

**MAUI PLANNING COMMISSION
PORTION OF REGULAR MINUTES
ITEM B.4
OCTOBER 12, 2021**

Ms. McLean: Chair, next as Kathleen mentioned, is a somewhat related measure, this comes from me transmitting Resolution No. 21-114 that refers to the Commission, a proposed bill to amend Maui County Code Chapters 19.18, which is the B-2, Community Business District, 19.20, which is the B-3, Central Business District, 19.31, the Public/Quasi-Public District, the maximum building heights. Jacky Takakura, our Administrative Officer has a, one of her wonderful clarifying PowerPoints, so if I can pass it onto Jacky to walk you through.

Mr. Tackett: Thank you, I'd appreciate that. Thank you, Director.

- 4. MICHELE CHOUTEAU MCLEAN, AICP, Planning Director, transmitting Resolution No. 21-114 referring to the Maui Planning Commission a proposed bill to amend Maui County Code Chapters 19.18 – B-2 Community Business District, 19.20 – B 3 Central Business District, and 19.31 - Public/Quasi-Public District to lower the maximum building heights. (J. Takakura)**

The entire text of the proposed bill for ordinance is available at <https://www.mauicounty.gov/DocumentCenter/View/128226/Resolution-21-114-proposing-to-lower-building-heights-in-B2-B3-and-P2-districts>

Ms. Jacky Takakura: Okay, good afternoon, everyone. I wish I could make this brief, but it's a little...it's there's a lot of...I'm going to share screen. Can I just get a thumbs up if you can see the blue and white? Okay, so as the Director mentioned, we've got three different chapters that are proposed for revision, and this was from a resolution from the County Council.

So, the proposal is to reduce the maximum building heights in B-2, B-3, and P-2, and you can see on this screen what the current heights are, the maximum heights and what the proposed heights are. So, for B-2, it would go from 90 to 45, B-3, would go from 144 feet to 45 feet, and the P-2, would from 90 feet to 45 feet.

So, according to the County Council meeting on July 23rd, it was explained that the resolution is about maximum building heights that are more appropriate for Maui than Waikiki. So, then I started asking myself, well, I wonder what the building heights in Waikiki are. And so, I found this that the building heights there ranged from 130 to 350 feet. I don't know if you can see those numbers. I mean, it's a little bit lower for like this park area, but 350 here, 320 here, it's a little lower here, 65, a 130 and so forth, so you can see that the height limits there are much higher than our heights, and keep in mind that Waikiki is mainly for resort purposes.

Okay, so let's talk about B-2, and that's the Community Business District that's intended to provide the goods and services for the community and dwelling units are allowed in B-2, and you can see from the red dots on the map that we have B-2 all over the place. You've got B-2 in Central Maui, South Maui, West Maui, Paia, Upcountry, and Hana. And I do have a lot more details in the memo report, a little bit more specifically about where these areas are. This is...there's four parcels in Kaunakakai on the Island of Molokai.

And then, B-3, you can see in the picture, those are our B-3 parcels, the state building, the courthouse and the county building, and those is mainly for general business enterprises, particularly financial, governmental, commercial and professional activities. And its distinguishing features is a greater height limit permitted in this area, like the county building being nine stories. Multi-family dwellings, duplexes and bungalow courts are permitted also, although, as you can see, of course, we wouldn't have dwelling units in any of the structures. We don't have any B-3 on Molokai or Lanai.

Okay, so, and then the third zoning district is the P-2 that you heard about in the previous presentation. Right now, there's St. Anthony and St. Theresa that are in this zoning district but as you heard there was a proposal to add more because they would be more appropriate to...Dwelling units are...as was stated previously, a lot of the ones that are proposed to be rezoned in the digital zoning map for P-2 either are built prior to 1958 or they met earlier definitions or somehow received variances.

So, now I'm gonna read the four pages of long-range planning documents...just kidding, I'm not gonna read the four pages, but in the memo, you can see the different parts of our long-range plans, the Countywide Policy Plan, the Maui Island Plan, even the Molokai Plan really discussed how you would like to have the higher density in these areas and that's why this resolution is inconsistent with the long-term planning documents. It has the potential to reduce opportunities for affordable housing. It can lead to increased cost of buying or leasing commercial property. It can increase cost to the county, 'cause some of these properties are county properties, and if the county needs to expand...instead of being able to, you know, go up if needed. It's inconsistent with climate change, mitigation, and adaptation needs. As mentioned in the previous presentation, applications for variances would increase and as you can see in the memo report, the State of Hawaii also has concerns and those letters are included in the memo report.

You know, just having the higher density in selected areas makes sense. So, what we would like to propose, however, are some other revisions, minor updates to these chapters. And these are related to pertinent equipment heights, accessory structures heights, setbacks, and lot widths. The first one is about that pertinent and accessory equipment in B-2 and B-3, and these are things like the stuff on top of the buildings, the antenna, the vent pipes, any of those rooftop equipment, we would like to have them be limited to no more than 10 feet above the building roof from which it extends, because right now you could potentially have a very short building with something very tall on there. We would just like to have whatever the height is, you can only go ten feet above that period. And then, accessory structures like the mailboxes and trash enclosures, in other zoning districts, we have them limited to eight feet and we feel like this...these two chapters should have that limit also, so we'd like to add that in.

The next part that we're proposing is setbacks, and this is just a little bit of setbacks 101. This image here is an aerial view of Kihei McDonald's, and you can see the street there, that's South Kihei Road. So, the front here, this is would be the front setback, the two sides are the side setbacks and the rear, the back is the rear setback area. And right now, for B-2 and B-3, for the front there is no setback. For the side and rear, it's zero or you have to look up what the next-door parcels are and see what zoning those are, so that can vary.

