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M I N U T E S  
PLANNING COMMITTEE  
COUNCIL CHAMBER, EIGHTH FLOOR  
WAILUKU, MAUI, HAWAII  
AUGUST 5, 2008

REPORTED BY: Tonya McDade, Hawaii CSR #447  
Registered Professional Reporter  
Certified Realtime Reporter  
Certified Broadcast Captioner

APPROVED:  
  
Committee Chair

1           CONVENE:    9:11 a.m.

2           PRESENT:    VOTING MEMBERS:  
3                        Councilmember Gladys C. Baisa, Chair  
4                        Councilmember Jo Anne Johnson, Vice-Chair  
5                        Councilmember G. Riki Hokama  
6                               (in 9:22 a.m.; out 12:00 p.m.)  
7                        Councilmember Michael J. Molina

8                        NON-VOTING MEMBERS:  
9                        Councilmember Michelle Anderson  
10                               (in 9:44 a.m.; out 12:04 p.m.)  
11                        Councilmember Michael P. Victorino  
12                               (in 9:22 a.m.)

13          EXCUSED:    Councilmember Bill Kauakea Medeiros

14          STAFF:      David Raatz, Legislative Attorney  
15                        Clarita Balala, Committee Secretary

16          ADMIN.:     Jeff Hunt, Director, Department of Planning  
17                        Joseph Alueta, Administrative Planning  
18                               Officer, Department of Planning  
19                        Scott Teruya, Acting Administrator, Real  
20                               Property Tax Division, Department of  
21                               Finance  
22                        Michael Hopper, Deputy Corporation Counsel,  
23                               Department of the Corporation Counsel

24                        Seated in the Gallery:  
25                               Roy Silva, Executive Assistant, Office of  
                                  the Mayor  
                                  James A. Giroux, Deputy Corporation  
                                  Counsel, Department of the Corporation  
                                  Counsel

26          OTHERS:     Warren Watanabe, Executive Director, Maui  
27                               County Farm Bureau  
28                        Ros Nelson  
29                        Autumn Quintero, Director of Guest Services,  
30                               Hawaii Hideaways  
31                        Sharyn Stone  
32                        Thomas Croly, Maui Vacation Rental Association  
33                        Elaine Wender

1 David DeLeon, REALTORS® Association of Maui,  
 Inc.  
 2 Kevin Ledesma  
 Barak Laub  
 3 Paul Laub  
 Jocelyn Perreira, Executive Director, Wailuku  
 4 Main Street Association, Inc./Tri-Isle  
 Main Street Resource Center  
 5 DeGray Vanderbilt  
 Jesse A. Nakooka  
 6 Bart Mulvihill  
 Netra Halperin  
 7 Lance K. Gilliland  
 Kutira Decosterd  
 8 Warren Suzuki, Senior Vice President, Maui  
 Land & Pineapple Company  
 9 (29) additional attendees

10

11 PRESS: Akaku: Maui Community Television, Inc.

12 . . . . .

13 CHAIR BAISA: ...(gavel)...The August 5th  
 14 meeting of the Maui County Council Planning Committee will  
 15 come to order. With a quorum present, the Planning  
 16 Committee is ready to go.

17 Before we start, may I request that everyone in  
 18 the Chamber who has a cell phone or a pager or any kind of  
 19 noisemaker, would you please put it on the silent mode so  
 20 that we will not be interrupted here today? Heaven knows  
 21 we have an awful lot to do.

22 I would like to introduce the folks that are  
 23 here with me this morning. I would like to introduce my  
 24 Vice-Chair, Jo Anne Johnson --

25 VICE-CHAIR JOHNSON: Aloha.

1 CHAIR BAISA: -- from the West Side.

2 VICE-CHAIR JOHNSON: Aloha.

3 CHAIR BAISA: Hello, Jo Anne. Thank you.

4 And from Upcountry Maui, Makawao, Haiku and  
5 Paia, the representative Mike Molina.

6 COUNCILMEMBER MOLINA: Good morning, Madam  
7 Chair.

8 CHAIR BAISA: Good morning, Mike. And thank you  
9 for being here.

10 As can you see, we have a bare quorum to get  
11 going. Member Medeiros and Member Hokama are excused at  
12 this time.

13 Of course, if you don't know me, I am the Chair,  
14 Gladys Baisa, and I am the Upcountry Member. I represent  
15 Kula, Pukalani and Ulupalakua.

16 Also with us today is -- we have representatives  
17 from Administration. We have, from the Department of the  
18 Corporation Counsel, our faithful Michael Hopper, our  
19 Deputy Corporation Counsel.

20 Good morning, Mike.

21 And we have, from the Planning Department, our  
22 Planning Director, Jeff Hunt.

23 MR. HUNT: Good morning, Chair.

24 CHAIR BAISA: Good morning, Jeff. We spend a  
25 lot of time together these days.

1                   Also with me is my regular Committee Staff,  
2                   David Raatz, my Legislative Attorney, and our Secretary,  
3                   Clarita Balala.

4                   I would like to thank the Staff and my Members  
5                   for being here this morning.

6                   It seems that there is so much going on that  
7                   it's difficult for folks to be here. I find it difficult  
8                   myself.

9                   This morning we will be accepting public  
10                  testimony starting in a few moments. And those who are  
11                  wishing to testify should sign up with the Committee  
12                  Staff. And that's right over here. You need to fill out  
13                  a little form. Just a very simple form, so don't be  
14                  intimidated. Testimony will be limited to three minutes.  
15                  And testifiers are requested to state their name for the  
16                  record when they begin and to indicate if they are  
17                  representing anybody besides themselves.

18                  ITEM NO. 40:   TRANSIENT VACATION RENTALS LEGISLATION  
19                                   (C.C. No. 08-61)

20                  CHAIR BAISA: Members, today we have one item on  
21                  our agenda. It's PC-40, Transient Vacation Rentals  
22                  Legislation. This sole item today is the legislation  
23                  submitted by the Department of Planning relating to  
24                  transient vacation rentals, or TVRs, and bed and breakfast  
25                  homes, better known as B&Bs.

1           We have devoted several recent meetings for the  
2 passage -- package of legislation submitted by the  
3 Department of Planning earlier this year. We are focusing  
4 on the three bills transmitted by Mr. Hunt on April 18,  
5 2008, which have been approved as to form and legality by  
6 the Department of the Corporation Counsel.

7           As we discussed most recently, on July 1st, this  
8 package of bills includes legislation to allow B&Bs in ag  
9 and rural districts, to allow TVRs in business and resort  
10 districts, and establish new permitting standards for B&Bs  
11 and TVRs.

12           On July 1st, we made substantial progress on  
13 what we have called the B&B bill, which is listed as 2b on  
14 today's agenda and entitled A Bill for an Ordinance  
15 Amending Title 19, Maui County Code, Relating to Zoning.

16           The Committee approved four motions. One, to  
17 limit B&B permits to property owners. Two, to allow a B&B  
18 permittee to reside in one single family dwelling on a lot  
19 and maintain B&B units in a second single family dwelling  
20 on the same lot. Three, to approve B&Bs as permitted use  
21 in the rural zoning district. And, four, to disapprove  
22 B&Bs as a permitted use in the agricultural zoning  
23 district.

24           We also have a pending main motion before us to  
25 recommend that the B&B bill be passed on first reading.

1                   Before we consider additional motions and the  
2                   main motion, we will accept public testimony. Without  
3                   objection, the Committee will now accept public testimony.

4                   No objections, Members?

5                   COUNCILMEMBER MOLINA: No.

6                   CHAIR BAISA: All right. Thank you.

7                   So let's begin our public testimony this  
8                   morning.

9                   Again, I encourage you, if you are in the  
10                  gallery and are thinking of testifying, would you please  
11                  come up and fill out a form so that we can gauge our time  
12                  here? And we certainly welcome your input. So if you  
13                  would please come forward and sign up, I would appreciate  
14                  it.

15                  Our first testifier today will be Warren  
16                  Watanabe. And Mr. Watanabe will be testifying on our  
17                  single item today. And he is with the Maui County Farm  
18                  Bureau, their Executive Director. And Mr. Watanabe will  
19                  be followed by Ros Nelson.

20                  ...BEGIN PUBLIC TESTIMONY...

21                  CHAIR BAISA: Good morning, Warren.

22                  MR. WATANABE: Good morning, Chair Baisa,  
23                  Members of the Committee.

24                  My name is Warren Watanabe, Executive Director  
25                  of Maui County Farm Bureau.

1           The Maui County Farm Bureau, on behalf of Maui's  
2 farmers and ranchers, appreciates this opportunity to  
3 provide our opinion on this matter. We maintain our  
4 original position of supporting the intent of B&Bs, but  
5 strongly feel that existing law must be clarified and an  
6 agritourism ordinance must be adopted by the County. We  
7 also believe it is critical to take a step back and  
8 reconsider what agriculture is and what is the real issue  
9 before us before we move forward.

10           The important question is, what is the intent of  
11 the agricultural district?

12           As Farm Bureau, we strongly believe that the  
13 intent of the agricultural district is to provide food and  
14 fiber for society. And when we say "society," we do not  
15 mean just one owns -- own's family and neighbors. That is  
16 a garden.

17           Those who farm in an agricultural district are  
18 expected to provide food and fiber for the masses, so  
19 those people can have career choices of being a doctor,  
20 engineer or council person. As society expanded and  
21 correctly zoned lands for people to dwell became scarce,  
22 the need spilled over to the agricultural district.

23           Growing up, a house lot with a garden was never  
24 considered a farm. Now, to enable themselves to have  
25 their homes, people find a need to call themselves farms.



1 We need to correct this problem.

2 The State and County provide tax benefits to  
3 those in the agricultural district with the sole intent  
4 that the goods that are grown and raised on the farms and  
5 ranches will be affordable to the people. And, in return,  
6 the tax credits will be returned many times over as tax  
7 revenue when the goods are sold.

8 In the case of gardens, will this ever occur?

9 The core of today's meeting moves from having  
10 gardens to B&B's -- B&B units in a bigger -- and the  
11 bigger topic of agritourism. We believe agritourism has a  
12 place in helping our farmers and ranchers expand their  
13 revenue base to improve their viability. The Farm Bureau  
14 was an active participant in a debate that happened  
15 resulting in the addition of agritourism as a permissible  
16 use in state law, and was the author of the language that  
17 exists today. The law clearly requires that the  
18 agritourism activity be accessory and secondary to the  
19 farming activity, meaning the income from the tourism  
20 activity should not exceed the primary intent of the land,  
21 to grow and raise crops and livestock.

22 This is because we believe if that -- if that  
23 intent was reversed, you move to the entertainment area  
24 and it is no longer true agriculture.

25 Secondly, the requirement of a County

1 ordinance is to clearly articulate what is acceptable as  
2 agritourism. We felt every county should undergo  
3 deliberations of what activities they would accept under  
4 the agritourism umbrella. There was concern regarding  
5 overnight accommodations resulting in prohibition  
6 language.

