

**MAUI PLANNING COMMISSION
PORTION OF REGULAR MINUTES
ITEM B.2
NOVEMBER 23, 2021**

B. PUBLIC HEARINGS

Mr. Hart: The next item on the agenda is Item B.2, Michele Chouteau McLean, AICP, Planning Director, referring to the Maui Planning Commission, a proposed bill to amend Maui County Code, Chapter 19.04, General Provisions and Definitions, and Chapter 19.08, Residential Districts to revise definitions and clarify code provisions regarding yards and setbacks, increase housing options and sustainability, and codify practices regarding the use and standards of residential zoning districts. The Planning Department Staff, Jacky Takakura is here with the presentation.

Mr. Tackett: Thank you.

- 2. MICHELE CHOUTEAU MCLEAN, AICP, Planning Director, referring to the Maui Planning Commission a proposed bill to amend Maui County Code Chapter 19.04 – General Provisions and Definitions, and Chapter 19.08 – Residential Districts, to revise definitions and clarify code provisions regarding yards and setbacks, increase housing options and sustainability, and codify practices regarding the uses and standards of residential zoning districts. (J. Takakura)**

The entire text of the proposed bill for ordinance is available at <https://www.mauicounty.gov/DocumentCenter/View/129345/Draft-Bill-for-Ordinance-amending-1904---General-Provisions--Definitions-1908-Residential-Districts-09282021>

Ms. Jacky Takakura: Good morning, Maui Planning Commission, Chair Tackett. So, I'm going to share my screen. I get a thumbs up if you can see? Is that okay?

Mr. Tackett: Yeah.

Ms. Takakura: Okay. So, I'll just go through this and then it's not that long. So, this is a bill updating two parts of Title, 19, the Zoning Code 19.04, is General Provisions, and 19.08, which is the Residential Districts.

So, just some background information about Residential Zoning District. There's about 19,640 parcels, and so, that's almost half of the number of parcels that we have in the County. We have about 41,000. There's about 19,600 parcels that are Residential Zoning District. And what we're trying to do here is just make some updates, some terms that are kinda outdated, and make clarification, other minor fixes. We're also proposing some options to increase housing. Also taking into consideration sustainability and climate change, and you know, ...(inaudible)...changes in weather patterns. And also, because we have a lot of internal policy memos that have accumulated over the years that our staff rely on, and really the best place for them is in the Zoning Code where it's clear and everyone can see them. So, actually this proposal,

it was initiated by the Department for our staff. It's not, you know, one of those resolutions that comes from County Council, it's actually, for us, our staff here at the Department.

So, I'm gonna go down just the changes in numerical order, starting with 19.04.020, and this is Compliance. And this is just some minor revisions and they change the substance of the section. And the reason we're...what we're doing here is moving subdivisions out to its own section, Item B here because the compliance criteria for buildings and structures is different from the compliance criteria for subdivisions and so it's just simply breaking them out. And then the bottom part about the permitted uses in each district is just simplifying the wording without changing the meaning. Right now, it's kind of passive tone and now, not it's just kind of in standard language that these are the three categories of uses that are permitted.

The next part is Definitions, 19.04.040. The first part is setbacks, and the changes are...there's a few changes. First of all, being front of line or front lot line. And that means every lot line bordering a public or private street through which a driveway provides access to the lot area. You can see from the examples in the image here that the front is determined by the driveway, which are these little red lines here, front, that's where the driveway would be. And the reason it's different is because the front setback is bigger than the side and rear setbacks. The front step back for residential is 15 feet side, the side and rear is...so, it's important to determine which one is going to be the front. If you see this odd ball here in the bottom row in the center where there's two fronts because there's two driveways, and that could be because, you know, maybe there's two structures on this property. But if there's going to be a driveway access, then that's going to be the front. You can see in these top ones here where there is more than one street, there might be only one front because of only one driveway. So, that's really going to be up to the, the property owner and how they're going to determine their access.

Setback area, we're replacing the word, yard, with the word's setback area, and that's basically the area between the setback line established in the zoning district and the lot line, which includes the boundary of the public or private streets. And that area is to remain unoccupied, and unobstructed from the ground, upward by any structure or swimming pool except as specifically allowed in each zoning district. Setback line are defined as the line beyond which no wall of a building or structure may project, and it's going to vary depending on the zoning district. Then there's just some minor revisions to the definition of private street and that's basically the open passage of land, easement or right-of-way, not less than 12 feet in width, suitable or intended for pedestrians and vehicles. Here's another image just to simplify. We find that images are just a lot easier to understand. So, front setback, you can imagine like, you know, in a perfect world, the lots are all perfect squares or rectangles, right? But here's the roadway at the bottom, then the driveway. And so, this is the front setback area. You can see this in red, and then the green, this is the side, the rear setback. And, you can have a few...certain things in the setback and that's going to be determined by the...each zoning district. But for Residential, which will get into a little more in detail later, that, you know, we are allowing, say, eaves, a few other things. But generally, this is what the set up would be. And right now, there isn't any image in the Code. So, by having hopefully images, it's going to be easier to understand that's the intent...