For what we're proposing is to have it be 15 feet for the...kind of tiered, 15...(inaudible)...of the building 35 feet or less, and then 20 feet for the part of the building that's greater than 35 feet, and then the sides you can have a little bit bigger building, the setbacks will be a little bit smaller, 10 feet and then 15 feet. And the front and rear would be half the height of the building and then the side would be tiered, and then I have some very simple drawings on the next page.

So, right now you can see they're allowed to build right up to the property line. And what we're proposing is something what we call internally is the wedding cake style, where you have it go in further as the building gets taller. And that way you have the light and you're not going to have so much shade on the ground, so much. An example of that is, if you like, you think about New York, like the Empire State Building how it gets narrower as it...We're not talking about New York, we're just talking about some real simple set back proposals here for Maui. Like I mentioned, it would just be a little bit in from as it gets taller, it gets narrower and narrower. And these are similar to other zoning districts.

The one thing that we are thinking about also is for things...B-2, if they are taller, that it would go before the UDRB and I have that also. But the other part that we need to correct is the lot width and specifically for these P1 and P2. And I had to look this up too, and that's why I have this diagram of a circle and what the diameter is. A lot width is the diameter of the largest circle that can be inscribed within the lot line. So, if you think of a lot like say it's a square, that circle has to fit in there and that's the lot width. And if you can remember, from you know, intermediate school, area equals length times width. And with the current numbers, of minimum lot area being 20,000 square feet, you can't have a minimum lot width of 200 because 20,000 does not equal 200 x 200, right, if it's a circle. So, it would have to be 40,000. So, what we're proposing instead of making this 40,000, we would like to have this reduced down to be a hundred for the minimum lot width, 'cause mathematically that would work, 'cause it's just too wide right now. This would be more appropriate if this was a, like a two-acre lot, like a really big lot, like I have in the memo where I refer to the Ag District where, you know, lots sizes are ...(inaudible). So, we'd like to correct this math because it does not work here and it would just make more sense with P-1 also to have it reduced down a little.

Also, some proposals to revise these setbacks for the higher heights for P-1 and P-2. We can also talk about this because in terms of parking and making sure that we have enough parking, we can...(inaudible)...that up too. And as I mentioned, if things are going to be taller, like say steeples for churches that can go to the UDRB and we do have this going before them on November 2nd to get their thoughts on this also.

And one important provision for all of these three chapters would be that existing structures would not be affected. They would be nonconforming, and they...(inaudible)...expanded or repaired in accordance with Section 19.500.110 and that's Nonconformities. And we have that in each chapter so it's really clear.

So, what we're hoping is that you would recommend approval of the bill with the Department's improvements. You have four options, though. You can recommend approval of the proposed bill with amendments. You can recommend approval of the proposed bill as is or recommend denial or defer action on the proposed bill in order to gather more information. And we can go

over this or answer any, I can answer any questions. So, I'm going to stop sharing, and then we'll...(inaudible)...

Mr. Tackett: Any, any clarifying questions? Commissioner Pali.

Ms. Pali: I just have one, Chair. Thank you, Jacky, for that presentation. And I like in the back on Page 7, recommendations and options, that was super helpful in the packet. And I highlighted the Department does not support the proposed bill. So, thank you for just jumping in like that. I'll leave comments to after the public testimony, but I just wanted you to reconfirm that the amendments that you have placed in here then would make the proposal amicable for what you guys see. Can you just reconfirm that? Thank you.

Ms. Takakura: Thank you, Commissioner Pali, yes, that is correct.

Mr. Tackett: Okay, Commissioner Thayer followed by Commissioner Lindsey.

Ms. Thayer: Thank you, Chair. And thank you, Jacky. I am just wondering in your report you listed a whole bunch of examples of B-2 properties. Do you know like a range of how tall those are, those existing buildings?

Ms. Takakura: I'm sorry, what did you...people are...

Ms. Thayer: Sorry, in your background information you have examples of properties in the B-2 District and given that the height limit now is 90 feet, do you know how tall some of these are that are existing already in the B-2?

Ms. Takakura: Thank you, Commissioner Thayer. One of them that jumped into my mind is Island Surf in Kihei and I think that's like six stories. That's the only one that I can think of right of the moment though.

Ms. Thayer: Okay, but so, I guess how many of them do you know are like over 45 feet?

Ms. Takakura: That I don't know, sorry.

Ms. Thayer: Okay, okay, okay. Thank you.

Ms. Takakura: But as you can see, they're all over the...you know, Maui and...you know, well, the four parcels in Kaunakakai, but they're all over the Island of Maui, you know, in the different community plan areas so we'd have to do some...

Ms. Thayer: Okay, thank you.

Mr. Tackett: Commissioner Lindsey.

Ms. Lindsey: I know B-3, Central Business District does that include a lot of the small lots that are near the state and county buildings? Because Wailuku Town has...as you know, I was on

the MRA before this and Wailuku Town has a lot of small lots and I'm worried about the setback limits affecting those small lots that potentially are undeveloped or underdeveloped or funky generally.

Ms. Takakura: Thank you, Commissioner Lindsey. So, Wailuku is a very interesting...can you hear me?

Mr. Tackett: Yeah.

