

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

Mr. Hart: The next order is Item B.3, Michele Chouteau McLean, AICP, Planning Director, referring to the Maui Planning Commission, a proposed bill to amend the Maui County Code Chapter 19.26, M-2, Heavy Industrial District to allow apartments were located on the same lot as business or residential uses, and when located within 500 feet of any property with existing residential uses, transient vacation rental uses, transient vacation use is prohibited. Jacky Takakura is staff representing the Planning Department to do a presentation.

- 3. MICHELE CHOUTEAU MCLEAN, AICP, Planning Director, referring to the Maui Planning Commission a proposed bill to amend Maui County Code Chapter 19.26 - M-2 Heavy Industrial District, to allow apartments when located on the same lot as business or industrial uses and when located within 500 feet of any property with existing residential use; transient vacation rental use is prohibited. (J. Takakura)**

The entire text of the proposed bill for ordinance is available at <https://www.mauicounty.gov/DocumentCenter/View/129722/Bill-for-Ordinance-updating-Chapter-1926---M-2-Heavy-Industrial>

Ms. Jacky Takakura: Thank you. Chair Tackett, may I share screen again?

Mr. Tackett: Yes, please do. Thank you, Jacky.

Ms. Takakura: Can you see the blue and white, everybody okay? This one is not very long. So, the proposal here is to amend Chapter 19.26, which is the Heavy Industrial District, and it's just relating to the permitted uses in this district. And this is another one to try to encourage more housing. So, Heavy Industrial District is normally reserved for manufacture or treatment of goods from raw materials. An example is the former pineapple cannery area in Kahului which you can see from these five photos. But if you look at the area today, it's a little different. It's transitioned from cannery to shopping center, warehouses, and other businesses uses and it's also part of the transit-oriented development corridor off of Kaahumanu Avenue, the image here from the Kaahumanu...(inaudible)...Another similar is the Mill Yard in Wailuku, that used to be the Wailuku Sugar Mill, and now it's more like businesses and services.

And so, what the Department is proposing to do is create the opportunity for these property owners to transform or redevelop vacant or underutilized parts of their properties into housing. And so, the bill is proposing to allow apartments in M-2, but under specific conditions. Those conditions are they'd have to follow all of the criteria here. They'd have to be mixed use located on the same lot as business or industrial use, the existing business or industrial use is located within 500 feet of any existing residential use. Like if you think about Kaahumanu Shopping Center and you think about like Wakea Avenue, across the street is housing, so that's an example where there is existing residential use. There would have to be appropriate physical appropriate physical or spatial buffers to protect the residential from the, you know, the more industrial uses or noxious use are any...(inaudible)... And then, of course, transient vacation rental use would be prohibited.

Next are just some maps of these M-2 areas. This is Central Maui, and so, you can see, like, for example, here's in the middle is...yeah, that's Kaahumanu area. West Maui, Lahaina side, two in South Maui, one out there towards Maalaea side, and then one down here in...(inaudible)... There's some on Molokai in Kaunakakai area, two parcels on the Island of Lanai.

So, when we researched properties that met all of that criteria, the ones that are able to, that could have apartments would be Kaahumanu Shopping Center, Kahului Industrial near the Hukilike area, the Wailuku Mill Yard, Puunene Mill if the existing residential use continues, West Maui. And the one's that don't meet the criteria would be the parcels on Molokai, Lanai and in South Maui.

So actually, that's it is just to propose those changes to the uses and that's all. So, same like before we can improve as is, you can make amendments, deny or defer, if you'd like to get more information. I stop sharing it, but I can always go back if you have any other questions or want to look at the maps. Thank you.

Mr. Tackett: Thank you, Jacky. Commissioners, any discussion before we go to public testimony? Commissioner Lindsey followed by Commissioner La Costa.

Ms. Lindsey: So, as is, I'm referring to Molokai and Lanai, is it because they don't fall into the five criteria that you said, or is it because of their own...okay. If they were not, I would like their comments or I'm not sure if they should have input even if...if they're affected at all or not because we don't know those places, you know.

Ms. Takakura: Thank you, Commissioner Lindsey. We did take it to Lanai so far and then we are going to Molokai...we're taking the bill to the Molokai Planning Commission next month. So, yeah, we did talk with Lanai already and they provided their comments.

Ms. Lindsey: Thank you for that.

Ms. Takakura: It's in my notes here.

Mr. Tackett: Commissioner La Costa.

Ms. La Costa: Thank you, Chair. Ms. Takakura, are there currently any permits pending for apartments in any of these areas that are highlighted? Thank you.

Ms. Takakura: Thank you, Vice Chair. No, not at this time, because the use is currently not allowed.

Mr. Tackett: Was that it, Commissioner La Costa?

Ms. La Costa: Yes, Chair. Thank you.

Mr. Tackett: Commissioners, any other questions before we get into public testimony and then we'll have time after as well. All right, Director could we please open public testimony?

Ms. Takayama-Corden: Chair, the first person to testify is Dick Mayer followed by Albert Perez.

Mr. Dick Mayer: Good morning, Commissioners. Can you hear me?

Mr. Tackett: Yes, we can. Please state your name and promise to tell the truth. You have three minutes.

Mr. Mayer: This is Dick Mayer, I promise to tell the truth. I think that this particular suggestion or recommendation flies against the whole idea of zoning, of keeping apart of noxious and noisy and chemically polluting activities from residential areas. And I also think that this will end up being a discriminatory policy because it will be place where apartment buildings will be put for low-income people in heavy industrial land and I think that you have an obligation, moral obligation to make sure that that kind of a thing does not happen. I think apartment buildings should be built, I'm not opposed to them, but I do not think that they should be put on heavy industrial uses. And on that heavy industrial use are a number of activities that I don't think you would want to live near everything from factories, plastic manufacturing, oil storage units, machine shops, concrete and cement products, lumber yards, those kind of activities. And even some other ones that, you know, ...(inaudible)...thing at the end there which are...that don't fit other areas.