7 I won't go into the details of HRS 205-5, but I  
8 have highlighted some of our concerns.

9 We understand that there are conflicting  
10 interpretations of the law and have requested an opinion  
11 from the Attorney General. We have been notified that the  
12 request has been submitted and the answer is forthcoming.

13 I just want to add -- I see the red light, so --  
14 Farm Bureau, we strongly feel that, you know, the County,  
15 we should take a look at the rural designation for some of  
16 these operations. And that may be the more appropriate  
17 land classification for these operations.

18 Thank you.

19 CHAIR BAISA: Thank you very much, Mr. Watanabe.  
20 Members, questions for our testifier?

21 Member Johnson.

22 VICE-CHAIR JOHNSON: Yes. Thank you, Warren,  
23 for being here. I really appreciate the written testimony  
24 that you have given us, too, because I think it's always  
25 good to be reminded of what the law actually says.

1           Have you been given, by the Attorney General,  
2           any possible timeline as to when you would actually be  
3           receiving an opinion back?

4           MR. WATANABE: My hope is soon. Actually, the  
5           -- my request was about -- has been about a month ago.

6           VICE-CHAIR JOHNSON: Uh-huh.

7           MR. WATANABE: It has been taking time.

8           I did go to the State Department of Agriculture  
9           for getting an interpretation. I have had some response  
10          from the Department on our concerns.

11          VICE-CHAIR JOHNSON: And, basically, if I  
12          understand, just by reading what you have provided us, you  
13          would like the basic laws that regard definitions,  
14          agritourism, important ag lands, all of those things  
15          should be in place so that we are very clear about -- if  
16          we issue a conditional use permit that it would be  
17          consistent with the law and with the zoning category. Is  
18          that correct?

19          MR. WATANABE: That's correct. And I think the  
20          biggest question that I want -- that we wanted answered as  
21          Farm Bureau is that what -- what takes precedence, the  
22          state statute with the prohibition of overnight  
23          accommodations in the ag district or the conditional  
24          special use permit process? That is our basic question  
25          that we asked.

1                   VICE-CHAIR JOHNSON: Oh, I really appreciate  
2 your testimony. And that is one of the reasons why, for  
3 the time being, I am not supporting this on ag land, until  
4 we answer those questions. Thank you.

5                   MR. WATANABE: Thank you.

6                   CHAIR BAISA: Member Molina.

7                   COUNCILMEMBER MOLINA: Thank you, Madam Chair.

8                   Good morning, Mr. Watanabe.

9                   This is a follow-up to Member Johnson's  
10 question. Whom did you speak with from the State, just  
11 for the record, so we know who you contacted? Any one or  
12 two particular individuals?

13                   MR. WATANABE: I contacted Ruby Edwards,  
14 Department of DBEDT, and then the person at Department of  
15 Agriculture is Earl Yamamoto.

16                   COUNCILMEMBER MOLINA: Thank you.

17                   MR. WATANABE: Okay.

18                   CHAIR BAISA: Any additional questions for our  
19 testifier?

20                   (Silence.)

21                   CHAIR BAISA: If not, thank you very much,  
22 Warren, for being here.

23                   MR. WATANABE: Thank you.

24                   CHAIR BAISA: Our next testifier is Ros Nelson.  
25 And Ms. Nelson will be followed by Autumn Quintero.

1 MS. NELSON: Good morning, Madam Chair --

2 CHAIR BAISA: Good morning, Ros.

3 MS. NELSON: -- Council Members, Ladies and  
4 Gentlemen, and Staff, my name is Roslyn Nelson, 83  
5 Kapuaimilia Place, Haiku.

6 Comprehensive land use reform. We have needed  
7 this for a long time because we have been working on  
8 various different interpretations, and we know of the  
9 problems with two out of five with conflicting ideas.

10 Ms. Baisa's idea for a truly well-thought-out  
11 plan, with everyone's input and concerns discussed openly,  
12 fully and maturely. Open minds on all fronts will enable  
13 a long-term satisfactory design for our County.

14 We know not everyone can be satisfied. Somebody  
15 is going to be disappointed, probably or possibly even me.  
16 But that's okay, that's the American way. And this is  
17 what we all cherish. And those of us who immigrated, this  
18 is why we came to America, for the freedom of everybody's  
19 opinion to be heard, to be discussed, and the general mass  
20 rules.

21 The County allowed many subdivisions on  
22 agricultural land, two, three, four-acre sites. They  
23 permitted large homes to be built, permitted, fully signed  
24 off. And we all know that with -- there are very few  
25 examples of families who can sustain their lifestyle that

1 we all want on these small lots.

2 My thoughts are we should take the smaller  
3 parcels, say anything under five acres, that we know  
4 cannot sustain by farm production, and with Mr. Hunt and  
5 his staff, decide it goes to rural, with no further  
6 permission for further sub -- sub-splitting or into  
7 residential depending on the area.

8 This way, it saves everybody time, money,  
9 effort, the Staff, the County, and that, most importantly,  
10 residents will know what they cannot do and what they may  
11 do. It's not saying, well, I hope they interpret it the  
12 right way. We all have that right.

13 Am I up? Okay.

14 Comprehensive land use reform.

15 Thank you very much.

16 CHAIR BAISA: Thank you very much, Ms. Nelson.

17 Questions for our testifier?

18 (Silence.)

19 CHAIR BAISA: If not, Ros, thank you very much.

20 MS. NELSON: Thank you.

21 CHAIR BAISA: And I would like -- the Chair  
22 would like to note the --

23 You may sit down. Thank you.

24 I would like to note the presence of two more  
25 Members who have joined us, our Council Chair Riki Hokama,

1 who is a voting member of the Committee.

2 Thank you, Mr. Hokama.

3 COUNCILMEMBER HOKAMA: Good morning, Chair.

4 CHAIR BAISA: And, also, Mike Victorino, who is  
5 a non-voting member of the Committee.

6 Thank you, Mike.

7 COUNCILMEMBER VICTORINO: Good morning, Madam  
8 Chair. Thank you.

9 CHAIR BAISA: Okay. Our next testifier, Autumn,  
10 and she will be followed by Sharyn Stone.

11 Good morning.

12 MS. QUINTERO: Good morning.

13 My name is Autumn Quintero. I am here today  
14 speaking as a proxy to Anne Pawsat-Dressler, the President  
15 of Hawaii Hideaways.

16 The TVR legislation is greatly affecting  
17 businesses. You have heard this before. I am here today  
18 to speak specifically about the proposed resort and hotel  
19 zoning maps and the use of local agencies as a solution to  
20 the TVR situation.

21 The proposed TVR bills are just a compromise.  
22 TVRs are illegal except for those in resort and hotel  
23 zoning.

24 However, the maps are not a compromise. Take,  
25 for example, the plantation estates in Kapalua. This area

1 is not included in the maps, even though those residents  
2 pay resort dues, host the Mercedes Open and see almost  
3 half a million tourists each year on the Plantation Golf  
4 Course. How is this area not resort-zoned?

5 Consider the map of Wailea. There are eight  
6 residential neighborhoods included. Of those, seven  
7 prohibit TVRs in their CCRs. So what looks like there's a  
8 compromise, only 16 residential lots would be illegal in  
9 Wailea. Half of those lots are still vacant. Ninety  
10 percent of the Makena map and 30 percent of the Wailea map  
11 include undeveloped lands. Who are we benefiting here?

12 Because these areas are legal, they will sell at  
13 a premium. That means more new homes that will not go to  
14 locals. It also means that nonexistent homes are legal  
15 even though present homeowners are begging for license  
16 now.

17 Lastly, beachfront. The proposed maps have only  
18 16 beachfront lots. Of those, five had TVR history. Five  
19 beachfront homes will not satisfy the industry. And are  
20 those not homes for the local -- and those are -- these  
21 are not homes for the local market. Starting beachfront  
22 prices of \$5 million is not the going rate for local  
23 housing. Instead, these homes will sit empty, locals will  
24 lose their jobs, and no one will appreciate this prime  
25 real estate.



1           The solution: Council Members, please consider  
2           the policy of the three Ms, monitor, mediate and maintain,  
3           by local agencies. The Planning Commission can approve  
4           the local TVR agencies. These are agencies like Hawaii  
5           Hideaways that have local 24-hour contacts on islands to  
6           monitor properties. These are contact that -- these are  
7           contacts guests call when there's a problem, or neighbors  
8           call when there's a disturbance. Agencies can be even  
9           more effective than homeowners because agencies are trying  
10          to mediate. An agency is financially invested to keep the  
11          owners, neighbors and guests happy. There is no  
12          stand-off, there is no ignoring the complaint. Agencies  
13          are there to deal with the situation and resolve them  
14          amicably.

15                 Lastly, an agency can maintain the property  
16          physically, in terms of guest parking, but, also,  
17          financially. The agency will maintain records,  
18          accounting, perhaps guests who are not allowed back.

19                 When there is a complaint, the Planning  
20          Commission can implement a three-strikes-you're-out  
21          policy. On the third strike, the Planning Commission can  
22          revoke an owner's license. The Commission serves  
23          notification on the owner and contacts their agency  
24          through their listing. If the agency continues to market  
25          that home, they will be fined. No agency will take that

1 risk.

2 The infrastructure is already there. There are  
3 existing agencies. The Planning Commission must simply  
4 define the rules. Then we truly have a compromise.

5 The policy of the three Ms agencies monitor,  
6 mediate and maintain TVRs. Imagine, the solution will  
7 create jobs, not eliminate them. Please consider this  
8 solution.

9 Thank you for your time.

10 CHAIR BAISA: Thank you very much.

11 Members, questions for our testifier?

12 (Silence.)

13 CHAIR BAISA: You got a lot in there.

14 MS. QUINTERO: I did.

15 CHAIR BAISA: You did a great job.

16 (Laughter.)

17 CHAIR BAISA: Thank you very, very much for  
18 being here.

19 And she will be followed by Sharyn Stone. And  
20 Sharyn will be followed by Tom Croly.

21 MS. STONE: Good morning, everybody.

22 Sorry. You caught me napping over there,  
23 Gladys.

24 I am Sharyn Stone, Secretary of MVRA and was a  
25 vacation rental owner. Last night, I went to the ag

1 meeting that the Mayor had to address small farmers'  
2 concerns, all farmers' concerns. It was a great meeting,  
3 apart from the noise from the swimming pool, but it added  
4 a little to the local ambience. But there was some really  
5 memorable quotes made at that meeting, one by Kalbert  
6 Young, the Director of the Department of Finance, when he  
7 showed us a little picture of property taxes for Maui that  
8 have stayed stable the last couple of years. But as we  
9 know, they are very high. And the picture of those  
10 property taxes, of course, we know, has been going up like  
11 that forever. I know I am not paying the same taxes I was  
12 five and ten years ago. But Kalbert said, look at the  
13 graph. We haven't labeled it Maui, because it could be  
14 Anywhere USA. Okay. So vacation rentals are a problem  
15 all over the USA? No. We are not the ones who are  
16 driving up property taxes. And I think he really  
17 re-confirmed that for everybody.