Ms. Takakura: Okay. So, I got this resolving network issues...Wailuku has like the MRA and there's two different types of MRA...(inaudible)...and then there's the B-3, and as far as I know the state building, the courthouse and the county building, and then there's this one lot which it must be a, maybe a something that from a long time ago or something that seems to be a residential from when I looked at it on the aerial viewpoint. But those are the only ones that are B-3. All the others are either going to be B-2 or one of those MRA's ...(inaudible)...that's not related to this.

Ms. Lindsey: Okay, and the other one is that random dot that was kind of near Kahului ish because I saw there was like a big spread section—

Ms. Takakura: I can share the screen again if you want.

Ms. Lindsey: Yeah, I was trying to figure out where that was.

Ms. Takakura: And if I may, by the way there are actually, there's...that popped up in our map, but there...when I read the ordinance back from 1961, they were supposed to have been B-2 they're in West Maui. So, that's like a digital zoning map correction that's going to have to happen for two parcels in West Maui but they're actually B-2, so I didn't include them on here 'cause it's an error from like 196...(inaudible)...So, thank you to Kathleen for doing all this clean up work.

Ms. Lindsey: Are you sharing your screen, sorry I'm a little bit confused.

Ms. Takakura: ...(Inaudible)...One is that is I don't know why this one is popping up as a B-3, but I guess it's B-3, and it's like a residential lot like on Maliko Street or something. And yeah, so I'm not sure why that's zoned B-3, but this bigger red area is where the state and county buildings are.

Ms. Lindsey: And, and is the, that old...the lot that's empty right next to the state building, is that included there? Was it a old mail building, I don't know. Is it included in the...

Ms. Takakura: You know, I am going to look that up right now because I'm not sure. Maybe I can answer that question in like a minute or two.

Ms. Lindsey: Sounds good. Thank you.

Ms. Kathleen Aoki: This is Kathleen. Jacky, do you want Peter to pull that up for you? And you guys can continue on. Ashley, you're looking for the B-3 in Wailuku? That's what you're looking...that's what you'd like to see?

Ms. Lindsey: I actually am concerned with that one particular lot that is right next to the state building between the old court house and the state building off Wells and High, I don't know what...Wells and High.

Ms. Aoki: We can have Peter bring up or Jacky, do you need help Jacky.

Ms. Lindsey: My concern is that it's government owned and potential for us to build another building there for government services and limiting us to 45 feet isn't an ideal there.

Ms. Takakura: So, if I may, Chair?

Mr. Tackett: Yeah, please do.

Ms. Takakura: So, I pulled up the real property tax map, and it's 70 South High Street, so that's that corner which I believe used to be the post office and that is B-3 also. Looks like the state building, the court house, that corner and the county building.

Ms. Lindsey: Okay, that's what I thought, thank you.

Mr. Tackett: Commissioners, any other questions? I got a question. Jacky, you're...you guys are in favor of the stepping or the tiering of the structures is that what I heard from your presentation.

Ms. Takakura: Yes, Chair Tackett that is correct.

Mr. Tackett: And I just wonder why, why you chose to do that just because it seems like when you're discussing cost, you...here on Maui you guys got so few B-3 properties when you start tiering them and cutting down the vertical space when we know that population is never gonna shrink you know, unless we have some horrible catastrophe, population is probably gonna continue to increase. So, it seems to me with the, I could see it in New York, where we have buildings, on buildings, on buildings, and then you don't get any breeze and you don't get any light. But in some places like Maui, where you only have five or six or seven lots total in each particular place, when you, when you step them like that, you're going to, you're going to lose massive amount of square footage from places that are potentially state and county owned. So, when they, when they try to go up, I mean, it's going to be left. It's a little penthouse at the top, you know what I mean? And like, what are you going to stick up? You know, so I mean, that's when you just my concern.

Ms. Takakura: I guess there are pros and cons too.

Mr. Tackett: Okay, well if you, if you guys feel that that's your, what you guys like, you know, we'll do it. But I just, I mean, I'll go with department recommendation, but I'm just saying, like, when

you have so few lots available, nobody, nobody is going to step, step, step a lot. Because when you, when you build a structure like that, those are gang walls. Those walls fly straight up with a crane. So, every time you change the layout of the structure, you're going to lose square footage, you're going to increase the costs. So, you're gonna, you're gonna, if you're talking about cost, you're gonna severely impact cost on those types of structures with that type of scenario. Anyways, any...Commissioners? Anybody got anything else? Hearing none, Director, do we have, do we have any testifiers?

Ms. McLean: Yes, excuse me, the ever-faithful Tom Croly would like to testify.

Mr. Tom Croly: Aloha, Commissioners. Thank you for a long day's work yet again. This B-2 District that you're considering some changes to. I just have a comment to make and maybe the Department can, can work it out and maybe it requires a change maybe it doesn't, but I looked at the allowable uses in the B-2 District and it includes bed and breakfast, subject to the bed and breakfast ordinance like the one that you just heard. So, someone would have to go get a permit and meet all the requirements and so forth and they could get a bed and breakfast permit. But it also includes transient vacation rentals up to 20 rooms. So, my question would be, why would anyone bother to go get a bed and breakfast permit if transient vacation rentals are an allowable use in that district and I'm aware of at least one property in Wailuku that's kinda similar that way, they don't have a bed and breakfast permit and yet they make transient vacation rental uses. So, it seems inconsistent that to have both of those things as listed uses. You can either outright make transient vacation rental uses and you don't have a need for short-term rental permit or a bed and breakfast permit or you would have a need for some type of permit to make those, those uses. So, just because you were discussing the B-2 District and I've long seen this as an inconsistency in the code, I would ask the Department to take a look at that and see if they wouldn't consider making a change in some way, shape or form to just make it more clear as to what, what your...what transient type uses are allowed and not say to one person, you have to go get a bed and breakfast permit, but then to someone else, well, no, we don't need to have any regulation on what you're doing because you're in the B-2 District. Thank you, Chair.