I would urge you not to approve this, and I'll give an example, recently the County made a land deal with A and B to get the whole large Waiale Tract and in the process, they got land on Dairy Road for a new residential area presumably for low-income families that would be very close heavy industry area where the sugar mill in Puunene is located. That would mean that the sugar mill area could potentially have apartment buildings on it...(inaudible-audio feedback)... There's a danger that there are chemicals in the ground, there was piles of big coal fields, coal piles were there before. We don't know what's in the soil there and could potentially be very dangerous to build apartment buildings on such land. There's a provision in here that it will...the apartments will be separated from the industrial uses. What happens if an apartment is put up, and then after the apartments were up, another industrial use is put in there, will that industrial use be required to go through some kind of a screening or what will happen. And it's not just chemicals, it's also odors and particularly noise. Industrial areas can have trucks coming in and out all hours of the night would that be where you would want your apartment to be? They also may be operating some of these processes in the evening time or nighttime while people are sleeping with bright lights on and other activities. This is just not the right mesh to do, and we should have areas set aside for apartments.

So, I would urge you reject this recommendation and require that if an apartment complex, if a...excuse me, if industrial zoned land is going to become apartment, that the applicant, owner of that land come forth and try to get that land rezoned to apartment, and it can be scrutinized separately one by one, that we know that this area is really, truly appropriate for apartment buildings. There may be some areas that—

Ms. Takayama-Corden: Three minutes.

Mr. Mayer: --but I don't want to give a blanket approval.

Mr. Tackett: Thank you. Does the commission have any questions for the testifier? Thank you, Mr. Mayer.

Mr. Mayer: Thank you.

Ms. Takayama-Corden: Next person signed up is Albert Perez.

Mr. Tackett: Mr. Perez, please state your name for the record and you have three minutes. Promise to tell the truth.

Mr. Albert Perez: Good morning, Commissioners. Albert Perez, and I promise to tell the truth. Yeah, I was surprised to see this proposal from the Planning Department because it seems to fly in the face of the zoning code audit that was done a couple of years ago. There's some language in there... This type of zoning allows for often conflicting land uses and development patterns and does not ensure quality development. For Maui's industrial zones, this means that they may not be developing in ways that support industrial investment and growth. So, when you have incompatible uses such as residential and commercial near industrial uses, the value of the land often rises to the point where the industrial uses cannot compete profitably. And the result is that our industrial businesses are driven out.

Maui Marketplace where OfficeMax is now is pretty empty, but when it was full, it was mostly retail businesses, little or no light industrial. Same with the Millyard in Wailuku that was shown full of professional offices. My dentist has an office there, so, if you're like a sailmaker for a windsurfing company or you're trying to make candy from locally produced products or something, you're gonna have trouble competing. There are just a few that are actually light industrial in these areas.

And now, it's just puzzling to me that the Planning Department would be proposing to extend this situation where industrial businesses that we need are being driven out. You know, if it's a good idea and there's no toxic soil or anything, I agree with Mr. Mayer, you know, get it rezoned. Well, that makes sense to me. But if we want to have good separation of incompatible uses and support the industrial businesses that support the rest of our society and our community, then this proposal is not a good idea. Mahalo.

Mr. Tackett: Thank you. Commissioners, does anybody have any questions for Mr. Perez? Thank you for your testimony.

Mr. Perez: Okay, mahalo.

Ms. Takayama-Corden: Chair, the next person that signed up is Tom Cook.

Mr. Tackett: Mr. Cook, please come forward, state your name, promise to tell the truth and you have three minutes. I can't hear you yet, Mr. Cook. Nothing. It, it...do you guys see him on your screen still? Mr. Cook, we cannot hear you.

Ms. Lindsey: He said he's gonna try again, well, that's what he lipped.

Mr. Tackett: Okay.

Mr. Hart: I would just...Chair, if I could say that Mr. Cook could also try to call in by the, by the number that's provided on the agenda as well because the computer's having a problem.

Mr. Tackett: Okay, looks like he's gonna, he's gonna try to call in.

Ms. Lindsey: Chair, while he's trying to call in, can we do a restroom break please?

Mr. Tackett: Yeah, let's let's go ahead and give everybody five minutes please. Carolyn, it's 10:34, can we take six minutes and resume at 11:00 please.

Ms. Takayama-Corden: Sure, Chair.

Ms. Lindsey: Thank you.

Ms. La Costa: You mean, 10:40?

Mr. Tackett: Yeah, 10:40, sorry you guys.

Ms. La Costa: Thanks, Chair.

Mr. Tackett: Yeah, that's a long six minutes.

A recess was called at approximately 10:34 a.m., and the meeting was reconvened at approximately 10:43 a.m.

Mr. Tackett: Mr. Cook, if you could please state your name for the record, promise to tell the truth, and you have three minutes.