So, the other definition that we're adding is regarding impervious surfaces, and this is similar to on Oahu, and that's a surface covering or pavement of a developed parcel of land that prevents

the land's natural ability to absorb and infiltrate rainfall or storm stormwater. Impervious surfaces can include but are not limited to rooftops, walkways, patios, driveways, parking lots, impermeable concrete and asphalt, and any other continuous water type pavement or covering.

So, the bill proposes to include a limit on impervious surfaces to mitigate damage from increased cost of coastal flooding, hurricanes, tropical cyclones resulting from a warming planet. Now, keep in mind, the existing structures and impervious surfaces would not be affected and right here, this is just the definition, and we're going to cover this again when we go over residential development standards. So, you can see in this image here, this is just from our aerial imagery. Say this lot here in the center, you can see the structure, you can see pavement, so you can see a lot of this lot is impervious or across the street, you can see the structure mostly impervious, and there's a little bit of a driveway here. And then the one next to it, you see a lot more open. You can tell that this is grass and trees where...and you can see the structures. So, we can kind of see using Pictometry, what's pervious and what's impervious. Just to show you, that's what the definition would be. This is, you know, of course, where the house is and where it's paved, you know, rainfall, any water cannot flow down.

Okay, so now let's move onto to Chapter 19.08.020, and this the Residential Districts. First part is permitted uses, and a lot of these are minor grammatical changes for clarity. The two changes that we are...that including that are substantive is first about allowing accessory structures like walls and accessory dwellings to be built before the main dwelling and right now that's not clear in the language that you can do the accessory use before the primary use. We would like to include the language to allow these types of accessory use prior to the development of the primary unit. And then the other thing we're adding is just referring to the Hawaii Revised Statutes, Chapter 46 regarding daycare nurseries and care homes 'cause this part of state law regulates adult family boarding homes and care homes and family childcare homes, hospice, and other kind of similar facilities in the residential area. That's the permitted uses.

Now comes the special uses, and these are the uses that require a County Special Use Permit and these would be approved by the appropriate planning commission. Again, many of the revisions are grammatical in nature and non-substantive. The following changes that you see on this list are proposed to provide more opportunities for housing and increase walkability within...(inaudible)...First, is housing for elderly and housing for low income, moderate families operated by governmental or non-profit organizations. Increasing the exception for density from ten to twenty five percent. By increasing the percentage, the development of more units will be encouraged. Proposing to allow two family dwelling units or duplexes. Unlike accessory dwellings the size of the two dwelling units in a duplex would be limited only by the size of the parcel and the required setbacks as compared to accessory dwellings, those are limited by Chapter 19.35, and the maximum floor area ranges from 500 to 1,200 square feet depending on the size of the lot. A duplex would allow two families to live independently of each other on the same parcel each in a home that could potentially be larger than an accessory dwelling. We're proposing to allow retail, food and beverage establishments, excluding liquor stores, not to exceed 2,000 square feet of gross floor, covered floor area. This proposed addition is to promote walkability in neighborhoods and reduce vehicle miles traveled. Just for comparison purposes, Kaohu Store in Wailuku is approximately 1,800 square feet in size, so this would be real small stores that could be allowed.

To further encourage affordable housing, we're proposing to replace the existing language on this subject, which to our knowledge has never been used to develop affordable housing and to allow modification of lot area development to no less than 4,000 square feet, subject to the following requirements. One, be designed to meet the needs of low, below moderate and/or moderate-income families, shared use paths so that there can be bicycle and walking paths from this area to the next, and then also allowing increasing impervious surface requirement to no more than 75 percent of lot area. Hopefully that will encourage more development of affordable housing.

Okay, so next part is the development standards. And as far as we know, they have not changed since 1974, so I think it's about time to update this part. The first thing, and this is what every person in the Department that I've talked to have said is put it in table format so that it's easier to follow. And if you've ever looked at Title 19, you see a lot of tables in a lot of the other chapters that were more recently updated, so we're proposing to put this part in table standard too. It would consolidate the area regulations, the height regulations, and the yards or setbacks into one section. Other changes is measuring the building height in feet only, 30 feet, replacing the term, yard, with setback area. Clarify that the setback lines for taller buildings are six and ten because there's been some debate sometimes about that one, and then the limit on impervious structures for drainage purposes.