18 Another quotable quote of the evening was,  
19 actually, Warren.

20 Warren, you said farmers are not going to  
21 survive because they can't cover the cost of production.  
22 And, wow, did he hit the nail right on the head there. We  
23 heard from big farmers. We heard from small farmers.  
24 Everybody is in fear. Everybody is hurting. We are in  
25 survival mode here.

1           At that same meeting, we heard again and again  
2           and again, please, to the local government, to start  
3           cutting through some of the red tape to allow us to  
4           diversify, to allow small agriculture on small  
5           agricultural lots to be supported by home-based businesses  
6           and vacation rentals. We did not hear one single person  
7           speak out against that use.

8           Warren also hit the nail on the head when he  
9           talked about redefining agriculture. And I realized why  
10          we have been butting heads for so long. He is defining  
11          agriculture as full profit commercial on big lots. No  
12          wonder we have been driving ourselves crazy, because we're  
13          mostly on two-acre lots. We cannot be an accessory use to  
14          agriculture.

15          Warren has already said a two-acre lot can  
16          probably produce about \$2,500 a year. I don't know about  
17          you, but that is a heck of a diet. And I would be really  
18          skinny at the end of the year trying to live on that. It  
19          would not be possible.

20          We heard from Rory Frampton who said -- and he  
21          is a land use planner -- and he said, let's call a spade a  
22          spade. And, Ros, you have already talked about this,  
23          these small lots were put in agriculture, but they are not  
24          necessarily suitable. Once something is in two acres,  
25          forget it. It's not going to be a viable agricultural

1 proposition. It just doesn't work.

2 Why not give us incentives so we can grow  
3 things? Let us have a B&B, let's grow things, let's take  
4 them to the food bank. Hey, I don't mind doing that. I  
5 picked 30 pounds of limes from my tree the other day, and  
6 I carted it into the food bank. Now, it cost me 20 bucks  
7 in gas to get there and back.

8 CHAIR BAISA: Ms. Stone, can you wrap up,  
9 please?

10 MS. STONE: Sorry. That if we had something  
11 organized, we could certainly pull that off. So let's  
12 redefine agriculture, by all means, and let's have the  
13 rural lots redefined as large lot rural.

14 And one last thing, please, if you will bear  
15 with me for a sec. Alii Chang was also there last night,  
16 and Lani. These are the inspirational figures of small  
17 farms for here. And they really -- Lani particularly  
18 brought it home when she said, it's not about competing  
19 with each other.

20 Warren, our small two-acre lots do not compete  
21 in any way, shape or form --

22 CHAIR BAISA: Ms. Stone.

23 MS. STONE: -- with big ag. Okay.

24 Thank you very much.

25 Sorry, Gladys. Thank you.

1 CHAIR BAISA: It's okay. I totally understand  
2 the passion.

3 I had the opportunity to be at that meeting last  
4 night, also. And there must have been about 80 people in  
5 the room. And it was very, very interesting for me to  
6 listen to people from the size of Maui Pine to the little  
7 back yard farmers. And I think the agreement or, you  
8 know, the consensus was the same. Everybody has the same  
9 issues, everybody has the same problem. And we are all  
10 very concerned about farming and agriculture.

11 I think one of the things that I would like to  
12 ask you before I turn it over to the Members, was the idea  
13 of agritourism was discussed last night.

14 MS. STONE: Uh-huh.

15 CHAIR BAISA: And it seems like I am getting  
16 mixed -- mixed signals about agritourism. What was your  
17 consensus from what you heard? Did you feel that people  
18 were in support of that?

19 MS. STONE: I really did. I think people  
20 acknowledge the fact that ag is almost dead in this  
21 County. And unless we can really bring our tourism into  
22 the 21st Century and let people supplement their incomes,  
23 ag is dead. There is nobody here who wants to farm. It's  
24 too much hard work and it's too expensive.

25 CHAIR BAISA: Thank you very much. I appreciate

1 your answer.

2 Members, questions for Ms. Stone?

3 (Silence.)

4 CHAIR BAISA: If not, thank you very much.

5 MS. STONE: Thanks, Gladys.

6 CHAIR BAISA: Our next testifier is Tom Croly.

7 And Mr. Croly will be followed by Elaine Wender.

8 MR. CROLY: Thank you, Chair.

9 I am Tom Croly. And I am speaking on behalf of  
10 the Maui Vacation Rental Association.

11 First, I would like to acknowledge the progress  
12 that was made at the July 1st Committee meeting on the  
13 proposed B&B legislation. The inclusion of cottages in  
14 the rural district as part of this ordinance is an  
15 important step in the right direction towards effectively  
16 permitting and regulating this part of the visitor  
17 industry that is so vital to the economic success of Maui.

18 Since that last meeting, it seems that every day  
19 I read The Maui News and I hear more bad news about Maui's  
20 economy. Visitor arrivals were down 22 percent in June.  
21 Maui Land & Pine laid off 25 percent of its workforce.  
22 The Taste of Lahaina has been canceled for this year.

23 Maui is hurting and we have to do what we can to  
24 shore up Maui's faltering economy. And what I ask of this  
25 Committee is that you ask -- act responsibly and swiftly

1 to restore the viability to the vacation rental industry.

2 I want to take a second to point out the direct  
3 economic impacts of just one bed and breakfast room or  
4 cottage or, you know, visitor facility. One bed and  
5 breakfast room might bring its operator \$80 to \$160 a  
6 night in gross revenues. If that room is kept full 250  
7 days per year, the operator might gross \$20,000 to  
8 \$40,000.

9 Now, let's consider the island-wide spending of  
10 the guests who stay in that room. According to DBEDT  
11 numbers, according to their statistics, each Maui visitor  
12 spends an average of \$119 per day exclusive of their  
13 lodging. And since each of these B&B rooms typically  
14 houses two visitors, that works out to \$59,500 per year in  
15 local spending that is being supported by one bed and  
16 breakfast room. The net effect of this spending is that  
17 probably one full-time job, collectively, is being  
18 supported here on Maui by the spending from that one bed  
19 and breakfast room.

20 Now, let's consider the fact that leaving out  
21 the ag zone from this B&B bill will have effectively  
22 closed perhaps as many as 400 to 500 bed and breakfast  
23 rooms. That calculates to \$30 million in visitor spending  
24 that has effectively been removed from our economy. This  
25 is in addition to the \$15 million in gross revenues that



1 that B&B operator might make.

2 When we consider the economic multipliers, that  
3 is the money that is spent locally that then is spent by  
4 somebody else and somebody else, all in the local economy,  
5 this works out to an impact of about \$150 million.

6 So I ask the Council to please reconsider the  
7 decision to blanketly [sic] exclude bed and breakfasts  
8 from the ag district.

9 There is more work to be done on this B&B  
10 ordinance to make it an effective piece of legislation.

11 You still need to work out the details of how  
12 the neighborhood notification process should work. We  
13 would suggest the nearest, closest 20 neighbors rather  
14 than the 500-foot rule.

15 You need to work out the taxation issues that  
16 would be most fair. We would suggest an annual fee based  
17 on the number of rooms rather than messing with the  
18 property taxes of these Maui resident homeowners.

19 And you still need to consider a transitional  
20 arrangement that would allow operators to continue to  
21 operate while their permits are being processed.

22 I have confidence that you can quickly deal with  
23 these issues.

24 After you have, you can then take up the issue  
25 as to how to permit and regulate non-owner-occupied

1 properties that are a big part of the Maui visitor  
2 industry. Owner-occupied B&Bs only make up about half of  
3 the visitor -- the --

4 CHAIR BAISA: Tom --

5 MR. CROLY: -- private visitor industry.

6 CHAIR BAISA: -- can you wrap is up, please?

7 MR. CROLY: Let's see. I just ask that you do  
8 act responsibly on this. Maui's economy depends on it and  
9 needs your action today. And Maui's people deserve it.

10 Thank you.

11 CHAIR BAISA: Thank you very much.

12 Members, questions for Mr. Croly?

13 Member Johnson.

14 VICE-CHAIR JOHNSON: Yes, Tom. Thanks for being  
15 here.

16 I am just curious, you know, the statistics that  
17 you were quoting from DBEDT, because I've read several  
18 articles and been listening to a lot of the reports in  
19 terms of what the visitor spending was, you know, prior  
20 to --

21 MR. CROLY: Prior.

22 VICE-CHAIR JOHNSON: -- the airline shutdowns,  
23 also prior to the gases rising to unprecedented levels.  
24 So are the statistics you're quoting from today's spending  
25 patterns or are they prior to that? Because we've not

1 really had quite enough long --

2 MR. CROLY: Right.

3 VICE-CHAIR JOHNSON: -- a period of time to  
4 really, I guess, develop --

5 MR. CROLY: The statistics -- the number that I  
6 came up with was based on their annual from last year.  
7 Okay. So it is not as up to date as last month's  
8 statistics. But I think the last month's statistics said  
9 that the total visitor spending was \$194 per person  
10 inclusive of their lodging. Okay. But breaking out the  
11 lodging portion, I would have to go to the previous year  
12 to find those statistics.

13 VICE-CHAIR JOHNSON: Yeah. And I guess the only  
14 other question I would have to ask you is because,  
15 overall, the lift capacity of actually getting visitors  
16 here to the island, even -- you know, even in our hotels,  
17 the tourism is just headed in a not very good direction.  
18 So even if some of these, let's say, facilities were  
19 granted the right to continue to operate, do you believe  
20 that they would all be filled?

21 MR. CROLY: I appreciate that -- that -- that  
22 question.

23 This segment of the visitor industry is really a  
24 bit separate from the folks that stay at the hotels and  
25 the folks that stay at the timeshares and the folks that

1 stay at the condos. What we hear all the time from our  
2 visitors is, I am seeking out this type of private  
3 accommodation. And what we have been hearing most  
4 recently is, if I can't find this type of accommodation on  
5 Maui, I am going to go elsewhere.

6 Now, has our market shrunk? Yes, it has. Okay.  
7 All the markets have shrunk down recently.

8 But for us to close the door to a big part of  
9 this market is Maui saying goodbye to a lot of numbers.  
10 You can challenge, you know, whether one of these places  
11 can stay full 250 nights a year, or whether the spending  
12 is going to be \$119 a day per person. But the bottom line  
13 is, if people decide that they are not going to come to  
14 Maui because they can't find the type of accommodation  
15 they want, it is hurting our economy.

16 VICE-CHAIR JOHNSON: Thanks very much, Tom.

17 CHAIR BAISA: Member Molina.

18 COUNCILMEMBER MOLINA: Thank you, Madam Chair.

19 Good morning, Mr. Croly.

20 In your comments with regards to the exclusion  
21 of the B&Bs from the ag district -- and you mentioned the  
22 numbers, which, you know, I can appreciate. And what I am  
23 hoping for is we can find some kind of compromise between,  
24 you know, your stance versus Mr. Watanabe's stance with  
25 the Farm Bureau. Because I know we're in some unusual

1 times right now. What can you suggest as a compromise to  
2 Mr. Watanabe's concerns?

