are under the jurisdiction of Parks and Recreation.

6
7 So, in summary, we want to modernize, consolidate and alphabetized the list of use regulations.
8 We want to add use of subordinate uses and structures, reducing the height limit for new single-
9 family dwellings and duplexes to 30 feet, just like in other Zoning Districts, and then prohibit
10 alcohol in the County parks. So, it's up to the commission to approve as proposed or if you'd like
11 to make amendments or you could deny or you could defer. So, that's the presentation. I'll be
12 here for questions if you have any. I'm going to stop showing my screen. Thank you.

13
14 Ms. La Costa: Thank you, Ms. Takakura. Commissioners, do we have any questions on the
15 presentation? Commissioner Pali.

16
17 Ms. Pali: Just for the record, I'm only going first because no one else is going first since I figure
18 I'll break the ice. I have a five-second rule. Okay, question. I'm going to start with the definitions.
19 Thank you, Jacky. If we're going to consolidate the definitions, is it correct for me to understand
20 that as you're implementing policy based off of these definitions, it's just going to obviously make
21 it easier? Is that kind of the thought process? Okay, so I think I only have one recommendation
22 that I'm not big on, but I just feel like it's just really different is the word, assembly. Hold on, where
23 did it go? Here, so you have the new definition called, assembly areas, and then you also have
24 a definition called, entertainment...oh, amusement center, and so I get that right now the
25 definition, the proposed definition for assembly area is facility with fixed seats, so it's more focused
26 on sorta the building structure, but the groups that you've thrown into assembly area, I feel are
27 just really different. You've got churches, dwellings of clergy connected to an incidental use, that's
28 part of a church. You've thrown in art galleries, you've thrown in auditoriums, and then you've
29 thrown in theatres, and then under amusement center, it seems like that's maybe more...you have
30 indoor or outdoor establishment, but then you've kind of got a broader like entertainment, passive,
31 active, patrons comes, spectators, independent or private, examples are acting, comedy,
32 theatrical shows, live recordings. Then you've got nightclubs, which if it's if it's a nightclub, it would
33 have fixed seats, karaoke, we have lots of karaoke here in Wailuku. And so, I would almost
34 recommend to..., 'cause I feel like a rule that would be imposed on a church because there's, I
35 guess, special rules sometimes for churches. It might not apply to the art gallery and the theatre.
36 I feel like art gallery, auditoriums and theatres might be more appropriately put in as an
37 amusement center like the bars and the nightclubs versus an assembly area. So, when we're
38 starting to write policy, something that would normally be given a provision for the church may not
39 really apply for an art gallery. And so, my recommendation would be separate that a little bit
40 better. Just a recommendation. That's my first little thing here.

41
42 And then the other one is, it's a question for you. I heard you say, moving forward, you want to
43 reduce the maximum height from 35 feet down to 30. Are there current homes and buildings in
44 that area that are over 30 now, or have we just never built up to the 35, so it's clear that it's
45 common that they're building under the 30. So, moving forward we might as well just keep it
46 under 30. Do you know the answer to that question?

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1 Ms. Takakura: If I may Chair?

2

3 Ms. Pali: That's for Jacky.

4

5 Ms. Takakura: Yeah.

6

7 Ms. La Costa: Go ahead, Ms. Takakura.

8

9 Ms. Takakura: We did...one of my co-workers did an informal measurement of some of the Front
10 Street structures, and some of them, and these are going to be the commercial structures, we're
11 probably about 32 feet high. There's probably some churches like maybe Maria Lanakila that
12 might be over.

13

14 Ms. Pali: Okay.

15

16 Ms. Takakura: But those would be considered, you know, nonconforming and no, they wouldn't
17 be a problem. So, generally speaking, you know, along Front Street, they're all, they would all be
18 within the 35-foot height, and they wouldn't be affected by any of this proposed change. I don't
19 know of any homes that are over.

20

21 Ms. Pali: Okay, okay, ...(inaudible)...question. And then, I love the setback that's common sense,
22 I love that. Yard spacing that kind of takes you in the time zone, yeah, yard spacing that's cute.
23 Okay, and then the only other thing is if I'm reading the intoxicating liquor revisions, it excludes,
24 so, no drinking in the public areas except for if it's under jurisdiction of Parks and Rec., and that
25 was the map you showed. So, all those halls would not be subjected to no can drink over there
26 like that's...so in the words, you have your baby luau, you know, they going to have the cooler of
27 beer like those are excluded from this, but all other County parks cannot, can just clarify that?

28

29 Ms. Takakura: My understanding is that in other County parks outside of the Historic District,
30 alcohol is already prohibited. For some reason, this one district has that caveat provided,
31 however, recreational areas under, you know, Parks and Rec shall be excluded from these
32 restrictions, whatever reason, the Historic District was excluded from that prohibition. So, the
33 proposal is to just take that out.

34

35 Ms. Pali: The whole District was excluded?

36

37 Ms. Takakura: Chapter 19.52 which is only related to Historic Districts 1 and 2.

38

39 Ms. Pali: Okay, okay, so can you just repeat, can they drink in that map area that you showed us
40 or cannot drink? Because sometimes the double negatives and all that, like I'm just my brain's
41 not lining up with what we're...