Mr. Tom Cook: Thank you. My name is Tom Cook. I promise to tell the truth. I thank the Commissioners, for your service and also your patience with me through my technological challenges here. I am in support of the Planning Department's proposal. I was a member of the GPAC several years ago. The reason I'm supportive is this, back in the day, one of my first jobs was unloading freight at the Quonset huts. When Kahului Industrial was developed that was a real big, like upgrade. That was quite a while ago. Kahului Industrial now, Kahului, itself, could be a walkable community with facilities and minimizing the need for traffic. We have...now we have a bus system. The long and the short of it is Maui has continued, as we continue to grow, I think we need the flexibility and that although existing zoning in different areas, we're going to have this conflict constantly. And I just think that we need to be progressive and proactive to provide housing, apartments, and homes for our local working residents and having them close to work, I understand the concerns previously voiced about quality of life issues, if you go down Sunday, the industrial area is dead. Great, you drive around no traffic, only time there's traffic is in the morning and afternoon when people are working. So anyway, I am supportive, that's why

I'm supportive. I think the Planning Department is pretty, very perceptive and aware of our needs and that this suggestion is solution-oriented and I hope that you will review it positively. Thank you for the opportunity to speak.

Mr. Tackett: Thank you, Mr. Cook. Commissioners, does anybody have any questions? Thank you.

Mr. Cook: Thank you all, aloha.

Mr. Tackett: Carolyn.

Ms. Takayama-Corden: Chair, no one else has signed up to testify.

Mr. Tackett: Okay, if you have not signed up to testify and you wish to testify on this item, please come forward, state your name, and you will have three minutes. Going once, going twice, going three times. Carolyn, please close public testimony.

Ms. Takayama-Corden: Testimony is closed.

Mr. Tackett: All right, Commissioners, discussion on our...

Mr. Thompson: Chair?

Mr. Tackett: --item? Yeah?

Mr. Thompson: Yeah, I just want to raise...want to say... 'cause raising my hand doesn't always work there, anyway,

Mr. Tackett: Yeah, yeah, please do Dale. Your camera's not on Dale, so I can't you even if you did, even though you are on my screen. So, thank you.

Mr. Thompson: Yeah, it's on on my side. Anyway, appreciate that, and I would like to address a question to Deputy Director Hart, about the...to me, it seems like this is probably the wrong move and I understand that we want to have more housing, but there's some definite concerns about putting it in industrial...you know, all kinds of other places, but industrial seems like the worst of it. Mr. Hart, would you respond to the concerns brought up by Mr. Perez and Mr. Mayer?

Mr. Hart: Sure. So, you know, the proposal includes the requirement that these properties already have existing commercial or residential uses occurring on them and that the... there be existing residential uses within 500 feet of them. So, these are areas that we anticipate there's already going to be limited, actual heavy industrial use. The County of Maui recently, I believe it was 2012 created the M-3, Restricted Heavy Industrial District and that was because over the pattern of development in Maui County, the commercial and residential uses have begun to go into the industrial areas because they were permitted. And you have just basically a change of how those land areas are used, but they're still located in central areas of all of our towns mainly. So, they're surrounded by full improvements, they're surrounded by services and they're underutilized, and

so, you know, if this is created, you know, there apparently is stated to be a high demand and need for housing. And so, this is a way that that could be facilitated relatively quickly because these properties would already be zoned and they would now be permitted to do this. So, if there was an interest in advancing that, this could be an option. But if it's, you know, this is being proposed by the Department for review by the three planning commissions for recommendation to the Council, if this is viewed as something that is too risky or inappropriate, then, you know, that could be recommended by the commission and concluded by the Council.

But we don't feel that way, we feel that this is an option to add further flexibility, which we had just been talking about that's being described in our island plans. It's being described in our community plans. It's being talked about in meetings about what good planning concepts are, and so, we're putting forward this proposal. We think that it's going to be executed responsibly by any landholders who do, do it, because this is multi-family development. It's not something that's easy to be done or without insurance or complicated planning and approvals. So, we think it's appropriate and reasonable with the patterns of development that have happened in this County, and we hope it goes through.

Mr. Thompson: Are you concerned at all about the noise or lights and all those other kinds of trucks, et cetera, 24/7 coming into industrial areas? Would that be a concern?

Mr. Hart: So, the ordinance includes a provision that there be appropriate separation from the residential uses. So, that would need to be analyzed at the time that it's presented, the Planning Department reviews building permits. And so, we would be, we would be doing that. And if it was inappropriate screening, then we couldn't be supportive of it. But if it is appropriate screening and separation, then it would be appropriate. And I think that it also needs to be recognized that there's quite a few of these heavy industrial properties that have no actual heavy industrial uses going on on them. So, there's a discussion of these, you know, mills operating or whatever, but they don't exist anymore is the reality. But the properties exist and they're in central locations and they could be mixed use, you know, apartment above existing commercial or outright apartment. And so, you know, this is an option to pursue that goal.

Mr. Thompson: Do, you think that invites more worst industry and less manufacturing. Would that be a concern of ours?

Mr. Hart: As far as, you know, this is going to be anecdotal because we don't have a study backing this up, but in my experience in the Planning Department, we're hearing more of a desire for housing right now than we are for manufacturing or heavy industrial areas. If there were to be a need for more restricted, heavy industrial, you know, it would need to be pushed farther outside of our urban cores because the way that heavy industrial used to be appropriate to operate. For instance, you know, during the break I was talking to Jacky about St. Anthony's School, used to operate right next to the Wailuku Mill. And so, the mill was operating full speed while kids are in class and that's the way it used to be. I used to go to Doris Todd for a little while, just up from the Paia Mill, and they used to burn cane right across the ditch, right outside of our classroom, and that's just how it was. So, that's not the way it is anymore and these uses are not necessarily appropriate for the locations that they were originally conducted. But the land remains there and the designation is there, and so, we are doing a Title 19 rewrite and select properties may be

addressed more specifically, but this is a way right now before that is completed to address locations where it may be appropriate.

Mr. Thompson: Thank you very much for your input.