3 MR. CROLY: There is recognition by the MVRA  
4 that ag properties should have some ag use. Now, as  
5 Warren referred to some of these family farms as gardens,  
6 okay, it's still an ag use. And the fact that we have  
7 constructed these -- we've allowed the subdivisions to  
8 take place and we've constructed homes out here, and it's  
9 no longer, you know, huge acreage of large farms. I think  
10 this is a reasonable compromise.

11 And ideas that have been put forth, like asking  
12 for these family farmers to make donations to the food  
13 bank, the Maui Food Bank, are good compromises to allow  
14 this use to coexist with agriculture.

15 COUNCILMEMBER MOLINA: Okay. Thank you.

16 Thank you, Madam Chair.

17 CHAIR BAISA: Thank you very much.

18 The Chair would like to note the presence of a  
19 non-voting member of our Committee, our South Maui Member,  
20 Michelle Anderson.

21 Thank you, Michelle.

22 Mr. Croly, just -- I am interested in your  
23 comment. You brought up the idea that was mentioned by  
24 our representative from the Farm Bureau about gardening  
25 versus farming. They both constitute agriculture. I

1 think that our -- the missing piece here is the definition  
2 of what is agriculture. And I think we need to do that.  
3 But as the law exists, it is agriculture. A rose by any  
4 other name. How do you feel?

5 MR. CROLY: Well, I understand the distinction  
6 that the Director of the Farm Bureau is bringing between  
7 commercial agriculture, where people are growing food for  
8 profit on a large scale, and someone who is using their  
9 land in an agricultural way, but not necessarily doing it  
10 for a commercial -- as a commercial enterprise. But I  
11 guess where the disconnect comes in is all the land is  
12 being considered in the same fashion.

13 And efforts have gone into identifying prime ag  
14 lands. And I think that we should continue to try to  
15 protect prime ag lands. But there are many other lands  
16 that are already defined as less than prime. And we can  
17 quickly dispense with the idea that these will ever be  
18 high-production agricultural places. And now that we've  
19 let them turn into two-acre lots, asking for something  
20 like a garden seems like a reasonable compromise.

21 CHAIR BAISA: Well, in these days of food  
22 security concerns, we may want to encourage a lot of  
23 gardening like we did right after World War II, and during  
24 the war. I am a war baby and I remember having a very  
25 large victory garden in everybody's yard, because it was

1 required. And it looks like we're going there again in  
2 terms of, you know, the world's situation and the cost of  
3 food and transportation and everything else we're dealing  
4 with.

5           So I -- I am very concerned about the numbers  
6 that you talked about. And that is the spending numbers.  
7 You know, we have seen and we have heard here in Council  
8 the merchant cries, you know, from particularly Member  
9 Molina's area that is severely impacted, that is Haiku,  
10 Paia and Makawao. And do you think that -- you know, that  
11 estimate that we were given -- and I realize that, you  
12 know, people say, well, that's the realtors who did that,  
13 so they have self interest. But there has got to be some  
14 kind of direct economic impact between the shutdown of the  
15 B&Bs and TVRs and the economic impact. Your comments.

16           MR. CROLY: There's no question that every  
17 visitor who comes to this island spends money around this  
18 island, and beyond money that they just spend on their  
19 lodging. And if we are restricting those visitors to a  
20 narrow corridor of Maui, that spending is not getting  
21 around our island. That is why the North Shore businesses  
22 were the ones that showed up here at one of the previous  
23 meetings, one after another, to tell you how their  
24 businesses were hurting, because those North Shore  
25 businesses are counting primarily on the folks staying in

1 these vacation rentals to keep their businesses afloat.

2 CHAIR BAISA: Do we have any estimate, and has  
3 the industry been able to track, about how many jobs have  
4 been lost?

5 MR. CROLY: It's -- it can only be a guesstimate  
6 at this point. Is it a job lost when the owner of -- of a  
7 property who is supporting themselves no longer can do that?  
8 Is that -- that's not a job that is on anybody's books  
9 anywhere. The owner of the property now can no longer  
10 support himself and has to go out and find a job.

11 Is it a job lost when that owner has to lay off  
12 his landscaping guy, his person who might come in to do --  
13 to do cleaning? The -- it's not -- those people haven't  
14 lost a job per se, but they have lost business as part of  
15 their business. And, ultimately, they may be laying off  
16 employees.

17 CHAIR BAISA: So we really don't have a handle  
18 on it, but we can only tell from what we've heard here in  
19 terms of the business impacts that there are jobs lost.  
20 And I've talked to people who have lost their jobs, people  
21 who have had to lose their homes.

22 MR. CROLY: That's right.

23 CHAIR BAISA: Because, you know, they can't  
24 handle it.

25 Anyway, those are my questions.



1 Anybody else have questions for our testifier?

2 (Silence.)

3 CHAIR BAISA: If not, thank you.

4 MR. CROLY: Thanks.

5 CHAIR BAISA: Thank you very much.

6 Our next testifier is Elaine Wender. And

7 Ms. Wender will be followed by David DeLeon.

8 Good morning, Elaine.

9 MS. WENDER: Good morning.

10 My name is Elaine Wender.

11 Thank you for your unanimous decision at your  
12 last meeting to limit B&B permit holders to property  
13 owners, and to require owner occupancy, and for your  
14 almost unanimous decision to allow B&Bs on ag land only in  
15 historic structures.

16 After reviewing the agendas and seeing nothing  
17 new, I chose not to testify at your two last meetings in  
18 order to allow you to maximize your deliberation time.  
19 Imagine my surprise, therefore, when I arrived towards the  
20 end of the last meeting and discovered that, based on a  
21 communication sent to you by the Planning Director, after  
22 the agenda had been mailed, you had made a major change in  
23 the proposed law and voted to allow B&Bs in ohana units.

24 Again, today, the Planning Director sent you a  
25 last-minute letter suggesting major changes in the

1 proposed law. These communications were not properly  
2 noticed and discussion of them violates the Sunshine Law.

3 Had I known of Mr. Hunt's June 27th letter, I  
4 certainly would have come to testify to urge you not to  
5 erase the distinction between B&Bs and TVRs by allowing  
6 ohana units to become B&Bs. Somehow the TVR people were  
7 aware of what was going on, since they came out and  
8 testified in force.

9 Originally, only one dwelling could be built on  
10 a lot. But as families expanded and the price of land  
11 went up, residents asked to be allowed to build a second  
12 dwelling for their ohana. That is why they are called  
13 ohana units. Later, many of these became long-term  
14 rentals which was accepted by the community because of the  
15 desperate need for rental housing.

16 The support for allowing these to be used for  
17 vacation rentals comes primarily not from the public, but  
18 from those operating in violation of the law and from the  
19 realtors who profit greatly from the resulting increased  
20 property value.

21 You have decided to allow B&Bs in rural areas.  
22 The approach is now for those whose land is truly not  
23 suited for ag to go for rezoning. It is true that the  
24 process is not simple. And it should not be. An enormous  
25 economic benefit comes with a change in zoning. And it

1 should be a careful deliberate process. But this route  
2 can be successfully pursued, and has been.

3 Warren Watanabe's March 11th testimony, which he  
4 assured me today is still the position of the Farm Bureau,  
5 has been so misquoted in prior meetings that I would like  
6 to remind you of what he really said. "Operations within  
7 the agricultural district must be firmly based in  
8 agriculture with the majority of income. The secondary  
9 occupation must be viewed as accessory. It cannot be the  
10 primary source of income with the farming or ranching as  
11 the obvious secondary use."

12 He, by the way, did not say that you can only  
13 make \$2,500 on two acres. That was a suggestion as a  
14 minimum for this permit, which it's now being thought as  
15 way too low.

16 It's unjust to put the burden of opposing  
17 individual applications on the vast majority of owners of  
18 ag land who rightfully have the expectation that their  
19 communities will not be tourist destinations. Those who  
20 live on ag land mostly do work other jobs, but they still  
21 want to live in an agricultural community.

22 Four hundred permits means 2,400 rooms, more  
23 than three Grand Waileas, and 9,600 people.

24 Please keep them off of ag land.

25 Making our economy more dependent on tourism is

1 not diversification.

2 Should you discuss Mr. Hunt's latest letter, I  
3 urge you to defeat it in its entirety. It would be a  
4 nightmare to enforce, and makes a mockery of the law,  
5 rewarding the violators.

6 Thank you.

7 CHAIR BAISA: Thank you, Ms. Wender.

8 Questions for our testifier?

9 Ms. Anderson.

10 COUNCILMEMBER ANDERSON: Could we get a copy of  
11 your written testimony?

12 MS. WENDER: Sure. I gave her a copy.

13 COUNCILMEMBER ANDERSON: Okay. Thank you,  
14 Elaine.

15 CHAIR BAISA: Any other questions for  
16 Ms. Wender?

17 (Silence.)

18 CHAIR BAISA: If not, thank you very much for  
19 being here.

20 Our next testifier is Dave DeLeon. And  
21 Mr. DeLeon will be followed by Kevin Ledesma.

22 Good morning, David.

23 MR. DELEON: Good morning.

24 My name is Dave DeLeon. I am here to represent  
25 the 1,600 licensed realtors in Maui County.

1 I apologize for not having written testimony. I  
2 wasn't planning to testify at first, but changed my mind.

3 Last year, about this time, when this Committee  
4 was deciding to support the closed -- the closure of this  
5 industry, I pointed out to you there would be economic  
6 consequences.

7 Right after the shutdown started, we started to  
8 see the consequences. We've heard from Brandon Shim. We  
9 heard from Nagata's, when they shut down their store, that  
10 that was an impact on them, one of the reasons they shut  
11 down.

12 Bev Gannon has gone on record and is an  
13 established organization that is really strong. And they  
14 are feeling it, and they are hurting. And they know why.

15 You heard from Mr. Nuu [sic] from Lahaina last  
16 time. He's a landscaper. Tongan family. The whole  
17 family is hurting because they have lost a hunk of their  
18 business. It's 25 percent here, 25 percent there.

19 We all know we're in economic problems, but I  
20 came back on an airplane the other -- last week from Los  
21 Angeles. It was United, Flight 49, the Boeing 757. There  
22 were 30 people on that airplane. We each could have had  
23 two rows to lay down in.

24 In January, my association gave you an economic  
25 study that said definitively that this income -- the

1 income that Maui County -- the income that circulates  
2 through Maui County as a result of this industry was \$300  
3 million, reflecting 30 -- I'm sorry -- 3,000 jobs.

4 I hope that gave you some of the answers you  
5 were looking for.

6 And that was done by a pair of economists. And  
7 I haven't seen anybody refute that since then. It's on  
8 the record.

9 Maui County is the victim of a wide variety of  
10 economic impacts. Certainly the shutdown of this industry  
11 is not the only cause of that airplane being empty.

12 But this is one of those areas where you  
13 actually have control. This is a place where this County,  
14 this government can actually proactively do something.