As I mentioned, there's a lot of policy memos. This image here is from one of them that back in 2008, and this is just regarding those setbacks for the taller buildings. Those are the things that we've been following all these years, like to put them into the Code. And this image would also be included in the Code, and it just provides clarity of exactly where setbacks are, that you have a taller structure and the lower part, the setback is six and then the higher part its setback is ten, and it's measured from the...from 15 feet here is measured from the exterior, so that's real easy for people to see and to measure.

One thing that we're proposing to allow is that eaves can extend three feet setback. Hopefully, by having a little bit more clear image in the Code, it's easier for everybody to see and we can all interpret it the same way.

So, the next part is adding a criteria for impervious surfaces. Back in the Chapter 4, Definitions, 19.04, we added the definition and in here would be the development standard for residential zoning. For dwellings constructed pursuant to building permits applied for after January 1st, impervious surface area of zoning lot must not exceed 65 percent of the total area lot area. So, what this means is that no more than 65 percent of the total, that area can be covered by impervious surfaces because impervious surfaces prevent the land from naturally absorbing and infiltrating rainfall or storm water. So, that would include buildings, driveways, access paths, patios, lanais, swimming pools, roof overhangs, eaves and most walkways. For existing lots, that are more than 65 percent impervious, those would be allowed to continue as non...(inaudible)...and the amount of impervious surfaces on the site can be redistributed, but the total cannot be increased because we know with the changing climate rainfall events are likely to have more significant consequences. And the goal here is to reduce the runoff that's going into the street. Because I know that in subdivisions, you know, there are some provisions for

addressing runoff. But if we can reduce the amount of runoff going into the street, that's even better. It's, you know, we need to look at this as a whole in terms of...(inaudible)...

So, this list here before you, these come from the policy memos over the years. And like I mentioned, they're better to be in the Zoning Code and then everyone can see them in here. Proposing to codify that walls and fences can be permitted in the setback, roof eaves like I mentioned, no more than three feet into the setback, porches, lanais, decks and walkways that are uncovered or under roof eaves are okay, mailboxes and trash enclosures, minor utility equipment be allowed, and for some reason back in 1974, they allowed greenhouses to be in the setback and if you think about like Dream City, there's the house on the big lot and there's the green house in the back, you know, right up against the fence, you know, I guess that's how it was back then, but what we're proposing is that, that they comply with setback limitations just like anything else. Existing greenhouses they can stay where there are, the nonconforming but new ones should comply with setback limitations just like any other type of structure.

So, that's it in a nutshell. You can approve, you can make amendments, deny, we can defer if you want to get more information, but that's the presentation. I'm gonna stop sharing and then we can take...(inaudible)...thank you very much.

Mr. Tackett: Thank you. Commissioners, any discussion on this? We got P Dee followed by Dale, go ahead P Dee.

Ms. La Costa: Thank you, Chair. Jacky, I'd like to thank you, the Director, and everyone who's worked on this, because it has been a long time coming and I know it's going to be a whole lot easier for people when they build and get their permits to understand what the County needs instead of doing something and then having to tear it down or getting their hands slapped or fined. So, thank you so very much. It's very well done. Appreciate.

Mr. Tackett: Thank you, P Dee. Commissioner Thompson.

Mr. Thompson: Thank you, Chair. Oh, by the way, I was here early on. I know the meeting...my internet was fuzzy, but I heard us from about two minutes past, just in case for your record. And actually, I have a question for Jacky. So retail, food and beverage establishments and these are residential, does that include apartment zoned as well?

Ms. Takakura: Thank you, Commissioner Thompson. Apartment, I would think they already can. I'm only looking at Residential, 19.08, I'm not looking at 19.13, Apartment Zoning District.

Mr. Thompson: Okay, thank you. So, and one other question I have for you. So, ...(inaudible)...tiny homes, and/or mobile...you're laughing there, the ones with on wheels that are still registered as vehicles, but it's a house and the can...park them on the lots. Are we encouraging those or discouraging them?

Ms. Takakura: Okay, well, I'm sure Jordan will have a lot to say because this has been a hot topic lately in terms of, yeah, these tiny homes. Now if it's a structure that's built, that can get a building permit, those are not a problem, but if it's used a dwelling unit, we count them as a dwelling unit.