Mr. Tackett: Thank you for your questions, Dale. Commissioners, any other questions? I see, Commissioner Thayer. Go ahead, Commissioner Thayer.

Ms. Thayer: Thank you, Chair. I have a bunch of thoughts about this that I haven't, like, congealed very clearly yet, but hopefully it'll come out as I talk. But I want to say, I agree with Jordan in that, like looking at how our zoning ordinances were created, these were birthed in like the 60s when these places were still functioning, sugar mills and pineapple canneries and things like looking at the Kahului map now, we have like evolved away from where we were. And I'm pretty sure in all that I've learned about planning and zoning is that it's as dynamic as our population is. So, to stay, to hold ourselves to these M-2 parcels that were established before a lot of Kahului is established, I think, for lack of a better word, would be folly, and that we are here to like look into the future of what our needs are such that we won't say, like this property has been heavy industrial, and it's going to have to stay heavy industrial no matter what is around it. So, looking at the Kahului map, like a lot of the heavy industrial is surrounding the pond, which I think if we're thinking like environmental responsibility, we should not have heavy industrial surrounding one of our last remaining wetlands that we have on this island. And so, I think we should look at altering the uses that are allowed in these places and so, and like Jordan said, it would mean like heavy industrial should be moved out, like looking at where the Millyard is, I don't think there should be like a plastic processing plant built in the middle of there, because there are all sorts of like residential uses surrounding that parcel such that something like apartments would be a better use of that land. And I wanted to ask Jacky like looking at the Kahului parcels that I think are along, like where the car dealerships are across the pond, like how many of those are actually within the 500-foot line that would be required...part of the requirements of something even fitting within the criteria of this ordinance?

Mr. Tackett: Go ahead, Jacky.

Ms. Takakura: Chair Tackett, may I?

Mr. Tackett: Yes, thank you.

Ms. Takakura: In researching, actually only the Kahului Industrial, that would be the south end or the mauka end of Hukilike, the other ones don't have any existing residential near it, within 500 feet, so they couldn't, that answers the question.

Ms. Thayer: Yeah, so they wouldn't...they wouldn't be subject to this change anyway. And like thinking about the comment of these parcels should just be like downzoned to something not heavy industrial, I don't think the County can impose downzoning if I understand the whole process correctly, because that's effectively a take from property rights for people that have M-2 zoning already. Jordan, can you answer that.

Mr. Hart: Without cooperation I think it would be an issue.

Ms. Thayer: Okay, so I think this all being the case, I, I, I am, I think supportive of what the Planning Department is trying to do here because it is addressing our current and projected needs of our residents and population. I think it's a better use of a lot of these lands and we have heavy industrial areas established out of town, which I think they are better suited for anyway. So, I think this is a good step forward and I would even say that all that M-2 around the pond should be changed to something else eventually also, 'cause I don't think you should have these like heavy, intensive industries that create a lot of pollutants right next to like our last remaining freshwater body in town. That's my thoughts. Thank you.

Mr. Tackett: Thank you, Commissioner Thayer. Commissioner La Costa, followed by Commissioner Lindsey.

Ms. La Costa: Thank you, Chair. This question is for Mr. Hart. Would it make sense to limit the apartment or residential areas to the transit-oriented development areas, set aside specific areas so that you would have that town kind of atmosphere and easy ingress, egress from the apartments if you're looking at, at building residential or wanting to do that?

Mr. Hart: We are, we are doing the Kaahumanu Avenue TOD Corridor Study. You know, that could be a proposal of the Planning Commission. We weren't proposing to limit it. You know, generally, when you, when you establish ordinances like this, there will be opportunities to come up that you didn't really realize. And so, we could, we could say that it would be only...we didn't propose to, to direct it only to the TOD Corridor because, you know, there could be other proposals that we hadn't considered that are completely appropriate and we would be supportive of. And so, rather than ruling those out to start, we just basically proposed that if be broad.

Ms. La Costa: 'Cause that to me, would make a lot of sense if you want to, to help our citizens, 'cause not everybody has a car, nor do they want one, so thank you so much Jordan, appreciate it.

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

Ms. Lindsey: Deputy Director, could you maybe clarify for me what process you need to go through to change zoning, to allow for apartments? A lot of those properties are vacant or soon to be and things. So, at this point, there's really no use for them. They'll just continue to gain vacancies. And I'm sure the owners or developers of the properties probably don't want to just have vacant properties. So, can you tell me the major hurdles, possibly also a dollar amount that would it would cost or time...dollar or time to rezone some of these properties like the testifier suggested.

Mr. Hart: Okay, let me, let me try and take that in two parts. So, the vacancies, you know, that's, that's market driven. So, whatever those individual landowners are able to, you know, however they are able to get interest in their properties or figure out the reuse of those. I mean, you know, you can drive around and see the vacancies in some of these properties that are already that are already, that are heavy industrial so that speaks for itself in my opinion. I mean, I think that you

can see where there's activity and you can see where there's inactivity. And if you're one of these commercial...heavy industrial owners and you don't have interest in the heavy industrial uses because you have a property that's there, ready, willing and able. For instance, the...there's a couple of clearly vacant ones just right on Hana Highway that you can drive by and see, and, you know, if there was market demand, you know, there would be activity. But obviously, that's not the case.

In order for each of these individual properties to do a change in zoning, depending on whether or not they're also in the Special Management Area, you know, it could, it could get up to, you know, up to even a half a million dollars and like 24 to 36 months potentially to get through a change in zoning on a case-by-case basis. But if there's a change in zoning here that we're proposing where the Department initiates an adjustment to the code, if you're in the Special Management Area, you would need to do an SMA major permit and that would come to the Maui Planning Commission and be subject to public hearing. But if you're outside of the SMA, then you would just need to submit for a building permit approval.