15 What is that? The estimate is, according to the  
16 Planning Department, that there are about 1,000 potential  
17 vacation rental businesses on this island -- or in this  
18 County. That is 1,000 websites. That is 1,000 promoters.  
19 That is 1,000 businesses going out and promoting this  
20 island. When you shut that down, you shut down -- and the  
21 way the County did it was to go after the websites. You  
22 put them back on, you have 1,000 promoters going out and  
23 promoting this island again, and promoting the jobs. It  
24 might not be union jobs. They are jobs. People take home  
25 money, they feed their family with them.

1           One thought on the Farm Bureau's comments, the  
2 Farm Bureau wants it both ways. They say -- on the record  
3 saying that two-acre lots, once they are -- become  
4 two-acre lots are not viable agricultural opportunities.  
5 But, in the same time, they say, you must farm. What,  
6 until you run out of money? How does that work? That's  
7 not real. You can't say that, both, it's not viable and  
8 you're going to make your income off of it. It's not one  
9 or the other. It's a square peg going into a round hole.  
10 And if we cannot agree that it's agricultural, let's make  
11 it rural. And that is where it belongs.

12           Thank you very much.

13           CHAIR BAISA: Thank you very much, Mr. DeLeon.

14           (Applause.)

15           CHAIR BAISA: Let's hold it down.

16           Members, questions for Mr. DeLeon?

17           (Silence.)

18           Another -- no question, but just a comment. I  
19 must have been on a similar airplane because when I  
20 returned from the Kansas City conference that we went to,  
21 I have never had so much attention by flight attendants in  
22 my life, because the plane was empty.

23           MR. DELEON: It's scary.

24           CHAIR BAISA: It is a bit scary. So I don't  
25 know if it's so much air lift as it is maybe the cost of

1 the tickets or maybe not being able to do what they want,  
2 I am not really sure, but we have an issue here.

3 MR. DELEON: Thank you.

4 CHAIR BAISA: Thank you.

5 Okay. Our next testifier is Kevin Ledesma. And  
6 Kevin will be followed by Paul -- oh, I'm sorry. Barak  
7 Laub. I had the wrong Laub.

8 Where is Barak? Okay. Got it.

9 Mr. Ledesma, please. Thank you.

10 MR. LEDESMA: All right. Well, thank you for  
11 allowing me to speak on behalf of my family and other  
12 hard-working families who wish to see a speedy and fair  
13 resolution to this important legislation.

14 I am representing myself, my family and -- but I  
15 am also a member of the MVRA. I also was at the meeting  
16 last night in Pukalani. I got up and spoke emotionally  
17 after you left, Ms. Baisa. But I can say from my  
18 observation there at the meeting, that -- overwhelmingly  
19 that there was a need for additional subsidy for the  
20 farmers or anybody on ag land that wants to produce any  
21 kind of agriculture, whether it be food, or, in our case,  
22 palm trees or whatever.

23 So the definition of ag needs to be looked at,  
24 Mr. Watanabe. I don't believe that just because I am not  
25 growing food that I am not participating in an



1 agricultural practice. Because I certainly have about  
2 4,000 plants --

3 CHAIR BAISA: Mr. --

4 COUNCILMEMBER ANDERSON: Mr. -- Madam Chair?

5 CHAIR BAISA: -- Ledesma, if you could please  
6 address your comments --

7 MR. LEDESMA: I'm sorry.

8 CHAIR BAISA: -- to the Chair, please.

9 MR. LEDESMA: I apologize. Okay.

10 So just to get back to my statement, we've  
11 applied -- we've applied for permit about a year  
12 and-a-half ago. And through no fault of the Department,  
13 the Planning Department, we just were contacted last month  
14 from the Planning Department. They are overwhelmed with  
15 permit applications. And they are doing their very best  
16 to deal with the processes, which are overregulated.

17 Just one example is a requirement that a normal  
18 house must have a different water flow rate for fire  
19 prevention just because the length of stay is not six  
20 months or more. Now, this is a regular everyday home with  
21 normal everyday activities, but the requirements are  
22 overburdensome.

23 And I think this is part of the problem that  
24 plagues the Planning Department in processing several  
25 types of permits, Jeff. Not just for TVRs, but other

1 things.

2 So it's overregulation.

3 So, please, let's complete this legislation in a  
4 fair way, that allows the departments to do their work  
5 without giving them needless tasks and paperwork and  
6 allows us to keep our homes and livelihoods going.

7 This can also start the healing of the small  
8 local economies, this is very important, of the North  
9 Shore, Hana and other communities that benefit in many  
10 ways.

11 I want to thank Mr. Mike Molina and Bill  
12 Medeiros for visiting our property. It was nice to share  
13 it with you both. It meant a lot to us. And we  
14 appreciate the courage that it took and the spirit in  
15 which you did so.

16 We invite everybody, every member of the  
17 Council, to come out and please visit us and see what it  
18 can really be like on an agriculturally-zoned property  
19 where people are trying to make a living from their homes.  
20 And we invite you warmly. And we would love to share it  
21 with you.

22 And that is it. I would be happy to answer  
23 questions.

24 Thank you.

25 CHAIR BAISA: Thank you very much, Mr. Ledesma.

1 Questions for our testifier?

2 (Silence.)

3 CHAIR BAISA: Can you describe your property  
4 briefly, please?

5 MR. LEDESMA: Certainly. We're one of those  
6 in-between sizes. I mean, two acres is two acres, but  
7 we're 4.3 acres. We are bordered by just strictly  
8 ag-sized lots, what are currently ag lots in Haiku on  
9 Pauwela Road. A large parcel below us is 24 acres. So we  
10 have no -- we don't disturb our neighbors. They love us,  
11 in fact. And it's a very quiet neighborhood.

12 We have a commercial nursery. It's a small  
13 commercial nursery. We provide plants for landscapers and  
14 Kihana Nursery and Kihei Garden and Landscape and others.  
15 It's a lot of work to do that, but having the vacation  
16 rental there also allows my wife and myself to stay home  
17 and work in the nursery as well. It is a very symbiotic  
18 thing.

19 The house is not large. It's certainly not a  
20 six-bedroom house. It's a three-bedroom house. And it's  
21 nice. It has a swimming pool, but that is okay, it helps  
22 for fire protection as well. And it's comfortable.

23 But we live in the ohana because that helps, to  
24 rent the house out for more and helps us subsidize our  
25 other efforts. But it's a beautiful place.

1 CHAIR BAISA: Thank you.

2 MR. LEDESMA: It's maintained. We keep invasive  
3 species like the nettle caterpillar out of the grass, just  
4 because we mow it and maintain it. There's a lot of  
5 maintenance that goes on.

6 CHAIR BAISA: Thank you.

7 So you are actually farming?

8 MR. LEDESMA: Yes.

9 CHAIR BAISA: Or are you --

10 MR. LEDESMA: I think so.

11 CHAIR BAISA: Or are you gardening? I am not  
12 sure anymore.

13 MR. LEDESMA: I kind of fall in between, I  
14 think. I am not sure. But we're doing it.

15 CHAIR BAISA: Thank you very much.

16 MR. LEDESMA: Please come out and visit. We  
17 would like that.

18 CHAIR BAISA: I wish time would allow me to do  
19 it. It's kind of tough, as you can imagine.

20 MR. LEDESMA: Yeah.

21 CHAIR BAISA: But, Members, any additional  
22 comments or questions?

23 (Silence.)

24 CHAIR BAISA: If not, Mr. Ledesma, thank you  
25 very much.

1                   MR. LEDESMA: Thank you. And I apologize for my  
2 earlier misdirect on the --

3                   CHAIR BAISA: It's okay. Oftentimes --

4                   MR. LEDESMA: I --

5                   CHAIR BAISA: -- we don't know the procedures  
6 until we're told.

7                   MR. LEDESMA: Thank you.

8                   CHAIR BAISA: Our next testifier is Barak Laub,  
9 and he will be followed by Paul Laub.

10                   Good morning, Barak.

11                   MR. BARAK LAUB: Good morning.

12                   Friends, Councilmen and fellow lovers of Maui, I  
13 am grateful and proud to be here. I am proud that you can  
14 hear my voice, and grateful that someone with as little a  
15 voice as mine can still be heard.

16                   I've lived on this island and loved it since  
17 before I can remember. The house that I learned to walk  
18 and learning to surf with my brother, playing on Baby  
19 Beach with my family. In my short blessed life off the  
20 island, I've had the opportunity to live my childhood  
21 dream and try and travel the world, transiting cities,  
22 countries and continents. But I stand here before you in  
23 the most beautiful place I've ever seen. And as far as I  
24 can tell, the closest man has come to paradise since we  
25 were ejected from Eden so many generations ago. And, yet,

1 I fear that I, too, will lose my place in paradise.

2 As we enter a recession and foreclosure rates  
3 are the highest since I've had any idea what a foreclosure  
4 was, the government has attempted to step in and regulate.  
5 But a government can't regulate or control the economy  
6 without controlling the people. This can only be done  
7 with force, coercion, threats and fines. But it's a  
8 well-known fact that outside of its principal duties as a  
9 government, a government can't hope to form, function or  
10 be as economic as the private sector.

11 It is now with the failure and collapse of the  
12 many businesses which were brought before you previously  
13 that have been a staple to this island, the times of  
14 further regulate are strangulating economy. I believe to  
15 the utmost of my ability that we stand together looking  
16 towards peace, prosperity and sustainability at the top of  
17 the mountain, hoping to get there. And if we don't, at  
18 least that our children will.

19 But instead of working together as a team,  
20 through -- towards our mutual and achievable dream, we are  
21 caught in mitigation and argument, wasting our supplies  
22 before even attempting to ascend the first slope.

23 Every day I live and breathe on this island, I  
24 see that our divided house logic cannot stand. The papers  
25 show businesses which have existed before I have are

1 closing, families being forced to go off-island to seek  
2 new jobs. And on the street, I see people who will go to  
3 bed tonight without a dinner, and some who won't go to a  
4 bed at all.

5 And to my left, I see a squad of our  
6 mountaineering troop who face the same fate and who want  
7 to help the others who are facing it now, screaming, give  
8 us a chance and a challenge and we will meet it with joy.

9 They, too, love this island. They, too, want  
10 peace, prosperity and sustainability. And they, too, want  
11 to see us on the mountaintop. The only way there is  
12 teamwork and cooperation. If we work together, my  
13 dream -- or our dream isn't a possibility, it's a  
14 certainty.

15 When I first took this stand and was able to  
16 address your most Honorable Council, I said I was proud  
17 and grateful. This is said with all earnestness and  
18 honesty. I stand before the people who have the ability  
19 to alleviate the suffering going on and the distress in  
20 our community. And in the times of crisis, like now, only  
21 few have an actual power to avert the catastrophe. It is  
22 you, Ladies and Gentlemen, who have this power. And I am  
23 humbly asking you to wield it.

24 Thank you.

25 CHAIR BAISA: Thank you very much.

1 (Applause.)

2 CHAIR BAISA: Guys.

3 Thank you very much for being here, Barak. You  
4 are an incredible young man.

5 Members --

6 MR. BARAK LAUB: Thank you for having me.

7 CHAIR BAISA: -- questions for our testifier?

8 (Silence.)