Mr. Tackett: Thank you, Mr. Croly. Commissioners, any questions? Commissioner Pali.

Ms. Pali: Hey, Tom, thanks for your testimony. I need you to simplify that man. I need...my brother, I need you to simplify what you just tried to say. Let me see if I can repeat back. Did you say, that we should consider, since we're looking at heights specifically in B-2, we might as well address consistency in the code with vacation rentals and B&B, and if that's a yes, exactly what would you recommend us do?

Mr. Croly: That is a yes. I mean, this item was about heights, right? But you're looking at the B-2, District right now. And we were discussing some of the uses that are, that are allowed in, in that district and this is originating from the Department, which would mean I would think you could make changes at this point. So, so, I'm just pointing out that there's an inconsistency, at least apparent to me, there's an inconsistency in the code to say that some of these transient vacation rental uses can be made in the B-2 District, and some of them require a permit. Now, maybe the Department doesn't see it the same way and maybe I'm misunderstanding, and that's, and that's fine and I see, I see the Director saying I'm misunderstanding and that's fine. But I did want this

opportunity to address what I saw as an inconsistency to be addressed right now, because I know that I've seen RFSs come in where someone says, hey, this guy in the short-term...in this single-family home is making this short-term rental use, and he doesn't have a permit. And yet at the same time, we have a permit that they're supposed to get if it's a B&B. So, there you go. Director says I'm way off base and it doesn't need to be addressed. There you go.

Ms. Pali: Thanks, Tom.

Mr. Croly: Okay.

Mr. Tackett: Okay, any other questions for Tom? Hearing none, can we...do we have any other testifiers, Director.

Ms. McLean: No, Chair. No one else has indicated they wish to testify.

Mr. Tackett: If there's anybody that wishes to testify, if you could please come forward at this point. Going once, going twice, going three times. Can we please close public testimony and open discussion?

Ms. McLean: Yes, Chair, testimony is closed.

Mr. Tackett: All right, discussion is open. Any discussion on the matter? If there's no discussion, I'm open to a motion. Commissioner Pali, go ahead.

Ms. Pali: I just wanted to say thank you Chair for that comment that you made about the cost, the additional cost when you build in steps, you go up, you go in, you go up, you go in and it gets smaller and smaller. And I can see how, now how much more expensive it would be to only create smaller areas which then might not make sense and I do, you know that's the same thing Chair that's in the Department's recommendation about just how we have limited lots so our only advantage to create more space is to go up. And so, it's interesting how we say that that's, you know, available to us, but now we're limiting us going up, so it is...it doesn't necessarily make sense so I appreciate you sharing that piece of construction advice because I don't necessarily have that knowledge. And so, I think just for discussion purposes, I definitely am not open to...in agreement with the original proposal and I almost would reconsider some of the Department's considerations as well keeping in mind that although they're trying to create a happy medium between what's proposed and what we might need, it might be worth fighting for not having those additional setbacks as you go higher and that's just for discussion purposes.

Mr. Tackett: Thank you, Commissioner Pali. Commissioner Lindsey.

Ms. Lindsey: Recently...this is regarding the stepped-up heights. Through the MRA we were looking at those and a value for the people of...would in Wailuku Town they valued the view plane into the Wailuku Valley, Lao Valley which is why a lot of the building, they preferred the setbacks because it doesn't look like such a huge structure in front of you. Those few lots that are there, they are not part of that valued view plane, so I could see it being an exception in these four lots cases. But as far as like the Main Street coming in that was highly valued. The view plane was

highly valued to people so that, that stepped coming up Main Street into Wailuku Town under the bridge you can see into the valley, that was one of the biggest things, so just that. But while I was talking about these four lots, I think it's fine because they are not part of the view plane that people value.

Mr. Tackett: Commissioners, any, any other discussion? Commissioner Lindsey.

Ms. Lindsey: So, a couple of my concerns in the P-2 District along with those are the ones, I...hospitals are usually taller, so I kind of want to allow hospitals to be tall as long as they can be because they're providing a service to the community. And I think the way that they're designed is kind of better if they're kind of tight you know to each other instead of transporting patients all around, but I'm not an expert in that either, but I do feel like 45 feet is too short for a hospital and gym for that matter now that I've heard that discussion.

Another concern of mine is urban sprawl in the B-3 District because it's kind of up or out for us now and we don't...Kahului and Wailuku have been distinct towns in the past and now we kinda don't know where Wailuku ends and Kahului begins and that distinct characters that of towns where we value is kind of getting washed away because of the urban sprawl. I wish I knew more specific B-2 properties that were affected by this because the Department mentioned a few infill housing projects that are potentially along Kaahumanu Avenue which we obviously need more housing. But 45 feet might be high enough for them, you know, I'm expecting up to three stories is 45 feet, that's not clear though.

My other concern is, the plan...(inaudible)...be comprehensive and not just a, hey, 45 feet right across the board, 'cause it's kind of just, it kind of just feels like a number that was plucked out of the air, and 45 feet I don't think is the number unless it's some sort of construction dimensions, breaking up of beams or whatever. But, I agree, I don't want to be Waikiki, but also Waikiki is not the Business District which we are referring to Waikiki is not the public district either, Quasi-Public District either. So, I don't consider those two parallel to each other...parallel to each other. Thank you.