Now, if it's an RV something on wheels and it has a valid motor vehicle registration that's not in storage, then those are exempt from building permit. But if it's being used as a dwelling unit, we do count them as a dwelling unit. So, we're not really addressing them here, but that is another hot topic that may...actually the County is actively working on trying to figure out procedures for them, but keep in mind, if for State zoning and I'm getting a little bit off track here, but for State zoning Rural and Ag, trailer homes and RVs are not allowed to be used as dwelling units, but for today, we're just talking about Residential Zoning District which is most likely to be State Urban. So, those could be allowed in Residential Zoning District and I think Jordan probably has a lot more information on this one.

Mr. Thompson: Yes, thank you. That would be very important. Also, yeah, if it is license plates, then it does not count for your property tax as an asset because I guess it can be moved, you know, hauled away, but I know they are...they build them like homes, it's a living structure, people live in them, but it's still registered. So, would that be a dwelling or a vehicle?

Ms. Takakura: Well, it's...you're right that there's...we've been talking with DMV, real property, Public Works to try to figure this all out because we look at them in different ways. Like you say, if it's a motor vehicle, then it's not like real property, and it's not going...it's going to be taxed differently, so, it really does vary depending on which perspective you're looking at it from. But for us, for Department of Planning, if it's being used as a dwelling unit, we count it as a dwelling unit. As you know, most zoning districts have a limit on how many dwelling units you can have on a lot. So, if you're allowed two, and you have a house and a tiny home being used as a dwelling unit, we count those as your ...(inaudible)... And if you need an SMA, you have to get an SMA. If you need a Flood Development Permit, you need to get that too. So, for us, we look at the use.

Mr. Thompson: Okay, thank you very much. I know that we're going to be faced with these coming up and there are people going to say, no, no, it's not a dwelling because it's got a license plate, so why do we have to pay more tax? And I know, from the County, we want to get everybody's money, but we also want to have more units on there. And for a homeowner, I can see him going, you know what, I can \$50,000, I get my truck, I back this puppy in, and I can rent it out for a thousand dollars a month, and I gave someone a house, and they're going to come here, and that's the argument we're going to get, isn't it? It's going to be, why do you have to pay property tax? It's a trailer, it a truck, I backed it in, I can back it out, hook it up to my garden hose, going to be another big problem is the toilets.

Mr. Hart: Chair, yeah, I could say a few things about that. It's an extreme problem because you have these things that don't actually comply with clear standards. You have RVs that have standards for construction. But, you know, I, personally have not seen too many legitimate RVs on Maui Island. I've seen a few, but not, not as many as I've seen at these other kind of DIY structures. But, you know, as far as real property tax, you know, they would be taking that up with the Department of Financing and potentially Real Property Tax Appeals Board, so, we wouldn't have to face those kinds of discussions, but we would potentially get into discussions of use here, which is what the Department focuses on, including environmental impacts and things like that. And we are focusing on the use. So, if somebody is trying to use, you know, a structure that does not comply with Building Code, but they're trying to use it as a dwelling, even though it isn't

categorized as a dwelling by the Building Code, you know, it's being used, it's a dwelling, so we'd address it that way.

The same with a structure that they believe they're exempt from building permit requirements because they put it on wheels. You know, the self-propelled, self-propelled vehicles are exempt from the Building Code, not just trailers, but there is just this belief that that's some sort of a gray area that the County of Maui is not aware of. And so, people are basically going out and purchasing these things and relying on them. And you're right, it is going to be an issue because they're not actually covered by the Code and they don't have building permits. So, they've been sold a structure that doesn't actually have a legal place in our existing regulations. But we are working on a way to try and address those, but it's very complicated because all of our regulations are health and safety driven and these structures are not compliant with any sort of health and safety standard, especially the ones, like I said, that are DIY or just, you know, some, some individual constructed themselves or you buy it, you know, from some vendor like there are ones that are compliant with standards that are related to RVs and there are others that are not. And how do you give somebody final inspections of a structure that wasn't built to any sort of code, wasn't wired to any sort of code, may not have even been inspected when it was wired or plumbed up and has no fire protection or escape mechanisms, but is needed because there's a housing shortage. You know, that's a real complicated issue, and I would just encourage people to really consult with the County before they spend a lot of money and rely on, on something like this because they get up into the tens of thousands of dollars. They're not just, you know, a thousand dollars. They're like \$40,000, I've seen these things and more on Craigslist, and you're going to be holding the bag on that. So, you know, do your due diligence.

Mr. Thompson: Thank you very much, Mr. Hart.