9 CHAIR BAISA: If not, I will just ask you a  
10 funny question. I mean a question that, you know, sounds  
11 like joking, but I am serious. You need to start  
12 preparing for a career in politics.

13 Thank you.

14 MR. BARAK LAUB: Thank you, Madam Chair.

15 CHAIR BAISA: Okay. Our next testifier is Paul  
16 Laub. And is there any connection here? And our next  
17 testifier is Jocelyn Perreira.

18 And if there are any others in the audience who  
19 would like to testify, I encourage you to come up and  
20 please register with Ms. Balala, and she will take care of  
21 you, so that we know how many people want to speak.  
22 Please do not hesitate if you want to come up and sign up.

23 All right, Paul. Proud papa.

24 MR. PAUL LAUB: Thank you. Yeah, he learned to  
25 speak from his mom.



1           I brought everybody today a can top. This is a  
2           historical item. And it's all in your offices because I  
3           couldn't pass them out. However, it's kind of a  
4           bittersweet item, because these are the last can tops from  
5           the pineapple canning. And what it's saying, really, is  
6           that there is no bottom. There is no more. Aohe, there  
7           is just nothing more. That is it for the ag for this.  
8           It's sad, but there it is.

9           Now, what I love to see from the Farm Bureau is  
10          really -- I mean, as a hanai palala for the kanaka maoli  
11          is to make sure that there is adequate water for our kalo  
12          growers. I would love to see that happen.

13          Now, in talking with Chairman Riki, he would --  
14          he expressed to me that he would like to see  
15          diversification of our economy and going toward the  
16          high-tech. I think it's a great -- I think it's a great  
17          item. But what we have here is really, I read in the  
18          paper, 17 schools failing by State standards, 17 schools.

19          Now, it was -- you know, if we can't do the  
20          low-tech, how are we going to do the high-tech? We're  
21          going to have the malahini coming in. So, traditionally,  
22          it was kupuna in Makawao whose responsibility to teach the  
23          kids, but the State took over the kuleana and has failed.  
24          I am recommending to the Council to go out and set some  
25          tutoring programs so that the children can succeed.

1 Because, otherwise, what are we going to have them do,  
2 just wait for affordable housing, or are we going to teach  
3 'em how to succeed so they can go out and actually buy a  
4 house and earn houses and property?

5 Now, TVRs are good. TVRs are your friends.  
6 We've all driven down the streets. How many times -- ask  
7 yourselves, how many times you driven down the street,  
8 say, "Oh, that must be a TVR?" Never. So how many times  
9 you've driven down the street and says, "Chickens live  
10 there?" Plenty times. How many times you read in the  
11 paper, "Gangs of tourists jump local kids?" You ever read  
12 that? Never.

13 So what do we have? We have people who want to  
14 come here, have a nice, wonderful time, have a nice,  
15 wonderful life. And so we're here to provide that.

16 Now, I got an email today from this gentleman  
17 who I don't know. He says, "Aloha. I am a mainland  
18 resident who has been visiting the island since '75. I  
19 have been to Maui more than 15 times. I have stayed in  
20 vacation rentals in Kihei, Makena and Hana. I don't stay  
21 in hotels, so I won't be visiting Maui any time in the  
22 near future. We want to come back, but when we tried to  
23 rent the place in Makena that we love, the owner told us  
24 that he is not sure whether or not he wants to rent it any  
25 longer, that it might not be safe to rent. And the

1 owner's alternative to us was stay in Wailea condos.  
2 Sorry, but I will be going to Kauai and the Big Island  
3 until you silly folks work out your problems. Even in  
4 these hard financial times, there are lots of people who  
5 are willing to throw their money at you. And you won't  
6 take it. Fine. I will spend it somewhere else. It seems  
7 like the folks in Hawaii are engineering their own demise  
8 with the decisions that they are making. Good luck.  
9 Mahalo. Bill Quarry."

10 Mahalo.

11 CHAIR BAISA: Thank you very much, Mr. Laub.

12 Members, questions for our testifier?

13 (Silence.)

14 CHAIR BAISA: If not, thank you very much.

15 Our next testifier is Jocelyn Perreira.

16 Ms. Perreira will be followed by DeGray Vanderbilt.

17 Good morning, Ms. Perreira.

18 MS. PERREIRA: Good morning, Madam Chair,  
19 Council Members.

20 My name is Jocelyn Perreira. I am the Executive  
21 Director and the Tri-Isle Main Street Program Coordinator  
22 for the Wailuku Main Street Association, Inc., Tri-Isle  
23 Main Street Resource Center.

24 Aloha. We are here today to restate that we  
25 request the removal of B-CT business from the proposed new

1 ordinance. We prefer remaining the current procedure of  
2 obtaining a conditional use permit for the following  
3 reasons: We are in strong support of the community plans,  
4 ample opportunity for public input and noticed public  
5 hearings, Planning Commission review and recommendations,  
6 with another opportunity for public review and input. And  
7 the conditional use permit must be approved by the County  
8 Council.

9 A process is in place and should be streamlined,  
10 of course. It is important as it is a safeguard for the  
11 public in unsuspecting neighborhoods.

12 We are also concerned about ohana units becoming  
13 a B&B in order to service a TVR operation. We ask you not  
14 to erase the distinction between B&Bs and TVRs because  
15 there is a distinction.

16 There may be unique circumstances that need to  
17 be considered. We, therefore, feel the conditional use  
18 permit will enable those with unique aspects on their  
19 properties to be considered in a public process and for  
20 due consideration.

21 Our towns are irreplaceable. There is a finite  
22 amount of development that can occur without jeopardizing  
23 its unique sense of place and the dynamics of the town.  
24 These are -- there is also a value that we have to place  
25 on our community and our sense of place. We cannot make

1 decisions that will benefit the few or based on emotion.  
2 Many in all walks of businesses today are facing  
3 challenges of changing times.

4 We must consider the value altogether of not  
5 only our sense of place, but our quality of life. And  
6 cannot compromise the integrity of our own land use laws  
7 that were carefully considered during a community plan  
8 process.

9 Last, but not least, the intent of ohanas were  
10 to accommodate extended families or farm workers. Too  
11 many ohanas that can be taken out of the inventory can, in  
12 fact, impact our young families.

13 Thank you for this opportunity to restate our  
14 position.

15 CHAIR BAISA: Thank you, Ms. Perreira.

16 Questions for our testifier?

17 Member Molina.

18 COUNCILMEMBER MOLINA: Thank you, Madam Chair.

19 Good morning, Ms. Perreira.

20 MS. PERREIRA: Good morning.

21 COUNCILMEMBER MOLINA: Thank you for your  
22 comments.

23 On your comments with regards to the conditional  
24 use permit process, you mentioned streamlining. Can you  
25 offer the Committee and the Department suggestions?

1 Because we've heard a lot from the residents who are  
2 concerned with the issue of TVRs and bed and breakfasts  
3 about the conditional use permit process and about the  
4 length of time it takes. Is there something you can  
5 suggest to us and to the Department as to how this process  
6 can be streamlined?

7 MS. PERREIRA: Yeah. Previously, we  
8 participated in an ad hoc committee that was formed by the  
9 Planning Department to do just that, in fact, to try to  
10 streamline the process, so that you can separate those who  
11 were good and viable and legitimate to be conducting these  
12 kinds of operations from those who are just trying to  
13 latch on and get a free ride in.

14 Of course, it goes without reason -- without --  
15 sorry. I lost my train of thought.

16 It goes without saying that when you do have the  
17 support of the surrounding community for your operation,  
18 that, right away, streamlines your process. You have been  
19 carefully reviewed, scrutinized, discussions have been  
20 talked about, so on and so forth.

21 You had one such process in front of you  
22 recently, which is the Hale Hookipa in Makawao. That went  
23 through a very rigid process. They went through the  
24 hoops. They went and -- and -- and did all the things  
25 that people would have thought needed -- the questions

1 that needed to be addressed and talked about and so on and  
2 so forth. And gaining acceptance then helps them to go  
3 through the process a lot better without as much concerns  
4 or the -- or having to go the distance to try to prove  
5 their worth or their merit.

6 But there are other things that were discussed.  
7 I just don't have the records with me here. But I can  
8 certainly share that with you at a later time.

9 COUNCILMEMBER MOLINA: Thank you. That would be  
10 appreciated. Thank you.

11 Thank you, Madam Chair.

12 CHAIR BAISA: Any additional questions for  
13 Ms. Perreira?

14 Member Anderson.

15 COUNCILMEMBER ANDERSON: Thank you, Chair.

16 Thank you for being here, Jocelyn.

17 The -- you mentioned that you want the policy  
18 objectives in the community plans to be upheld. So you  
19 don't want any -- you don't want anything in the B&B  
20 ordinance that would allow the policy objectives of the  
21 small towns that may restrict B&Bs in some way to override  
22 that?

23 MS. PERREIRA: Uh-huh.

24 COUNCILMEMBER ANDERSON: Is that correct?

25 MS. PERREIRA: That's right.

1 COUNCILMEMBER ANDERSON: Okay. Thank you.

2 CHAIR BAISA: Any additional questions for our  
3 testifier?

4 If not, Ms. Perreira, thank you very much.

5 MS. PERREIRA: Thank you, Madam Chair.

6 CHAIR BAISA: Our next testifier --

7 MS. PERREIRA: Excuse me. May I make one  
8 comment?

9 CHAIR BAISA: No.

10 MS. PERREIRA: Thank you.

11 CHAIR BAISA: Thank you.

12 Our next testifier is Mr. Vanderbilt. And  
13 Mr. Vanderbilt will be followed by Jesse Nakooka.

14 Good morning, DeGray.

15 MR. VANDERBILT: Good morning, Madam Chairman,  
16 and Members of the Planning Committee.

17 My name is DeGray Vanderbilt, 30-year resident  
18 of Molokai. I recently stepped down as Chair of the  
19 Molokai Planning Commission and Member of the Molokai  
20 Water Working Group that is advisory to the State Water  
21 Commission. I am here testifying, though, today as an  
22 individual.

23 And, you know, I was reading the minutes from  
24 the July 1st and the June 17th meetings. And I was  
25 reading Mr. Croly's testimony, where he said that -- at



1 the last June 17th meeting, that he was frustrated and  
2 disappointed. And I watched as much of the meeting was  
3 spent discussing special rules for Molokai, a place where  
4 not a single bed and breakfast application has ever  
5 originated in 11 years. And while I respectfully defer to  
6 the folks of Molokai to control their own destiny, I have  
7 to question, is that a place where we want to start  
8 limiting economic opportunities with all that is happening  
9 to those folks?

10 Molokai -- Molokai knows where it wants to go.  
11 And we're trying very hard to work in this whole State  
12 program of Sustainability 2050. We think, of all the  
13 islands, we have probably the best shot of eventually  
14 being fully sustainable. And food security is one of  
15 those main goals that we have.