So, it's, it's a significant avenue to potentially accelerate the process of producing housing for properties that are outside of the sensitive area, the Special Management area, and these are all going to be already in the County...the State Urban District and the County's Urban Growth Boundaries. So, we're not talking about, you know, breaking new ground. We're talking about reusing currently urbanized, unused lands or underused lands. For an SMA major permit, you know, it's gonna cost a couple hundred thousand dollars and maybe 12 months or so if everything goes well, you know, if everything goes not according to plan it can take longer and cost more, but that's generally a snapshot of what those things cost you.

Ms. Lindsey: Okay, thank you for that. I think, I think reusing what we have, traveling around there was tons of malls that were while old maybe train stations that were converted into malls, and now the malls aren't useful anymore and now they're converted into apartment mixed use and I thought that was a really efficient way of using space that we haven't capitalized on here, on Maui and it's sad that we don't have...we couldn't do that but now I see why, then I was just like why don't we just build residential housing over the stores at the mall or why don't we convert the old Borders into apartments, but this is the reason, so I think in terms of I think there are other M-2 areas that are outside...where there are less people and these properties that are affected I think are appropriate for apartment, so I am in support of this. Thank you.

Mr. Tackett: Okay. Okay, Commissioners, Commissioner Hipolito.

Mr. Hipolito: Thank you, Chair. First of all, I wanted to say to Ms. Takakura, thank you for sharing the images of the Kahului manufacturing plant, the cannery. I actually work there. I managed that area up until its closure. So, I brought back great memories for me to see to that and the communities that surround it and working with the communities, all those homes, Hale Makua, you know, all those years, and we all coexist.

I have a question for Director Hart. Director Hart, you mentioned in your statement about flexibility, could you share more, expound more on that, about flexibility in your statement about this ordinance? What does that flexibility you're looking for, is that the ability? We don't have

crystal balls, but does that provide to you the ability for potential future potentials and give you, the Planning Department, the ability to better strategically plan for the high need of homes in our community?

Mr. Hart: Thank you, Chair. So, you know, personally, the way I look at it is that, you know, the market drives everything. If there is, if there is a demand or a way to make something valuable for somebody to do, they'll pursue it if they can. And so, what we're proposing to do is basically give the landowners the flexibility to use the options to potentially redevelop or, or pause their properties to be reused because they are located in central portions of our existing communities. So, currently we have, you know, these basic underused properties. Everybody dislikes sprawl and everybody wants to preserve the country. So, here we have these central areas that are supposed to be our highest levels of density that are underused. So, if we open them up, that potentially alleviates pressures on our undeveloped areas because you have people housed in our central areas that already have our services. But if you don't do this, then people will speculate on undeveloped lands on the outside and pursue the tool and each process to get those lands entitled in order to develop. And it's just basically, if we don't create a place for this need to happen, then it'll figure out how it's going to do it itself. And that's the flexibility that I think that we're providing, is letting these owners now take a second look at their property and say, okay, can I do something different now? Like I have a commercial complex that's been largely vacant for it seems like a decade at this point. You know, can somebody come up and propose that they do a residential development now on my property and that would work out for everyone. It would work out for the community, work out for the County, work out for the people who need homes. So, you know, that's the way we're looking at it.

Mr. Hipolito: Then Director Hart, so you feel at presently we have adequate rules, regs, standards in place to provide you...for the homeowner to provide enough review of these potential projects that potentially could come up in the near future that you could say yes or no or allow us, the commission to say yes or no whether or not these potential development could occur or could not occur. Is that correct?

Mr. Hart: I do think that the ordinance that we're putting forward is reasonable and is sufficient regulation for what's being discussed.

Mr. Hipolito: Okay. Thank you. Thank you. Chair.

Mr. Tackett: Thank you, Commissioner.

Mr. Thompson: Chair, I have a question too.

Mr. Tackett: Commissioner Thompson, I had Commissioner Freitas' hand up first, so right after Commissioner Freitas, I'll get to you.

Mr. Thompson: Okay.

Mr. Tackett: Commissioner Freitas.

Mr. Freitas: Thank you, Chair. I'm going back and forth on this. When testifiers, Mr. Mayer and Mr. Perez shared what they had shared in being not favorable to this, I listened and I agreed with them. But I think my fellow Commissioner Thayer had opened my eyes to something where she made it clear that it seems our need is for housing and how much of these types of industrial businesses are, are fighting for land to operate. There is enough out there that they can. I'm just concerned because of the one statement that Mr. Mayer said that if you build a housing development and the land continues to be zoned use as M-2, Heavy, and, and then what if a business comes in and does stuff that will affect those that were there. I'm not sure if there's anything we can do to stop that.

And also, would maybe this is a question for Deputy Director Hart, should we say yes to this, and a project goes through, can we make it a condition that it still has to come through the Maui Planning Commission? Because I know we're trying to do this to simplify all of the, the red tape and bureaucracy to get homes built, which, which I think is the intent of this change, and I agree with that. Will they still be able to come back to us so that we can take a closer look at what's happening? I think, I think each, each parcel is different. There are some that is boonies and there's nothing really happening and you can do it. But there's some that are already mixed, and to throw all kinds of stuff in there, I, I kind of have a problem with that. So, will it come to us if a permit for a housing project is submitted, even if we approve this?

Mr. Hart: So, the way that we are proposing it now, only if it was in the Special Management Area, for instance, would it come to the planning commission. But we're not proposing it as a special use, we're proposing it as an outright permitted use. And I think that, you know, at some point you have to balance regulation with progress and whether or not, you know, you feel the need to review all things even outside of the Special Management Area and the Urban District or whether or not there are unique things that, that have impacts.