Mr. Tackett: Thank you, Dale. Commissioners, any other questions? Commissioner Thayer, go ahead please.

Ms. Thayer: Thank you, Chair. Jacky, I have a question. Since you mentioned Kaohu Store, I was wondering if this change would allow there to be structures where you have the store on the bottom and the dwelling on top.

Ms. Takakura: Thank you, Commissioner Thayer. Yes, there could be.

Ms. Thayer: Okay, and that would be just allowed as a special use then in that case?

Ms. Takakura: Yes, so it would come before the commissioner first, so you could impose you know, if you want to set hours for something you could do that.

Ms. Thayer: Okay, and then I just wanted to say, thank you for the kind of proactive approach to reducing runoff and increasing infiltration. Appreciate that.

Mr. Tackett: Thank you, Commissioner Thayer. Commissioner Lindsey, go ahead please.

Ms. Lindsey: Also, on the Kaohu Store, Kaohu Store does sell liquor, so I'm wondering a little bit why you're living it out, but Kaohu Store does have an upstairs to potentially where somebody could live and work. Is that just a part of the Code that's connected to Liquor Code or something that I just don't know?

Ms. Takakura: Thank you, Commissioner Lindsey. Actually, Kaohu Store is a different zoning district. I think it's like a business or something. But, you know, we, I added that in there just because if it's going to be in a Residential District to just say our food and beverage establishments would be allowed, if you look in our definitions, that would include liquor stores, and we were just thinking that, you know, maybe in a Residential District, we don't want to have that, but, you know, if you folks want that, that's certainly fine, but that's what we kind of decided as a group in the department that, you know, just something small, you know, so, you know, if you forgot your, your milk or your thing, you could walk there instead of having to drive to, you know... And I just I had been researching different zoning codes and you know, sustainability measures and having some small retail like this is a way to be sustainability in the zoning code, because like I mentioned, you know, it just, you know, gives you the option for walking to a place rather than having to drive, but we wanted to keep it small too.

Ms. Lindsey: One more question, Chair.

Mr. Tackett: Go ahead Commissioner Lindsey.

Ms. Lindsey: So, regarding the greenhouses, I think a lot of the residents of Dream City are pretty innovative with their growing techniques and although I don't want to totally discourage greenhouses, I feel like they use their lot to the best of their ability. So, is this just like a physical greenhouse structure with wood or oftentimes shade cloth kind of helps with water evaporation and stuff, would that be excluded. I'm just trying to find a middle ground between growing your food and it, you know being neighborly to each other.

Ms. Takakura: Thank you, Commissioner Lindsey. So, existing greenhouses would not be affected. They can continue. But if, we look at is if it's a structure or not. So, if it's just a shade cloth, that that would be fine because that's something you can easily move if you needed to. So, those wouldn't be affected...you know, you could still put up something like that. Just looking in the Code, if we have an existing definition for greenhouse...doublecheck. But yeah, existing would continue, and then things that aren't structures, those are, you know, like a shade cloths that would be okay. The structures that we're trying to...(inaudible)...the new ones.

Ms. Lindsey: Okay, thank you.

Mr. Tackett: Commissioner La Costa, go ahead, please.

Ms. La Costa: Thank you. Chair. Ms. Takakura, is there any push, I don't know if that's the correct word for live-work buildings like Kai Ani. We don't have many of those. And I think that that would be something that would really help a community thrive as well. You know, it's, it's just really it's such a great idea, and it has been really successful in Kihei at Kai Ani Village. So, I think that that's something that maybe, you know, needs to be a focus. We do need duplexes, so thank

you for putting that in this revision because we don't have many of those here, and that really does maximize the use of the lot. But the live-work situation is so very important, I think, too, so thank you. That was just a comment. No questions

Ms. Takakura: May I say, though, we did research that a little, and there is, you know, home business is allowed and so kind of just left it at that because, you know, you can do home business in...(inaudible)...hopefully that kind of meets that need.

Ms. La Costa: I was thinking of a more structured approach like Kai Ani, where you have commercial on the bottom and they're living up above. You know, I've sold a couple of those to my friends and clients and they have had...they're just ecstatic to walk downstairs and go to work and pop up and have lunch and whatever. And it also, they, you know, visit the other businesses that are in the same complex. So, it's very... it just really helps with the community atmosphere, I think. So that's, I think, something that the County should definitely look at when you're looking at apartments. I know we're talking residential, but that's something I think that should be visited. Thank you.