Mr. Tackett: Yeah, all I got to, all I got to add to that is like, like Commissioner Lindsey says there's some, there's some opportunity for, for multi-level housing units coming in which if you do the math on that kind of stuff like...(inaudible)...that's your best chance of getting affordable housing in the future is those types of structures, and you...I don't, I don't think you'll ever have anybody add more lots into these categories that you're talking about. It's kind of the...kind of what you get is what you get. And Waikiki they were talking about 130 to 350 feet. We're talking about a max height of 90 and then it's just...that's, that's less than a third of the types of buildings that were in the picture. So, it just, it seems like it's being a little bit misleading. And I could see if it was hotels and stuff like that, but it's not, you know, it's, it's your Business District, it's your state, it's your, it's your county buildings, it's stuff you're gonna need in the next 50 years and I'm afraid whatever you guys do at this point, you just gonna come back once the squeeze is on and you're just gonna have to open it back up, and so basically I think you just kinda, you just kinda squeezing something that, that is gonna squeeze you back later anyway.

You know, like you...I love my view of the valley. As a matter of fact, I built my whole house around my bathroom which opens up into a view of the valley and my neighbor went and put a shed over his property line encroaching on my boundary and all I look at out my bedroom is the side of his shed, you know, but I don't say nothing to him because he's my neighbor and he probably needs a place to put his stuff, you know what I mean. And that's the way I look at your Business District like I love the valley, like that's my favorite place on earth...You know, but if, if it gives the state and the county places to keep their businesses that help society run and help your police stations and your fire stations and the programs that help all the, all the less...the people that have less in this earth than the other people then I think you should probably, probably let them have their space, you know, so I would, I would, I would fight for your Business District because you only have a handful of lots, you know, and fight for your ability to go vertical because there might be, there might be an apartment building that could in and everybody could get a rent for a thousand dollars a month, two-bedroom or three-bedroom coming up going vertically, and you're never gonna get that one-story ever on this island again, you know, we're just, we're just too popular. So, I just...I love the view, you know, I'll miss the view, I'm in Waiuku all the time, I grew up in Wailuku, you know, but I think, I'd be careful about taking away your heights just 'cause you don't, you don't have thousands of properties, you just got a handful, you know, you got ten or ten or twenty properties, you know, in each little section. So, anyways, that's my take on it you guys, and that's what, that's what I'm gonna try to push for. Who else is on, I can't see who you're pointing. Oh, Commissioner Thayer. Go ahead commissioner.

Ms. Thayer: Thank you, Chair, and I'd just like to add some manao in the spirit of discussion and I think I agree with the other commissioners who have spoken in that, you know, we are facing...we, we have a finite amount of land on this island with like potentially infinite number of people, hopefully not infinite, but growing. And, you know, we need to figure out where all of these people are going to live. And as good planners, we should look well into the future and keep our options open. And I think that means keeping the option open for building up rather than out. And if we're constrained to a three-story buildings everywhere, we're not going to fit everybody. We're going to have to spread out into open space and I would think I am not a developer in any way, but I gotta think you can fit more people cheaper in a taller building than you can in multiple smaller ones. So, for those reasons, I'm more interested in keeping the height allowance. That being said, I do understand the wish to limit building heights, so my in-laws live in Sand Hills and the way their house is situated, you can see right down where the Lao Valley comes in and the county building is right at the crux of the valley from where you see it from their house. So, it's you have a direct shot of a centered county building right in the middle of Lao Valley, so I can understand view planes and everything, but at the same time, we have to I think, compromise in some way, and for that reason, I think I would rather keep the maximum heights, maybe reducing them a little bit so we don't have a bunch of nine-story county buildings. But I wouldn't go too, too short. And the setbacks, I guess I would just be wary of the setbacks being so constraining that you can't fully use the properties that you have. But I do agree about limiting the appurtenant equipment to no more than ten feet above the building. I think that's good. And the thing about the like eight-foot height for the other stuff, I'm in support of that for discussion.

Mr. Tackett: Thank you, Commissioner Thayer. Commissioner Pali.

Ms. Pali: Real quick. Not limiting the heights would not be, would not equal automatic a bunch of, you know, two-hundred-foot buildings. What it just says is we're going to remain open and we can look at it case by case because we're the gatekeepers. And so, what it I feel like this is sort of another example of, oh, we're going to take that away, that decision making away from you. We'll just go ahead and cap it. And then you can't look at it case by case because you've just capped it. And I think in this particular case and this particular incident with these items we're talking about today, they need to be looked at case by case because there are going to be some times where we're going to need to go higher for very valid reasons because we're not talking hotels. And then there are times that, no, we don't want to, we can cap it ourselves. We don't need this overarching rule that says you have to cap it. And so anyway, I just wanted to add that in, but I suspect someone is going to have to craft a motion and I'm not sure what that's going to look like.

Mr. Tackett: I think so. Commissioners, any, any other discussion? Commissioner Lindsey.

Ms. Lindsey: Now I'm revisiting B-3, at 144 feet is far too tall. That's approximately 12 stories at 12 feet tall.

Mr. Tackett: I believe ours is 90 they said Ashley.

Ms. Lindsey: Well, it says B-3 on our paper.

Mr. Tackett: Oh, maybe, maybe you're right. I could be wrong.

Ms. Lindsey: But B-2 was at 90, but B-3 was at 144.

Mr. Tackett: And how, how many properties do we have on that do you know? I don't have that in front of me.

Ms. Lindsey: She said the four, but I...I'm pretty sure Wailuku is at four stories right now unless it changed in the last year, but B-3 on this sheet says, current maximum height is 144 that's the one we got from the Department.

Mr. Tackett: And what are those four properties do you know?