You had brought up another issue about whether or not...we have a provision where you can't initiate the housing in close proximity to industrial uses...if there's industrial uses occurring and there's no sufficient buffer. But we didn't address, how do we protect from the industrial uses returning after the housing exists. I think that, that could be addressed. You know, potentially there could be a buffer or the statement could also say that that no new industrial uses could be initiated if sufficient separation was not provided. And there's the Certificate of Occupancy process, which the Planning Department is a signer on, and so, we could assess those things at those times. I would try to encourage the planning commission not to make this a special use. Obviously, your recommendation to the Council is your own discretion, but we were looking at this as a way of...(inaudible)...put this, 201H is categorized as a loophole a lot of times. But it's not a loophole because it's State law. So, State law, it's not...it's intentionally created to cut the red tape because the Legislature understood how difficult it is to get housing developed here in Hawaii. So, rather than follow along with the plans that everybody's working on, you just skip the plans and appeal to the commission and appeal to the Council and say, this is a good deal, isn't it? Can we please do this? And they'll, you know, many times say yes, but that ideally, we plan so that our development community can actually use our system and do their developments the way we want them so that they don't need to rely on the 201H process. So, I would encourage you to make it an outright permitted use so that, you know, all of these properties that would apply or may be able to benefit from this, those are potential properties that are not going to be 201H

out in the Ag District somewhere because now you have industrially zoned land that is open for this use in the urban center.

But if you add the special use process to it, you know, maybe you guys end up approving all of those. But it still becomes uncertain that the developer, they have to find a location, plan the project, get the land tied up, get all their consultants in line, get their project application submitted, get comments from all the agencies, schedule the public hearing, and on the day of the public hearing, that's when they learn if they have a project or not. So, that takes a large commitment of faith that I'm going to get all this together and I'm going to just take the risk...this could, this could get denied or it could be weighted down with conditions so that I can't develop it, but I won't know that for 18 months from now, but I'm going to make my plan...like I'm going to set aside whatever I'm doing and this is going to be my, my project, and it's, we put it...anyway that's significant. So, if you can take friction out of that process, you will have a better chance of actually seeing units come up

Mr. Freitas: Okay, thank you.

Mr. Tackett: Thank you, Commissioner Freitas. Commissioner Thompson.

Mr. Thompson: Yes, and again for Deputy Director Jordan Hart. How are you? So, I do have a question too. Have any of these been EPA flagged or super sites, and here's where I'm going with that, is that we build something on there and then a kid gets cancer, and who are they gonna sue? Well, probably the developer, oh, and the County because we put them on some industrial manufacturing land which was full of heavy metals. ...(inaudible)...is, for...if this should fly at all, I would say they'd all have to be EPA clear before they would happen. And second, how long would it take, let's say a company comes in and wants to take in plastic, they're gonna build roads, so they need to make a manufacturing plant, they're gonna recycle plastic, clean up the ocean, throw it in this big building and make us new roads, so now they have no more manufacturing property. Let's they want...now if they go to try to make some, zone something, how many years would that take?

Mr. Hart: The first item, you know, you could, you could provide the recommendation that there be environmental assessments done for soil quality. You know, I, I haven't gone through specifically this process as the developer, but I'm going to, you know, I'm certain that through the insurance process and things like that, you're doing those things. But if you want the, the Zoning Code to call attention to that, you know, you could recommend that to Council.

With regard to the change in zoning process, Commissioner Lindsey had already asked a comparable question about doing the change in zoning. So, so basically, it takes, it takes about 24 plus months to get through a change in zoning because you have to go...to prepare your report, go through the Planning Commission, and then you have to go up to Council, and then depending on where they are in the budget cycle, that can have a swing on your schedule. So, it's, you know, 24 months is a pretty safe target, but it can go over that to get a change in zoning on a single property. Whereas, what's being proposed right now is the Planning Department is proposing to change the zoning ordinance, and so, you know, we've, we've gone through the Lanai Planning Commission, we're with the Maui Planning Commission now, we're going to be

with the Molokai Planning Commission next. This will be referred up to Council. and then whenever Council schedules it, if they choose to adopt, and the Mayor signs it, then it's it's an ordinance for everybody that's subject to it. So that would be depending on when Council would be interested in scheduling, it could be significantly shorter than 24 months total, but anyway, that's that process.

Mr. Thompson: Thank you.

Mr. Tackett: Okay, Commissioner La Costa.

Ms. La Costa: Thank you, Chair. Deputy Director, you mentioned a couple of things that you thought the Planning Department would consider in this making amendments. One of them was that no new industrial activities would take place within 500 feet without a buffer, and I presume that would be done in the permit process. And the second was that the EPA soils would be tested prior to any approval of the permits. Can you write those in the, the bill as amendments so that we can get those two items taken care? Thank you.

Mr. Hart: We've read a version of that. I believe, we'll look into the terminology. I believe it's Phase one, and potentially Phase two Environmental Assessment is what is referred to. But we can, we can add those as comments from the Maui Planning Commission. Jacky will add those in.

Ms. La Costa: Thank you so much.