16 Right now, we have a lot of small farms on  
17 Molokai. We had a lot of people that are gardening, but,  
18 now, with Molokai Ranch pulling out and saying they are  
19 going to quit the utilities, the PUC is saying they are  
20 going to have to raise the rates 221 percent on the  
21 people, from \$1.85 to \$5.15 a thousand. So it's going to  
22 be an expensive victory garden. But, anyway, we're moving  
23 forward.

24 And in the last few meetings, I -- I handed out  
25 testimony that had all the Molokai Planning Commission's

1 recommendations in the various ordinances. In the last  
2 testimony, I attached a letter from our Planning  
3 Commission Chair, Steve Chaikin.

4           And I would like to read: Our Commission has  
5 spent a considerable amount of time receiving public  
6 testimony and deliberating on these issues. As a matter  
7 of fact, more than any of the other planning commissions.  
8 And have developed what we feel is the best way forward  
9 for our community. It is important to note that our  
10 recommendations are specifically designed for our  
11 community and may differ from the best course for the rest  
12 of Maui County. We hope that you will agree that, in some  
13 cases, we are best served by ordinances that are designed  
14 for our specific island community.

15           At the end of the last meeting, there was going  
16 to be a memo regarding how to handle the various  
17 amendments for -- it was -- at that point it was mentioned  
18 for Molokai. I think there were some varying amendments  
19 from Hana and from Lanai, too. And I hope when that memo  
20 is put together that you will seriously consider following  
21 the recommendations of Molokai, because they were well  
22 thought out and I think they will be very helpful as we  
23 move into our Island Plan where we are really going to get  
24 down to this whole issue.

25           So thank you very much, Madam Chair.

1 CHAIR BAISA: Thank you, Mr. Vanderbilt.  
2 Any comments, questions for Mr. Vanderbilt?  
3 (Silence.)

4 CHAIR BAISA: If not, DeGray, I would like you  
5 to know that I have not forgotten about the amendments or  
6 the wishes of the Planning Commissions of Maui, Molokai  
7 and the -- I mean, Molokai, Lanai and the Hana Advisory  
8 Council. And as soon as we get into our discussions  
9 today, Chair will be proposing an amendment to deal with  
10 that.

11 MR. VANDERBILT: Thank you very much.

12 CHAIR BAISA: Thank you. And thank you for all  
13 the help you've given.

14 Our next speaker today, our next testifier, is  
15 Jesse Nakooka. And he will be followed by Bart Mulvihill.

16 Good morning, Mr. Nakooka.

17 MR. NAKOOKA: Aloha, everybody. I am kind of  
18 shame, so bear with me.

19 CHAIR BAISA: No shame. We're all family.

20 MR. NAKOOKA: All right. All right. It's like  
21 -- it's what I like hear.

22 Aloha, everyone. I am Jesse Nakooka, I come  
23 from Hana. I am an organic farmer and fishermen of ten  
24 generations, and an original of the land and sea.

25 Since 1950, we have been showing foreigners as

1 well as Americans how special and spiritual, loving people  
2 we are here on Maui, Hawaii. People come here to -- to  
3 live our lifestyle or to take home real Hawaiian  
4 experiences. So my dream is to give them the real deal  
5 experience.

6 To keep up the tradition, I would need to build  
7 a bed and breakfast on my mother's land which was given to  
8 her, or passed on from grandfather clause. My family had  
9 this ag land -- ag land before you all got here.

10 Who is you guys to tell us what we can build and  
11 what we can't?

12 I did not buy or lease the land. For me and my  
13 business team, it's all about the local economy and what  
14 is best for them.

15 It needs to be self -- self-sufficient locally.  
16 My live one day Hawaiian adventure tour needs this bed and  
17 breakfast so I can educate, protect and restore our aina  
18 with the tourists as well as the local economy, working  
19 together as one, with local small businesses owners like  
20 myself and selling local products and only local products  
21 and services.

22 To get to the point, A&B Properties, in fact,  
23 this whole island, was once all farmlands. If I had a  
24 billion dollars, I could automatically qualify to change  
25 farmland zoning into residential or commercial with or --

1 with or -- or if I had that money, I could do anything.  
2 That is wrong and unfair for our local economy and  
3 original people that has or own a small business.

4 For me -- for me, I am a 32-year-old -- I am 32  
5 years old. For 22 years, I have been working on my  
6 business, my dream. And now I heard I can't become -- now  
7 I heard I can't because I have ag land and can't build.  
8 But A&B can, or people with millions and above can do what  
9 they want.

10 CHAIR BAISA: Jesse, thank you very, very much  
11 for being here today and for your testimony.

12 Members, any questions for our testifier?

13 Member Molina.

14 COUNCILMEMBER MOLINA: Thank you, Madam Chair.

15 Good morning, Jesse.

16 You know -- so you have -- you want to start a  
17 bed and breakfast out on your family property?

18 MR. NAKOOKA: Yeah. But, then, see, we -- EMI,  
19 it takes all our water, so I cannot farm. I have -- I  
20 have a lot of land, but I can't farm because they takes  
21 all -- they take all the water from us. And it's kind of  
22 hard. So I got to change my whole format around.

23 COUNCILMEMBER MOLINA: Sure. Okay. And one  
24 more question. You're family to the late singer Jesse --

25 MR. NAKOOKA: Yeah, that is my uncle. I was

1 named after him.

2 COUNCILMEMBER MOLINA: He was a good man. You  
3 guys come from a good family.

4 Anyway, nice to know you.

5 COUNCILMEMBER VICTORINO: Madam Chair?

6 COUNCILMEMBER MOLINA: Thank you, Madam Chair.

7 CHAIR BAISA: Member Johnson, and followed by  
8 Member Victorino.

9 VICE-CHAIR JOHNSON: Yes. Thanks very much for  
10 driving all the way from Hana. And I do appreciate it's  
11 not an easy situation.

12 One of the things -- and I don't know if you are  
13 familiar with what we are going through right now, which  
14 is also a parallel process, which is the general plan, to  
15 kind of look at where lands may be designated for the  
16 uses. Because you're looking at more of a rural use. And  
17 without having to go through the expensive process, I  
18 wonder if you have been in contact with, you know, the  
19 people -- and I believe they did go to Hana at one time,  
20 the General Plan Advisory Committee. And have you and  
21 others who were in similar situation expressed to them the  
22 need to have some of this land outside of -- you know,  
23 just going through the regular rezoning. Have you  
24 indicated to them that this is what you would like?

25 MR. NAKOOKA: Not really. I just -- I working

1 on 'em with my -- my partners. That's all.

2 VICE-CHAIR JOHNSON: Okay. Well, I -- I would  
3 suggest -- I think Mr. Blumer-Buell, and some of the  
4 others, even if you contact Mr. Hunt, he can let you know  
5 when the General Plan Advisory Committee meetings will  
6 take place. Because that is another forum in which  
7 rezoning may take place, but it's done at the expense of  
8 the County. And it's another process that you may want to  
9 look at, that may enable you -- enable you and others not  
10 to have to go through this -- even a -- I guess the  
11 process that you are describing, which can be expensive  
12 and very hard to follow.

13 Thank you.

14 CHAIR BAISA: Oh, I'm sorry, Mr. Victorino.

15 COUNCILMEMBER VICTORINO: Thank you, Chair.

16 Jesse, thank you for being here. And I know  
17 it's a long drive coming in from Hana.

18 Two questions I have for you.

19 First of all, Jesse, if I give you a choice  
20 right now, I give you all the water you need for your taro  
21 and your ag land, would you do a B&B or a TVR or a  
22 vacation rental on your property?

23 MR. NAKOOKA: Yeah. I will -- I would, because  
24 I need 'em.

25 COUNCILMEMBER VICTORINO: Okay.

1                   MR. NAKOOKA: Because I educate -- my whole  
2 thing is to educate the people, the tourists. They have  
3 been coming here their whole for come see us and to live  
4 our lifestyle. So we got to show them the real thing.  
5 That is my thing, I need them to be a part of my team.

6                   COUNCILMEMBER VICTORINO: Okay. Well, and I  
7 thank you, Jesse.

8                   And then the second question I had for you,  
9 which, really, you kind of elaborated on. You said you've  
10 lived and you have been a fishermen and an organic  
11 farmer --

12                  MR. NAKOOKA: Yeah.

13                  COUNCILMEMBER VICTORINO: -- all these years.  
14 Right? And so do you think -- by doing that and what you  
15 teach the others, the outsiders, the ones that come to  
16 visit us, do you think that enhances the ambience of Maui  
17 and Maui Nui?

18                  MR. NAKOOKA: Yeah. Because I been doing 'em  
19 for free all this time. And then they been coming all  
20 over the road, and they still been coming. From my  
21 grandfather's days, they come visit us because of what we  
22 went show them, how special the -- living off the land and  
23 growing stuff means to us. And then they take that back  
24 home with them.

25                  COUNCILMEMBER VICTORINO: Okay.



1                   MR. NAKOOKA: So for -- so -- agriculture and  
2                   tourism, I think is the number one key for get people for  
3                   come here.

4                   COUNCILMEMBER VICTORINO: Okay. Thank you,  
5                   Jesse. Thank you for your comments.

6                   Thank you, Madam Chair.

7                   CHAIR BAISA: Thank you very much,  
8                   Mr. Victorino.

9                   Thank you, Jesse, very much.

10                  Our next testifier is Bart Mulvihill. And Bart  
11                  will be followed by Netra Halperin.

12                  MR. MULVIHILL: Hi, good morning.

13                  CHAIR BAISA: Good morning.

14                  MR. MULVIHILL: Good morning. My name is Bart  
15                  Mulvihill. I am here as a regular guy, private citizen,  
16                  but I am also a licensed realtor in the State of Hawaii.  
17                  And I am broker certified by the Hawaii Academy of Real  
18                  Estate.

19                  I got to feel for this guy. I -- this speech is  
20                  worthless in comparison to what this man was talking  
21                  about.

22                  Maui County is probably the luckiest of all.  
23                  The reason I am running for State Senate, because I think  
24                  Maui is the most important part of Hawaii. And I don't  
25                  think we get enough representation. So that is why I am

1 running.

2 But this gentleman evokes exactly what is going  
3 on. The private property rights of people who own  
4 property on Maui are getting trampled on at every turn.

5 I went to Hana, to Meg Medeiros' graduation  
6 party. I drove through that town and I saw 20 places,  
7 little signs out in front. You know, Uncle Chuck's B&B.  
8 And you know what, I am so glad I had a room reserved at  
9 Hana Kai, because I couldn't take that ride back.

10 And I -- and I drive a 7 Series BMW, sir. And  
11 believe me, my ride is probably much more comfortable than  
12 yours.