Ms. Lindsey: Said, the county building, the state building, the lot that was the mail house building, and one other government...judicial building.

Mr. Tackett: And you think that that's too high for that type of building? Those are buildings that work for you.

Ms. Lindsey: Yeah, but I just think they are like they fulfill their need at the height that where they're at right now. And giving them two more stories would be more than enough I feel especially with technology now and stuff. I don't think we're gonna need to be in those buildings as much, so 12 stories is high in Maui. I don't even know if there is a 12-story building on Maui.

Mr. Tackett: That's a valid point about the future and technology that's for sure, but then again, once what Commissioner Pali said is true too, like I mean, just 'cause...just because they can they still have to come in front of you guys you know what I mean, so it doesn't mean that that it could be done, but if you needed it, you got four parcels you could do it with. I believe Commissioner Thayer, and then I have Commissioner La Costa. How you doing P Dee, you look, you look like you might be having a rough day.

Ms. La Costa: I was gonna ask if I could please be excused. I'm catching a cold and it's just kicking my backside.

Mr. Tackett: Yeah, I think that's a good idea. What a soldier though. I mean, I seen you struggle through all day like big huge respect for that, you know.

Ms. La Costa: Thank you, Chair.

Mr. Tackett: I hope you feel better soon. Commissioner Thayer, go ahead.

Ms. Thayer: Thank you, Chair. I just wanted to put out for reference that in the staff report it says the county building is approximately 140 feet tall, just for size reference for everybody.

Mr. Tackett: Okay, so it's built to, it's built to max specs anyway, yeah. So, I don't know...I think that...I think...and what your...Director do you know what year that building was built?

Ms. McLean: Oh gosh, no but we can find out pretty soon, pretty quickly.

Ms. Takakura: Excuse me, Chair Tackett?

Mr. Tackett: Yeah.

Ms. Takakura: 1972.

Mr. Tackett: 1972, oh, the year I was born. That was a good year for me. My lucky year. And then do you know how...is it, is it mostly vacant or is it mostly used or where we're at with it?

Ms. McLean: The county building is packed full.

Mr. Tackett: So, I mean that's, that's—

Ms. McLean: Maybe not...I take that back, maybe not during Covid, but pre-Covid was definitely packed full. And some of the ceilings are quite high like the Council Chamber. So, roughly 15-foot stories and it's nine stories tall.

Mr. Tackett: So, I think, I think what we got is something that was created in the 70's that, that serviced the population of probably about 60, 70,000 which is continuing to service our population that we have now and it was fairly full without Covid and now we're talking about shrinking back the amount of height that you can have on the four parcels that you have which to me is, it's...it

seems counter-productive, but like I said, I got five months left, you know, so somebody...you guys are gonna be the gatekeepers you know for that stuff. Commissioner Lindsey go ahead.

Ms. Lindsey: Is the county building nonconforming, existing as it stands?

Ms. McLean: It's conforming.

Ms. Lindsey: Okay, thank you, and good points Christian, Chair on that limiting us. Thank you.

Mr. Tackett: I just, I just want what's best for, for us as regular people. You know what I mean? When I look at our commission, I don't see, I don't see no...superstars, you know what I mean. I see people with normal backgrounds that work hard every day, you know what I mean, so...I mean, although you guys are ridiculously good looking, but I was talking more of a financial perspective. Commissioners, any other discussion? Well, we're open to...

Ms. Lindsey: Commissioner Thompson.

Mr. Tackett: Oh, go ahead Commissioner Thompson, sorry I didn't see you, go ahead.

Mr. Thompson: Thank you, Chair. If we're all throwing in our two-cents worth, I would like too as well. As much as I think that landowners should have some opportunities, all that, I've done business in many places in the world, maybe not superstar, but Russia, China, Japan, et cetera, the most taxing on the land, on the aina itself is with density of people. You start putting big, tall buildings, when you do the Waikiki, you got three hundred...now you got no parking, everybody's jammed up, you got so much water and sewer...(inaudible)...and it's fricken crazy. So, I like the zoning of nothing taller than a coconut tree. Obviously there has to be a lot of exemptions from that, but density does equal congestion, it does equal crime and the most taxing. So that's my two cents, I'll go along with the program, but I just want to throw that out there. Thank you, Chair.

Mr. Tackett: You're welcome, Dale. I guess with no more discussion, it's open to a motion unless Lindsey, Commissioner Lindsey, go ahead.

Ms. Lindsey: It is worth talking about though, I'm not sure what properties are affected in Lahaina Town in Lahaina for the B-2 zoning because I know a lot of Kihei is covered with SMAs when they come through, but I'm not sure what happens in Lahaina, and Molokai, I would like them to make their own decision for themselves.

Mr. Tackett: Yeah, I'm not sure about the B-2. What is zoned B-2 in Lahaina, B-2, B-3, B-1, B-2, B-3.

Ms. Takakura: If I may, Chair Tackett?

Mr. Tackett: Yeah.

Ms. Takakura: So, for Lahaina, West Maui, restaurants makai of Lahaina Cannery Mall on Front Street, the old Chart House in Lahaina, most commercial areas throughout central Lahaina Town

that are not in Residential or Historic Districts such as Maui Outlets and the parcels around Front and Wainee. The Mill Street gas station, Dickenson Street area, and Weinberg Foundation properties, and regarding Molokai—

Mr. Tackett: Those are all B-2, B-3, what are they?

Ms. Takakura: All B-2, B-2.

Mr. Tackett: And what's, and what's their maximum height?

Ms. Takakura: B-2 maximum height right now is 90.