Mr. Tackett: Thank you. Commissioners, anything else? A couple of, a couple of things, Director. First thing is, is I really like what, what Kimberly says, said about getting the industrial that used to be surrounding our waterways out of there and moved to some place more, more comparable to the day and times we're living in. And if you look at, if you look at the Mill House which was an example that they used, sure somebody could do manufacturing in there, but it seems like the movement of manufacturing should go more towards by the drag strip and towards the...where the Central Maui, where the Central Maui businesses and stuff are, you know, halfway between Kihei, halfway between Wailuku, kind of out in its own place, you know. And it seems like you guys have already started moving things out of town and that those businesses do have places to go which wouldn't necessarily mean that they would, would need to or want to even be in the mill...the old mill area which I go into that area all the time. A lot of those, a lot of those businesses are very benign, you know, and it's a fairly quiet place during the evening with not a lot of manufacturing. So, I think that it's...I think it makes sense to start moving that stuff out into the middle of places where it doesn't really bother anybody and to use our infill the way that best represents our community, and I think best representing our community is doing stuff for the poor, the middle and the working class people that need a place to live, 'cause they're the ones that make this place operate, you know, they're the ones that put in the majority of their life not at the beach but at their job making sure that the rest of us have goods and services, so that's just, that's just my take on it. So, I'm in the favor of it. Commissioners, anybody else want to, want to have any more discussion on it? Go ahead, Commissioner La Costa.

Ms. La Costa: I think that also the transit corridor should be looked at when, you know, when

apartments and residential is put in those areas if this passes, so that people are...not inconvenienced by being far away from those. Thank you.

Mr. Tackett: Thank you, Commissioner La Costa. Commissioner Freitas, go ahead.

Mr. Freitas: I was thinking, like when I think about this in front of me, I think of an example like the Puunene Mill area as being this M-2, Heavy Industrial District and I think back that, yeah, we're not going to be doing any sugar cane, however, that was built to service in heavy industrial, industrial work for all the sugar cane that was being grown and brought to a central location. A lot of that sugar cane land has turned into Mahi Pono and their, their growing of produce. Now, by allowing this, would it make it difficult for something like the Mahi Pono people? I don't know 'cause most of the land they have is ag, they wouldn't be able to build some kind of a building to process whatever that they're growing, so would this make a challenge for someone like that 'cause where I live and I drive every day, I look at how much they're doing to the land and I'm afraid that we might jam them up by...and again, I'm only focusing on the Puunene and I know that there's more around the island, but in that case, I don't want to hurt a business like that, a very huge part of our island and the direction we're trying to go with being self-sustaining. Mr. Hart, do you see that as being a step back for us trying to be more of a growing our own and providing our own and let's say they want to do a slaughterhouse somewhere because right by my house they've turned that cane field into a cattle grazing area. Now they've got to put a slaughterhouse. Can they just put a slaughterhouse up on? They got to go down to an industrial area is that correct?

Mr. Hart: Well, you can do ag processing in the Ag District. I'll have to double check on whether or not. I'm not aware that slaughterhouses are prohibited. I'll have to look into that, though. The other thing that I would say in addition to that is that my understanding of the Puunene Mill complex is that's under the ownership of one entity, so you know, I don't see, I don't see how...first of all, you can do ag processing on ag land. So, Mahi Pono has a lot of ag land that they could, they could ag processing on.

As far as the industrial areas, this would be the decision of the land owner to transition into a different phase. You know, if they choose that they want to...if they are making great money and great use out of their property in Heavy Industrial there's no motivation to go in this direction. But if they're in the situation where the community has changed around them and they're not getting interest in heavy industrial and they're sitting there with vacancies, this is an opportunity for those to choose situations as well. So, I don't anticipate that it's going to be an issue that landowners are gonna cause themselves a problem by thinking that they had wanted to go residential and then deciding that they had later wanted to go to light industrial. I think that they're gonna have to choose to go one direction. But I think that each of them can make that choice rationally and look out for their own interest and make the right decision.

Mr. Freitas: Okay, thank you.

Mr. Tackett: Thank you, Commissioner Freitas. Commissioners, any more discussion?

Mr. Hart: You know, Chair if I could add a little bit more commentary. There was initial comments about, you know, the land use patterns and the plans that we have and I just want to point out that the way that the Planning Department addresses those things is through the community plan update process. So, when we see that uses are changing on a property, we change the land use designations in the community plan. So, like for instance, let's say that there are properties that are currently light, industrial or heavy industrial and are not being used for heavy industrial purposes, but they start to be used for multi-family purposes, in the next community plan update, those things will start to be changed to a community plan. So, that's how we do the process of moving, you know, uses, for instance, out of the center of town into the remote, more remote areas and vice versa. So, you know, ideally, we're not doing it by changing a segment of the zoning code. I can agree that's the ideal situation. But if you look at the reality of how development is happening, we do think that this is the best way to start that process and to address the need that we have. And then we would recognize those changes in the community plans and then, you know, proceed from there. And then ultimately, if a property was to go completely to multi-family outside of light industrial, then it should be rezoned out of that later. And, you know, at a time when the County is ready to start engaging comprehensive zoning and things like that, we could address those things. But before that time, where we are now, this is a good step towards providing an opportunity to make these changes that we're talking about wanting.

Mr. Tackett: Thank you, Director. Was that all?

Mr. Hart: That was all, thank you.

Mr. Tackett: No, it was good, so...and I think we're all very appreciative and everybody has great questions, and there's...if anybody has any other questions, we can continue with the discussion. And if not, then I'm open to a motion. Commissioner Freitas.

Mr. Freitas: One more question. Yeah, thanks, Chair. Can someone, Mr. Hart, can you clarify then Commissioner La Costa's...oh, no, not Commissioner La Costa, I think it was Commissioner Thompson about if a residential...residential or some kind of housing is being built that the land will be cleaned or made sure that it's safe, environmentally safe to be built. Did that get...did you say that that's gonna be added in?

Mr. Hart: We'll add that as comments from the Planning Commission to the Council that there be an assessment of the soil, environmental assessment of the soil to verify that it's appropriate for use.