Mr. Hart: Chair, I do want to point that we are promoting that, and the West Maui Community Plan that was passed through the Maui Planning Commission did address those, for instance the Small Town Center designation, so we are moving towards that direction in the community plan designations, and then there are the Commercial and including Light Industrial zoning districts that allow for that. And you're also going to see Heavy Industrial proposals, so we are trying to make that change and you'll see one of those in the next agenda item. But, but the Residential District, we're looking at increased density in the Title 19 rewrite for the, the basic Residential District, but not so much the direct transition into mixed use there. But there are incremental districts between the more Commercial Districts and the Single-Family District that you'll start to see, especially the Title 19 rewrite that's coming forward.

Mr. Tackett: Thank you, Director. One thing, one thing I would like to say that, that all this stuff is really great, but before it's implemented, if you do not get a hold of the illegal vacation rental thing that is going on, you're going to have wealthy people come in and buy up all the affordable stuff and they're going to turn it all into, into illegals, and it's going to be like an algae bloom that you cannot control. So, it is super important before you let all this stuff happen, that there's protections in place that make sure that this stuff gets funneled to the, the low and the middle-income families instead of getting bought up by everybody from the mainland and turned into illegals because they don't think it can be enforced. So, I love everything that I hear, I'm just saying that before it happens that you got to have control of that, in my opinion. So, that's, that's just an opinion that I have on, on, on what we're talking about.

So, Commissioners anybody else have...oh, and one other thing I wanted to ask as far as retail, so say and say, let's just take Waiehu Heights cause I'm familiar with it, so, you're saying somebody could buy a lot in this neighborhood and make a store, and where would their parking go? And you know, what I mean? Would they be allowed to park on the street or 'cause right down the street from my house, somebody built like a like a 6,000-foot structure on like a 8,000 square foot lot. It is 100 percent concreted, maxed out to the maximum height, maximum width, maximum thickness, segregated into four separate rentals and just obliterated my entire

view, so he's running a commercial rental, basically a condominium out of, out of lot, two lots down from me that is kinda crazy, you know, and none of his...he can't even fit his cars on his lot and he has whole lot paved and then he has it striped. So, he has like six stripes you know what I mean for the cars and they're still overflowing onto the street and that happened to me last year. So, it's important if you do put these...I'm interested and if you do put these businesses, say my next-door neighbor decides he's got one, how would the parking and stuff like that work for that type of thing?

Ms. Takakura: Thank you, Chair Tackett. So, in our Chapter 19.36B there are parking requirements for eating and drinking establishments, one per 500 square feet provided that the minimum shall be three for establishment, and maybe what we can do is add to that one that, yeah, parking shall be pursuant to 19.36B or you know, these would come before the planning commission so you could impose those requirements at that time if you wanted to or we can just say you know, refer to the parking chapter because that would be where it's...(inaudible).

Mr. Tackett: Okay, yeah, whatever you guys decide to do and however you bring it forward, but it definitely, it needs to be thought out because I have, I have illegal short-term rentals in my neighborhood and the only time that they ever park their cars in their parking spots is when you guys come out and look for it. You know, they're all over every place until you guys come and inspect, and on that day, they tear down their structure, which is like a fence that hides all their tools and stuff like that and it's supposed to be a parking space, and then as soon as you guys do your inspection, then it goes back up, they park all their stuff on the street, and then the only car that parks in the driveway is usually the one rent-a-car. So, it's definitely that something that, that, how it's, how it's managed is pretty important I think at this point. Commissioners anybody else got any questions or comments? All right, hearing none, what would be our next step, Director?

Mr. Hart: If you believe that you provided comments to the Department, you know, as they went, you can say that you want those to reflect the comments by the Commission to the Department for transmittal to the, to the Council. You should make a recommendation on the overall item, but I think that it would be...it kind of seemed that those were off the cuff. It might seem that you would point out the specific comments that you want the commission to be making to the Council for consideration and then what you propose their action should be on this proposal.

Mr. Tackett: Okay, let's go. Let's, let's follow that a little, a little more strict then. Commissioners, any, any specifics that you guys want included in this? Let's go ahead and just call them out specifically and then we can go from there.

Mr. Hart: Chair, Corp. Counsel seems to be trying to get your attention as well.

Mr. Tackett: Okay, Mr. Hopper.

Mr. Hopper: I just wanted to check, was there a completed public testimony? It's a public hearing item, so that's the purpose of that, so you'd need to take public testimony.

Mr. Tackett: Okay, I appreciate that. Yeah, I forgot about that. Thanks so much Mr. Hopper. If we've, if we've...I think we've done a fair amount of discussion, let's go ahead and get our public testimony and then we can get our recommendations and our motions. Could we open public testimony please?