Mr. Tackett: Ninety feet. Okay, and a building that is 90 feet would be for reference, I guess would be?

Ms. Takakura: Well, I'm thinking if the county building's a 140, ...(inaudible)...more than half that height.

Ms. McLean: It would be about six stories. It would be six stories if you have 15-foot floors.

Mr. Tackett: About six stories, okay. So, six stories.

Ms. Takakura: And then, I'm sorry Chair Tackett, one more thing. Molokai Planning Commission it will be hearing this item also and so they might, you know, like you say, have some thoughts on the four parcels in Kaunakakai.

Mr. Tackett: Got it. All right, Commissioners, what's our, what's our verdict on this one? Commissioner Pali?

Ms. Pali: So, I was going through the recommendation and options given by the Planning Department, and the reality is, I do like the first suggestion, Sections 19.18.050 and 19.20.050, language regarding the equipment such as the antenna, vent pipes, blah, blah, blah, blah, I like that whole section. And then, I'm just not into anything else, so I don't know if my conclusion then means that I would be for a denial of all of this completely because the intention of my denial would be that we recognize that there's wisdom in capping heights, but we also recognize that we don't know what our future needs are gonna be and so by capping it now seems a little like the cart before the horse. It seems like we might lack foresight and so, I don't feel that we should cap it. I think that as the Planning Commission we could still take it case by case, and if there's something that's gonna be a problem with the public views because private views aren't protected but public ones are then we can look at that project as an individual project and determine it at that time, but we don't need blanket caps, so that was just for discussion and that's my issue with how we're gonna craft it, but if I had to craft something it would be a no crafting, it would just be a denial because I'm comfortable that we can do it on a case by case with the intention in mind of protecting the views and...public views and the heights.

Mr. Tackett: And I think that there's a lot of wisdom to that and I think if, if somebody comes in front of you guys with a hotel or something and they're gonna build it out to the max for profit or something then, then I think then absolutely we don't really have the right situation for that, but if somebody's gonna come to you with, with some sort of public building that we need room for, your county, your state, your police station, your fire station, your schools, you know what I mean, any of those things that come in front of you, I think that what...I'm with Commissioner Pali with a denial on everything except for the...I mean, I'm cool with the ten-foot on the roof thing, you know, but I think after I'm gone, I hope that this planning commission keeps the power that it has and I hope that you guys work through it like we work through it, and you let the good stuff in, and you shut the bad stuff out, you know, that's, that's, that's what I would like to see happen today.

Ms. McLean: Chair, if I can, if I can just confirm what Commissioner Pali was saying.

Mr. Tackett: Sure.

Ms. McLean: So, you want to leave the existing heights as they are and go along with the additional ten feet. And so that means you don't want to recommend changing lot width or setbacks, which are the other things the Department recommended. And that's fine. I just want to make sure that we're covering everything.

Ms. Pali: If I may Chair, if we would...actually hearing you say it, we actually wouldn't have to allow an additional ten feet if we keep the current height limits, because then it would have to fall within. We're not saying...'cause then it's worse actually, the way you said it. We have this maximum which is way over here, and then we'll give you ten feet on top of that. I think if we keep the limits the same and we do it case by case, then the antennas really should fall within. I feel like that's, I'm not saying give more to the antennas. I feel like—

Ms. McLean: Right. The clarification we're looking for is right now, the way the code is written, you have a maximum height of 90 feet. And if you have a 20-foot building, you could have a 70-foot antenna. And we want to say you get ten feet above the height, but the max, max, max, with everything is 90, so you don't have these weird...okay.

Mr. Tackett: Yeah, I think I agree with.

Ms. Pali: Yes.

Mr. Tackett: Commissioner Lindsey, go ahead.

Ms. Lindsey: I think the minimum lot widths, also Number 3, should be maintained that, that Jacky provided to us where it should be decreased and reduced a little bit to allow a little bit more space on the lots. So, keeping also Number 3.

Ms. Pali: Yes. Thank you, Commissioner Lindsey. That was a mathematical correction. Yes. Thank you.

Mr. Tackett: Yeah, and I think, I think if you, if you shrink the footprint a little bit and you get a little grassy yard around the building and stuff like that, like, I don't, I don't see a problem with that, you know, way more so than stepping, you know, 'cause when you when you only got five or six or seven lots, I think the, I think that you guys are going to need them, you know. So, but yeah, I agree with that. But I don't think it should be a large amount, you know, because you don't want to impact your...when you only got a limited amount, you don't want to, you know want to impact them that greatly, you know what I mean? Commissioner Lindsey.

Ms. Lindsey: So, also for Number 4, what are the current P-1 setbacks. It says it will change the ten feet and fifteen feet, but it doesn't say what it is.

Ms. McLean: The current front and rear setbacks in P-1 is 15 feet, and side is ten, and in P-2, the front and rear are 30 feet, and side is 15. So, those are small adjustments for Public/Quasi Public.

Mr. Tackett: Yeah, those sound like good setbacks to me for what you guys got. Commissioner Thayer, no go ahead. That's what we're here for.

Ms. Thayer: It seems we're good with 1, 3, and 4, if I'm keeping tally, and 5, existing nonconforming.

Mr. Tackett: Yep.

Ms. Thayer: Okay.

Mr. Tackett: So, which one aren't we...(inaudible)...

Ms. Thayer: So, sounds like we are not in support of 2.

Mr. Tackett: And what is, what is 2, sorry. I don't have that page open.

Ms. Thayer: Two was the increasing setbacks for taller buildings—

Mr. Tackett: Got it.