Mr. Freitas: Okay, and then one more question. If a housing development is placed on a big property or lot and then a developer wants to come in and do industrial work, right now, the rule is only 500 feet, can that be even further?

Mr. Hart: So, so, right now, the proposal is that if there is already existing residential uses within 500 feet, then, then we feel that it's appropriate to, to add uses because those uses are already coming pretty close to the heavy industrial uses that could be occurring there. So, the Planning Commission can recommend to the Council that you want to make it, make it even further. We

feel that 500 is good and addresses existing situations. But the further that you would do push it away, the fewer properties that are actually going to be potentially able to take advantage of this change. But if it's, again, if it's, this is the Planning Department's recommendation about what we feel, if the commissions don't, you know, if they feel like it's too much and the Council feels like it's too much, then it doesn't go anywhere.

Mr. Freitas: Thank you. I have another question. So, let's take the Puunene area, again, you have a mill there that is not in use, but I'm not sure if they can put some grease and crank it up and it starts going. But if a housing...we agree to this, you put a housing development in, will you folks, whoever is going to approve this because we're not going to be there and we're not going to be people can't testify on this, and you agree to one, are you going to try and put it further away in the event that they do crank it up? That's question number one. And if that is not workable, when you put that there, can you folks like I said, then ask them, you guys gotta be further, further away and what that will be.

Mr. Hart: So, when...before they, so we want assurances of a buffer before they start. If there is no, there's no existing use, we're going to have to be kind of careful about the anticipated return, which we had just discussed about like where will you tell us that this buffer in the separation will be? And then, once that's established through the initial creation of the, the units, when you occupy areas for commercial uses, there's a Certificate of Occupancy process that you go through with the Planning, with the Department of Public Works, but the Planning Department is a reviewing agency and we would address those kinds of concerns. The other thing to bring up is that, and this is the issue that, that always happens is that once you bring residents into an area, they become a controlling factor by their ability to, you know, petition the government and public...testify at public meetings and things like that. So, you know, the biggest regulator of returning noxious uses in close proximity to the residential areas would be the residents who would, you know, prevent it from happening, you know, in addition to the Planning Department watching for it. So, I think that if properties are going to choose to go this direction, they're already going to be properties who have gone away from light...or from heavy industrial some time ago, and they don't anticipate...(inaudible)...Commercial property is a business decision either you think that you're going to make money on the, on the industrial aspect of it or you think you're going to make money on the residential aspect of it. It's not just a hobby situation. So, if they think that there is better money for them in heavy industrial, they're going to say there's no way I'm going to bring residential people into here and compromise my ability to do my industrial uses. But if they're already surrounded by these other uses and light industrial or heavy industrial cannot come back because they're already captured by the existing residential uses in close proximity, then they might as well just embrace the development that's happened around them and go in the other direction but that would be for them to decide. We're just trying to basically make an option available for a decision where it doesn't exist now.

Mr. Freitas: Okay, thank you.

Mr. Tackett: Thank you, Commissioner Freitas. Commissioners, any other discussion? If not, I'll entertain a motion. Commissioner Thayer.

Ms. Thayer: Thank you, Chair. I would like to make a motion to approve the proposed bill with the comments that we discussed here.

Mr. Tackett: Thank you. A second by P Dee, and I know, I know Commissioner Lindsey came up with the second too, but she was just a little bit first. Commissioner La Costa, would you like to speak to...um, Commissioner Thayer, go ahead and speak to the motion and then I'll get Commissioner La Costa.

Ms. Thayer: Okay, thank you, Chair. I think I said a lot of my thoughts previously but I guess to sum everything up. I see this as a progressive step in the right direction towards better utilizing the existing not only land that we have but also our infrastructure, services, everything that goes along with land use. This is paving the way so to speak for urban redevelopment which I think is like an antidote for urban sprawl. And like my husband and I went travelling and we stayed in a loft that was in an old pencil factory. And this whole area was formerly factories, and they got converted into apartments with like small businesses under them, and the place is thriving now. And I think this opens the door for us to achieve that kind of really good progressive land use that I think we should move towards. So, that is why I am going in support of this. Thank you.

Mr. Tackett: Thank you, Commissioner Thayer. Commissioner La Costa.

Ms. La Costa: Thank you, Chair. It was so succinctly and well put by Commissioner Thayer that I'm going to just leave it at that and I will be voting in favor of this. Thank you.

Mr. Tackett: Thank you, Commissioner La Costa. Commissioners, anyone else choose to speak to the motion? Director, could we have a roll call vote please.

Mr. Hart: Thank you, Chair. Thompson.

Mr. Thompson: No.

Mr. Hart: Thayer.

Ms. Thayer: Aye.

Ms. Lindsey: Lindsey: Aye.

Mr. Hart: Hipolito.

Mr. Hipolito: Aye.

Mr. Hart: Freitas:

Mr. Freitas: Aye.

Mr. Hart: Edlao.

Mr. Edlao: Yes.

Mr. Hart: La Costa.

Ms. La Costa: Aye.

Mr. Hart: Tackett.

Mr. Tackett: Yes.

Mr. Hart: So, Chair, I have seven yes, one no.

Mr. Tackett: Thank you, Director.

It was moved by Ms. Thayer, seconded by Ms. La Costa, 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 – K. Thayer, P D. La Costa, K. Freitas, J. Edlao,
M. Hipolito, A. Lindsey, C. Tackett)
(Dissenting – D. Thompson)
(Excused – K. Pali)**

Respectfully Submitted by,

CAROLYN TAKAYAMA-CORDEN
Secretary to Boards and Commissions II