42

43 Ms. Takakura: The proposal would be that they cannot drink in those park parcels.

44

45 Ms. Pali: That map you showed that's under the jurisdiction of Parks and Rec, this would say,
46 then no longer can drink in those areas?

47

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1 Ms. Takakura: That is correct, and I can share screen if anybody needs to see it again.

2

3 Ms. Pali: Because right now, as it stands, they can, but this would say, no can.

4

5 Ms. Takakura: Correct.

6

7 Ms. Pali: Okay, thank you for that clarification. I have no further questions.

8

9 Ms. La Costa: Commissioner Thompson.

10

11 Mr. Thompson: Thank you. Yes, Jacky, hey is that here like 505 Front Street that's all in that so
12 do they lose their permit? That's...they're under the commercial part I imagine.

13

14 Ms. Takakura: That is correct. This would only affect those nine park parcels. None of the
15 commercial properties or any of those with liquor license is not affected at all.

16

17 Mr. Thompson: Did Keeaumoku weigh in on this 'cause his kuleana is right there too, criss across
18 the street on...this anybody talk to him. Did he have anything to say about that, no?

19

20 Ms. Takakura: According to November 20th County Council minutes, did check with the
21 Aha Moku. As Planning Department, we didn't because we received this resolution and they were
22 asking for, you know, the commission's comments, but my understanding is that the
23 Councilmember did reach out to some of these groups, yes.

24

25 Mr. Thompson: Thanks very much.

26

27 Ms. Takakura: I remember specifically the Restoration Foundation and the Town Action
28 Committee I think, and then, yeah, she had mentioned Aha Mokus in her...(inaudible)...

29

30 Ms. La Costa: Commissioners, other questions? Yes, sir, yes, ma'am, sorry Jacky.

31

32 Ms. Takakura: Regarding Commission Member Pali's comments about the amusement center
33 and assembly area, those are taken directly out of the Maui County Code definitions, but, you
34 know, for clarity purposes, we can certainly include things, you know, 'cause like right now under
35 assembly area, churches is in there, but if the commission wants to recommend that you just keep
36 church as its own use in this, that that's certainly fine. But what we do as planners, when we're
37 reviewing things, we try to match things up, like if an application says church, we're going to look,
38 okay, what does the Code say? And if it has that same word then, you know, it's really clear and
39 that's what we were doing here, we saw the words, and then if there's an existing place in our
40 definitions, we use the term that's in the definitions. But we can certainly change things for clarity,
41 that's that's not a problem at all.

42

43 Ms. La Costa: Anybody else have a question? Ms. Takakura, I do have a question for you please.
44 When you are looking at historical tours, which is Number 53 on Page 4, it doesn't mention
45 anything about walking tours, it only talks about vehicles, and you have to park in certain places,
46 yada, yada, but it says nothing about walking tours, and I think that would be great to encourage

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1 those formally like they have in so many other cities across America. So, it doesn't, I'm concerned
2 that there is...it's silent on that. Thank you.

3
4 Ms. Takakura: Regarding that one, I think we were trying to find a balance between making too
5 many changes and going down, I hate to use the term, rabbit holes versus trying to stick with, you
6 know, not, not being too drastic in the changes. That's a fine line, but I do agree about
7 encouraging more types of tours than vehicles.

8
9 Ms. La Costa: Because it's says...

10
11 Ms. McLean: If I could echo Jacky's response. The initial bill was just relating to intoxicating
12 liquor, and then we took the opportunity to just update it and modernized it, but not to change the
13 substance of the Code. So, I'm not disagreeing with your suggestion, Chair, but that's why we
14 didn't include that or any other substantive changes.

15
16 Ms. La Costa: Thank you, Director. Appreciate that. Okay, any other comments? Seeing none,
17 may I please have a motion from the floor...oh, sorry Director go ahead.

18
19 Ms. McLean: Chair, Commissioner Freitas had his hand up.

20
21 Ms. La Costa: Commissioner Freitas.

22
23 Mr. Freitas: Thank you, Chair.

24
25 Ms. La Costa: Sorry, I didn't see you.

26
27 Mr. Freitas: On the map, it showed the Zone 1, Zone 2, and then it also listed a historic buildings
28 and historic sites. I've attended a couple of events at the prison, Old Lahaina Prison, and there
29 was alcohol. So, will this mean events such as that are not going to be allowed in that or is that
30 considered private property?

31
32 Ms. Takakura: Would that be considered, Hale Paahao, I don't know the Hawaiian for the prison
33 site.

34
35 Mr. Freitas: Yes.

36
37 Ms. Takakura: Okay, so that is one of the Park parcels that is proposed to be excluded, but I
38 don't know if you saw the Parks...Department of Parks and++ Recreation response? I think I had
39 it included in the report, but they were proposing to say that alcohol could be allowed by permit.
40 And however, that's not the resolution that we received that we were asked to, you know, seek
41 your comments on, but you know, that may be something where as this goes through the process
42 that the County Council might, you know, incorporate that decision, but yeah right now the bill is
43 to simply prohibit as you see, but yeah, Parks had mentioned that also, that you know, by permit
44 it might be allowed.