Ms. Thayer: And then setback according to building height.

Mr. Tackett: Yeah, correct. Yeah, I agree. I'm gonna get Commissioner Pali and then I'll go right to you, Commissioner Lindsey.

Ms. Pali: Director, would 5 apply if we're not gonna be changing the heights? If I...the way I read it, it's, it's saying that existing structures are not affected but none of them are affected because we're not changing anything. So, does this 5 apply?

Ms. McLean: I think you're right, 5 wouldn't come into play if you're not going for Number 2.

Ms. Pali: For clarification, it would be 1, 3, 4, and then I see Commissioner Lindsey talking about 6. Oh, yeah, we do want Molokai and Lanai to have their own impact. Okay, so just if we can all be on the same page, we like 1, 3, 4, and 6 for clarification.

Mr. Tackett: And 5, Commissioner Thayer has it. No, what, what is 5?

Ms. Thayer: But 5 if the setbacks change would we want the existing nonconforming to capture those?

Ms. McLean: If you're making the back smaller then there shouldn't be anything built in the setbacks.

Ms. Thayer: Oh, gotcha, okay. So, it doesn't matter or this. Okay.

Mr. Tackett: Commissioner Pali.

Ms. Pali: So, Chair, I think I'm ready to make a motion.

Mr. Tackett: Okay, go for it.

Ms. Pali: I'd like to just throw it out there, people. I'm just going to throw it out there. I would like to make a motion to approve recommendation by the Planning Department, specifically their recommendations in items 1, 3, 4, and 6...1, 3, yes, 4 for the setbacks and 6. That sound about right?

Mr. Tackett: So, does that, does that keep our heights and our setbacks, Director?

Ms. McLean: I think we're good, Chair.

Mr. Tackett: Okay, because I...to me, that's, that's what's most important with the limited space you guys got, there's not a lot here for that. So, is that your motion? Okay, Commissioner Pali. Do we have a second? Commissioner Thayer. Would you folks like to speak to your motion?

Ms. Pali: No, I think in the discussion we've teased it out pretty well, so, I think just the summary would be that we agree that we want to be very mindful of heights and we agree that we want to preserve public view planes but we also do not want to cut off our foot or our nose to spite our face and we want to be able to have the opportunities if there's an exception to be granted that we can be the gatekeepers here at the Planning Commission and we can look at each individual applicant and property case by case, and if the need does present itself then we have the capability to maintain current heights if warranted and if not then we would be able to then deny it.

Mr. Tackett: I think that's well said. Commissioner Thayer, would you like to speak to motion as well.

Ms. Thayer: I don't have much to add beyond our discussion. I think we've fleshed it all out pretty well.

Mr. Tackett: And Commissioner Lindsey, go ahead.

Ms. Lindsey: I like the...what we're voting on, but I'm wondering if we should also include comments on why we are denying the actual bill that the Council is sending us. Can we do that after we vote or I don't know the protocol.

Mr. Tackett: I don't know. I'll ask Director. Director.

Ms. McLean: I think it would be good to include in the discussion now.

Mr. Tackett: So, yeah, 'cause Kellie included hers and I thought that they were all good, valid points. So, if you have something that she didn't include already, then you should probably add it in.

Ms. Lindsey: I do want to mention urban sprawl. We want to avoid urban sprawl and keeping our small towns, small towns. That is on Page 58 of the long-range plan. Also, on the Maui Island Plan, Page...Policy 7.3.1 and 7.3.1.A and 7.3.1.D.3, also Page 74 of the long-range plan, Policy E.

Mr. Tackett: Yeah, I agree with those. I mean, nobody wants the sprawl for sure. Commissioners—

Ms. Lindsey: I also—

Mr. Tackett: Oh, go ahead, go ahead Commissioner Lindsey.

Ms. Lindsey: Also, the...I do want to emphasize that gyms and hospitals are taller than 45 feet and we want to make sure that if they make an adjustment for that, that it is higher as Jacky, who presented...Ms. Aoki presented to us earlier because all, pretty much all the gyms, almost all the gyms on Maui are taller than 45 feet and we want to keep that easy for them to process so that next school that we build in Pulelehua will have a gym without us needing to see them.

Mr. Tackett: Sounds good. Commissioners, anything else, anybody else? Okay, well, we have a motion on the floor and a second. Director, would you like to perform the roll call for us.

Ms. McLean: Sure, again the motion is to recommend denial of the proposed bill and recommend approval of the Department's recommended numbers 1, 3, and 4, and 6. Chair, would you like to do a show of hands rather than a roll call?

Mr. Tackett: Sure. The only reason I don't do this because I can't see everybody, but I'm totally, I'm totally open to it. Okay, show of hands.

Ms. McLean: All those in favor, please raise your hand. I see Commissioners Lindsey, Pali, Thayer, Freitas, and Commissioner Thompson is obscured on my screen, and Chair Tackett. Commissioner Thompson how are you voting on this? In favor, okay. That's 7 in favor, two excused, Commissioners Hipolito and Vice-Chair LaCosta.

It was moved by Ms. Pali, seconded by Ms. Thayer, then

**VOTED: To Recommend Denial of the Proposed Bill of the County Council and Recommend Approval of Numbers 1, 3, 4 and 6 of Planning Department's Recommendation to the County Council.
(Assenting – K. Pali, K. Thayer, K. Freitas, J. Edlao, A. Lindsey, D. Thompson, C. Tackett)
(Excused – P D. La Costa, M. Hipolito)**

Respectfully Submitted by,

CAROLYN TAKAYAMA-CORDEN
Secretary to Boards and Commissions II