Ms. Takayama-Corden: Chair, there is one person signed up to testify and that is Tom Croly.

Mr. Tackett: Okay.

Mr. Tom Croly: Aloha Commissioners. I enjoyed the presentation by Jacky and I like the idea of trying to create new housing opportunities and I can picture this working very well in a new subdivision.

Mr. Tackett: Mr. Croly...

Mr. Croly: Tom Croly, speaking on my own on my own behalf and I promise to tell the truth. Thank you, Mr. Chair. I guess I can picture this all working in a new subdivision where we're laying things out and so forth. But I tried to picture it working in existing things and it brings a whole lot of questions to mind, such as the idea of having a retail establishment in a residential home on a residential street. Now, I recognize that that's a special use and it would have to come to the commission, but wow, I can imagine the discussions that you might have that. Also, essentially converting single family neighborhoods into duplex neighborhoods. Again, a good idea for creating housing and I'd like it to be considered in the Rural District. I happen to live in Maui Meadows, where I'd say half the homes in Maui Meadows already have been converted into duplexes, not necessarily legally, but that's, that's what they are. So, that's, that's a that's a big one. And, and the idea of converting single family homes into duplexes brings in a whole nother set of issues with Fire Code. I know that all single-family structures, by our current definitions in Code are not reviewed by Fire. I believe that all multi-family structures which a duplex would be, would be reviewed by Fire. So, I would, I would want to see Fire's comments on this before it goes forward.

I also am a little concerned about the idea of grandfathered properties. We have setbacks that may not be compliant. So, are we saying that a property that has a has a structure in a setback that was approved at one time but now wants to build another structure on that property would have to have the first structure that was previously approved, change the setback to make that, so, I'm just not sure.

And then, I wanted to bring one other thought in about the impervious surface thing, and I got this from watching This Old House, what they...I saw them do in one subdivision or one area where they were building something, was they put a great big tank in the...underneath the driveway to catch all the water, something that that we see all the time done in commercial establishments where someone's building a big parking lot and they say, you have to keep all your runoff on site. Well, that probably should be an option here for people who might want to do some type of development, and it's impossible for them to stay within this 75 percent or whatever number is chosen of the impervious surface idea to put underneath their driveway, this great holding tank

that, that would keep the runoff on site. So, that's something that I would, I would ask the Department to take a look at. And then finally, usually a –

Ms. Takayama-Corden: Three minutes.

Mr. Croly: Yeah, I'll be real quick. Usually, a report like this comes with reviews—

Mr. Tackett: Mr. Croly, your—

Mr. Croly: I just have one sentence to give.

Mr. Tackett: You can't do it.

Mr. Croly: Okay, other agencies...that's all I want to say, okay. Sorry, Chair.

Mr. Tackett: No, but there may be some questions, you know, but I just can't make that type of exception for anybody.

Mr. Croly: Understood.

Mr. Tackett: So, Commissioners, does anybody have any questions for Mr. Croly? Go ahead, P Dee.

Ms. La Costa: Thank you, Chair. Appreciate it. Mr. Croly, you always have such great insight, but you were cut off after three minutes, which was...are the rules. So, could you please let us know the rest of your very short ending? Thank you.

Mr. Croly: Yeah, which was just that a report like this from the Department usually comes with the other agencies comments on it, be that Fire, be it, you know, so that we understand full picture of what, what is going forward not just Planning's kuleana on this, but Fire, and Water and Public Works and so forth, that's all.

Mr. Tackett: Thank you. Commissioners, any other questions? Appreciate it, Mr. Croly. If we have any other testifiers at this time, if you could please come forward. Going once, going twice, going three times, if we could please close public testimony.

Ms. Takayama-Corden: Testimony is closed.

Mr. Tackett: And then, Commissioners we need, we need comments and a motion I believe. So, anybody would like to provide comments? Commissioner Lindsey go ahead.

Ms. Lindsey: Regarding duplexes, that is definitely needed where we are now, but I'm wondering if there can be a little bit more care when this...describing what a duplex is and what makes them a duplex just so that it doesn't double, double the residents everywhere on Maui at one time, but it is sorely needed, so, just some sort of care regarding that description. That's my only comment for now, thank you.

Mr. Tackett: Thank you, Commissioner Lindsey. Commissioners, any other comments? I can't see everybody right now, so I can't see Dale...Does anyone else see anyone that has comments at this time? If not, we can entertain a motion.

Ms. Takakura: Chair Tackett?

Mr. Tackett: Yes?