45
46 Mr. Freitas: Thank you, Ms. Takakura. I think Ms. Theo was signed up to testify and maybe she
47 can answer being the Executive Director of Lahaina Restoration.

1
2 Ms. McLean: Yes, we haven't opened for testimony yet, and I...she did sign up earlier but I don't
3 see her on the call any longer unfortunately.

4
5 Mr. Freitas: Okay, thank you.

6
7 Ms. McLean: Chair, you're muted.

8
9 Ms. La Costa: Thank you. I have one other question for you. There was a letter from Parks and
10 Recreation, it was referring to 19.52.090, it was suggested that a highlighted area that you showed
11 on your slide previously was omitted yet when this regulation was submitted, that comment was
12 ignored and it was modified according to, third page from the end of our packet. It starts off with,
13 regulation and then drinking in public Number F, underlined, and where you have redlined and
14 underlined, that is different from what the Parks and Recreation suggested. So, I'm just wondering
15 why that was changed from what they submitted.

16
17 Ms. Takakura: So, the comments we received from Parks, if you look at your packet, starts on
18 Page 26 of 32, and it's...the attachments, Page 27, 28, and 29 are...oh, and 30, are from Parks.
19 So, the page that you see the black and red is from Parks, and I believe that's their...that's what
20 they proposed that it would be prohibited unless authorized by permit, license, lease or
21 concession, so that's it from September to the County Council, but for whatever reason the
22 resolution that we received from the County Council doesn't have that suggestion from Parks. It
23 simply has the brackets to remove that and that's all.

24
25 Ms. La Costa: Well, if I understand it correctly, they are not doing any proviso for exclusions, but
26 instead they're including the recreation areas under the jurisdiction of Parks and Recreation. Are
27 those in line with what map you had pulled up on your share screen?

28
29 Ms. Takakura: Yes, it would be just those nine or so parcels in the Historic Districts Numbers 1
30 and 2.

31
32 Ms. La Costa: Thank you for your clarification. Sorry, I was muted. If there are no other
33 comments, we will open the floor for public testimony. Director, you have anyone signed up to
34 testify.

35
36 Ms. McLean: Yes, Chair, Theo Morrison had signed up to testify but I don't see that she's on the
37 call, and she was the only one. So, Theo if you're on the call, please jump in or if there is anyone
38 else who wishes to testify on this item, please unmute your audio.

39
40 Ms. La Costa: Going once, going twice, anyone interested in doing public testimony this is your
41 last chance. Okay, public testimony is now closed. Director.

42
43 Ms. McLean: I would ask Jacky to again, will review the recommendation. The Department
44 recommends approval of the proposed bill and the Commission does have other options to
45 recommend denial or to defer or to recommend approval with modifications.

46

1 Ms. La Costa: Do we need to have her restate what we already have seen, Director? Do we
2 need Ms. Takakura to restate Number 3 shown in our agenda, recommendations?

3
4 Ms. McLean: The Department's recommendation is to approve the bill as presented to the
5 Commission.

6
7 Ms. La Costa: May I have a motion please from the Commission?

8
9 Ms. Pali: I'll make a motion to approve as is.

10
11 Ms. La Costa: Thank you, Commissioner Pali. Do I have a second? Commissioner Castro, the
12 second. Any discussion?

13
14 Ms. Pali: Yeah, I like cleaning it up and making it easier for the staff planners to match, you know,
15 modern language and also just when they're seeing applicants, I think it makes sense. And I like
16 that if people still want to have parties in those areas then then can consider just applying for a
17 liquor permit which would give us a little bit more control and notice that something's going on
18 over there so that we could manage it. So, I think it's a good thing.

19
20 Ms. La Costa: Commissioner Castro, have any further comments as the second.

21
22 Mr. Castro: I'm fine the way it is, the way it's presented.

23
24 Ms. La Costa: Thank you. Commissioners, any other discussion? Seeing none, I will call for the
25 vote. All those in favor of the submitted...now I have brain damage, of the...of this submission,
26 please raise your hand. Those opposed? Commissioner Freitas.

27
28 Ms. McLean: Commissioner Freitas had his hand raised. Oh, he froze on mine, thank you. Okay,
29 so it is unanimous. The bill passes. Thank you.

30
31 **It was moved by Ms. Pali, seconded by Mr. Castro, then**

32
33 **VOTED: To Recommend Approval of the Proposed Bill to the County Council**
34 **as Presented.**
35 **(Assenting – K. Pali, S. Castro, J. Edlao, K. Freitas,**
36 **M. Hipolito, D. Thompson, P D. La Costa)**
37 **(Excused – C. Tackett)**

38
39
40 Respectfully Submitted by,

41
42
43
44 CAROLYN TAKAYAMA-CORDEN
45 Secretary to Boards and Commissions II