Ms. Takakura: So, just in response about duplex, it's a dwelling unit two-family, and it's simply a building consisting of only two dwelling units designed exclusively for occupancy by two families living independently of each other. So, it would be, you know, like two houses stuck together and they're still subject to the same setback requirements that are already there. The setback numbers are not changing at all, the fifteen for the front and the six for the sides and the rear, none of those are changing. And so, you know, right now you can have a main dwelling and an accessory that can be connected to each other as long as there's a wall between the two, this would simply be, you know, an accessory dwelling, but bigger, you know, 'cause it could be the regular sized dwellings, but they're still subject to the setback rule. Can't go beyond what's the setbacks, so I want to make that clear. Thank you very much.

Mr. Tackett: Thank you, Jacky. Commissioner Lindsey, go ahead.

Ms. Lindsey: So, can you have a duplex and an accessory dwelling?

Ms. Takakura: Chair Tackett, may I answer that?

Mr. Tackett: Absolutely.

Ms. Takakura: Okay, so that would depend on the size of the lot. If the size of the lot allows for accessory dwellings, then if they're big enough then you could potentially. Not for the smaller ones, but for the bigger ones depending on the size.

Ms. Lindsey: Okay, thank you for that.

Mr. Tackett: Commissioners, any other questions? Do we have a motion? Commissioner La Costa was a little bit faster than Commissioner Thayer, sorry. Go ahead Commissioner La Costa.

Ms. La Costa: Thank you, Chair. I would like to move that we accept the comments and the information provided by the Department with our comments attached.

Mr. Tackett: And do we have a second? Okay, we have a motion on the floor and a second.

Ms. Thayer: Question.

Mr. Tackett: Oh, question.

Ms. Thayer: Just looking at what our options are. So, we can approve approval, sorry, is that what you're doing, Commissioner La Costa?

Mr. Tackett: I believe she's recommending approval with comments.

Ms. Thayer: Okay, yeah, I can. Thank you.

Mr. Tackett: Okay. And so, we have a motion and second, and Director would you like to roll call vote or a raise of hands. I can't really see a raise of hands, so sometimes I prefer a roll call vote just because I know that everything gets...

Ms. La Costa: Chair, may I speak to the motion please?

Mr. Tackett: Oh, yeah, absolutely. Sorry, P Dee. Go ahead.

Ms. La Costa: Thank you, thank you. The reason that I made the motion to approve with our comments is because we have done some really good input here and they will be in the minutes of the meetings if, if Assistant Director has not made those notes, we kind of got spoiled with Michele writing down everything for us. So, the recording will have our comments and I think those are important to attach. So, that's why I made my motion. Thank you.

Mr. Tackett: Absolutely. And Commissioner Thayer, would you like to speak to your second?

Ms. Thayer: Sure, thank you, Chair. I just want to say I appreciate the efforts made by the Department to kind of refresh these Codes to make them easier to understand, especially with the images and the tables, to be kind of proactive in enabling more different kinds of housing to be produced, and also the, the limit on impervious surfaces I appreciate very much. Thank you.

Mr. Tackett: Thank you. Commissioners, does anybody else want to speak to the motion before we move forward? Yeah, hearing none, could we have a roll call vote, please Director?

Mr. Hart: Commissioner Edlao.

Mr. Edlao: Yes.

Mr. Hart: Commissioner Hipolito.

Mr. Hipolito: Aye.

Mr. Hart: Commissioner Thayer.

Ms. Thayer: Aye.

Mr. Hart: Commissioner Lindsey.

Ms. Lindsey: Aye.

Mr. Hart: Commissioner La Costa.

Ms. La Costa: Aye.

Mr. Hart: Commissioner Freitas.

Mr. Freitas: Aye.

Mr. Hart: And then the Chair.

Mr. Tackett: Yes.

Mr. Hart: I count seven in favor.

Ms. Lindsey: Commissioner Thompson.

Mr. Thompson: Aye.

Mr. Hart: I'm not seeing...oh, I apologize. Commissioner Thompson also, so I count eight in favor.

Mr. Tackett: Thank you, Director.

It was moved by Ms. La Costa, seconded by Ms. Thayer, then

**VOTED: To Recommend Approval of the Proposed Bill to the County Council as Recommended by the Department and with the Commission's Comments as Discussed.
(Assenting – P D. La Costa, K. Thayer, K. Freitas, J. Edlao,
M. Hipolito, A. Lindsey, D. Thompson, C. Tackett)
(Excused – K. Pali)**

Respectfully Submitted by,

CAROLYN TAKAYAMA-CORDEN
Secretary to Boards and Commissions II