13 But it was rough, rough.

14 CHAIR BAISA: Mr. Mulvihill.

15 MR. MULVIHILL: Yes. I'm sorry, ma'am. I --

16 CHAIR BAISA: Please address your comments --

17 MR. MULVIHILL: Okay.

18 CHAIR BAISA: -- to the Members.

19 MR. MULVIHILL: Okay. Members, one of the  
20 things that you could do here, is places like Baby Beach,  
21 Honokowai to Napili, Paia areas, some of these areas ought  
22 to be considered resort mapped districts just for the  
23 simple reason that a three to 10 million dollar house can  
24 be enjoyed by a three to 10 million dollar kind of family,  
25 who spends three to 10 million dollar budgets on their

1 vacation. These are the people that walk into Baron &  
2 Leeds and buy a Rolex, or go to Ruth Chris and leave a \$50  
3 tip for a kid who probably can't buy a new car.

4 We need to encourage tourism at all points. And  
5 we can't restrict tourism in certain neighborhoods. We  
6 have to let people go to Hana and have a place to sleep  
7 there.

8 We need to really look at the rights of people  
9 who took the time, the energy, the expense and the  
10 sacrifices to finance their homes, whether it was an  
11 inheritance, they borrowed it, they earned it. We have  
12 got to listen to these people that come before you and  
13 say, my rights should at least be heard and given a  
14 chance.

15 I don't think we should have a Westin  
16 everywhere. I don't think we should have a B&B  
17 everywhere. And I don't think a tourist disturbs a goat  
18 as he walks down the road and says, hey, how are you  
19 doing, Mr. Billy Goat, when they are in ag land. But I  
20 think we ought to at least give the people an oceanfront  
21 chance and oceanfront homes and some places that really  
22 are out of the reach of the general public to buy.

23 It's not -- it's -- you know, that young man,  
24 Mr. Laub's son, he should go into politics because he  
25 really has got something going. And I know his father.

1 And that is a sharp -- that is a sharp group.

2 Thank you.

3 CHAIR BAISA: Thank you very much,  
4 Mr. Mulvihill.

5 Questions for our testifier?

6 Member Johnson.

7 VICE-CHAIR JOHNSON: Thanks, Bart, for coming,  
8 driving and braving the Pali highway today.

9 MR. MULVIHILL: I can do it.

10 VICE-CHAIR JOHNSON: One of the things that, you  
11 know, you've -- you've talked about during your  
12 presentation is about zoning generally, what is permitted  
13 and what isn't permitted, and then private property  
14 rights.

15 Would you be in support of having the -- I guess  
16 through the General Plan process, which doesn't  
17 necessarily cost the individual having to go through the  
18 rezoning process, would that be one way that you could  
19 possibly see where some of these marginal lands or other  
20 family areas, where it's maybe very difficult to farm,  
21 where that could be possibly looked at by GPAC?

22 MR. MULVIHILL: I think that there was landmark  
23 legislation that gave this County incredible latitude to  
24 relook at the General Plan. I am referring to the 8550 Ag  
25 bill. We really should look at what we were doing there.

1 Because, now, the big landowners have the opportunity to  
2 dedicate 15 percent of their land to urban rural use.  
3 And. I think the County should give A&B and Maui Land &  
4 Pine the opportunity to say we will build affordable  
5 housing here. I think that law is a gift.

6 And in the GPAC, yes, I think you should  
7 seriously look at additional corridors of people where  
8 they can -- they can build a home and, also, have possible  
9 transient vacation rentals.

10 I think the latest law is a gift. And I urge  
11 this Council to work with A&B and Maui Land & Pine.  
12 Because the truly affordable home is going to be built  
13 through that law. And I hope, Mr. Hunt and the Council  
14 work with the large landowners and get the affordable  
15 housing built that we need so desperately.

16 VICE-CHAIR JOHNSON: Thank you, Bart.

17 MR. MULVIHILL: You're welcome.

18 CHAIR BAISA: Members, any additional questions  
19 for our testifier?

20 (Silence.)

21 CHAIR BAISA: If not, Mr. Mulvihill, thank you  
22 very much.

23 Our next testifier is Netra Halperin.

24 Is there anyone else who would like to testify?  
25 If you are out there, would you please come up and sign

1 up? We will try to complete testimony before we take our  
2 morning break.

3 Netra.

4 Oh, my.

5 UNIDENTIFIED SPEAKER: I saw her go down the  
6 elevator.

7 CHAIR BAISA: Oh, well.

8 Anyone else who would like to testify? If you  
9 would, would you please come forward?

10 You can sign your paper up after you have  
11 spoken.

12 Good morning, sir.

13 MR. GILLILAND: Good morning. I'll fill out my  
14 paperwork after.

15 CHAIR BAISA: No problem.

16 MR. GILLILAND: Aloha. My name is Lance  
17 Gilliland. I live in Haiku. And I am just a citizen who  
18 came here just to listen in, what was going on. And  
19 through the testimonies, it encouraged me to state my  
20 piece or give my piece of mind. So I made a few points.

21 First of all, my comments is that agriculture is  
22 not dead in Maui. Why you think the visitors are coming  
23 to Maui? They want to see our ranching, our farming.  
24 Without this, there is no -- there will be no attractions  
25 for us.

1           Two, check those who testified -- testifying to  
2           make sure that you -- their financial -- their motives are  
3           not financially gained versus -- or are they for  
4           sustainability. Meaning they just to keep their home live  
5           here for the rest of their lives.

6           Two, spending figures not accurate to use. Why?  
7           Because a hotel guest spending which is typically what  
8           gets -- gets published, a hotel guest is -- a hotel guest  
9           spends typically twice as much as somebody else who is  
10          going to stay at a home because why? Because these people  
11          are going to cook in the home, they are going to have  
12          lunch, dinner, that kind of stuff. So they don't spend as  
13          much money as a hotel guest who goes out, who does support  
14          many more jobs.

15          So just -- the figures are not accurate. I  
16          would say just go back and actually try to draw out what a  
17          person who was going to stay at a home, a TVR, and see  
18          what they are actually going to spend. It is different.  
19          It's going to be considerably different.

20          Three, with regards to ag zoned, agricultural  
21          zones. Why? I don't think this should happen. Why?  
22          Because the owner who purchased the property was well  
23          aware when they purchased, because their real estate agent  
24          is required to disclose it, it's ag. So if you didn't  
25          know what was your responsibility to do on that property,

1 that is actually your -- you need to read the fine print.  
2 You're responsible to know what that is. And it is a  
3 tough thing to -- tough road to meet.

4 Review on the -- in -- my last point is, need to  
5 review everybody who is coming in front of you on an  
6 individual basis.

7 The gentleman with the nursery, he's got --  
8 probably got a valid point. The bruddah right here, he  
9 has a valid point. He's trying to work it, you know.

10 I am living on property that's been in my family  
11 since 1811. You know, look at the -- the actual -- what  
12 is actually happening on that property and make the  
13 decision based on that.

14 I have cattle on mine. You know, I will never  
15 make -- I will never make enough -- my cattle will never  
16 make more income than if I was to put in a TVR. It  
17 wouldn't happen. So I am bound by that, you know. It's a  
18 tough thing. So you have to look at individual bases,  
19 what are they actually doing, are they truly doing  
20 agricultural production to their best ability. So look at  
21 'em in an individual basis. That is what I -- I would  
22 push.

23 It's a tough road, it's a lot of things to look  
24 at. I realize that. But that is the way they go.

25 And keep in mind, we want ag here. We want to



1 have our -- our horses, we want to have our cows, you  
2 know. That's my opinion.

3 So thank you very much.

4 CHAIR BAISA: Thank you for your testimony,  
5 Mr. Gilliland.

6 Any additional questions?

7 Member Victorino.

8 COUNCILMEMBER VICTORINO: Thank you.

9 Mr. Gilliland, thank you for being here.

10 I was interested in some of the statistics you  
11 brought forth as far as hotel guests. And what makes you  
12 an expert? I know, but I want them to know what makes you  
13 an expert in that area.

14 MR. GILLILAND: Twenty-four years in the  
15 industry.

16 COUNCILMEMBER VICTORINO: Yeah.

17 MR. GILLILAND: In the hotel industry, yes.

18 COUNCILMEMBER VICTORINO: Okay. So -- so you  
19 are speaking from fact?

20 MR. GILLILAND: Yeah.

21 COUNCILMEMBER VICTORINO: Now, you recently left  
22 and now is doing farming and some of the other things out  
23 in Haiku?

24 MR. GILLILAND: I am retired and Mr. Mom.

25 COUNCILMEMBER VICTORINO: Yeah. Let me start

1 over.

2 If we were to ask you to allow one unit on your  
3 property to be some sort of rental, vacation rental,  
4 long-term rental, would you think that would be  
5 appropriate for ag land?

6 MR. GILLILAND: In my position, yes. Believe  
7 that I'm biased, yes. Yes, because I am maximizing my  
8 property's uses. I have pasture. I have been ranching it  
9 since 1800s.

10 COUNCILMEMBER VICTORINO: Uh-huh.

11 MR. GILLILAND: So I haven't changed it. I did  
12 build my homes, but I haven't changed use. But I am bound  
13 by how much I can really gross income on it. I can only  
14 do so much. Beef cattle can only go so far.

15 COUNCILMEMBER VICTORINO: Thank you, Lance.

16 Thank you, Madam Chair.

17 CHAIR BAISA: Thank you very much.

18 Any additional questions for our testifier?

19 (Silence.)

20 CHAIR BAISA: If not, Mr. Gilliland, please sign  
21 up with the clerk. And thank you very much.

22 And I see another person approaching the podium.

23 Anybody else, if you are so moved, this is your  
24 chance.

25 Ma'am, would you give us your name?

1 MS. DECOSTERD: My name is Kutira Decosterd.  
2 And thank you very much for letting me talk this morning.

3 I didn't think I will talk. I was here just to  
4 listen in. But now I feel also inspired to just tell you  
5 a little bit about the different places out there.

6 I would like you to know about myself. I live  
7 here on this island for 25 years. My land I bought in  
8 1988, out in Huelo. It's 2.8 acres. And it was a piece  
9 (inaudible) -- just hao bushes -- nothing. I have no  
10 water by the County. I have no electricity by the County.

11 You are looking at the future of sustainability.  
12 I farm my land with everything what nature provides.

13 It would not be possible for me to farm that  
14 land because I am on a very windy place. The wind howls.  
15 I have a hard time to grow any fruit trees, even I put  
16 wind protector out. The only thing I am farming right now  
17 is bamboo, D bamboo, which is construction-able bamboo.

18 But I just went through a drought again the last  
19 few months. My bamboo looks quite beaten up. I don't  
20 have enough resources to pump my water from the well.  
21 Even I have rain catchment, I am constantly in struggle.

22 But, yet, what subsidize me is that I can have  
23 some income from a few tourists who really seek me out.  
24 That want to learn about sustainability. They want to  
25 learn about how you can make a piece of land workable.

1           And that I can host some of woofers. These are  
2           young students from around the world. They are called  
3           willing workers on organic farm. I have a few of them in  
4           my land, I make them work. They come here to learn from  
5           me. Because being 20 years out sustainable, be the  
6           greenest spot on Maui, I am proud.

7           But believe me, I cannot make it if I cannot  
8           have a little bit of income. I have to pack up.

9           And my mortgages are not from my housing or that  
10          I have big mortgages. My mortgages are from my solar  
11          system. I had to put in a solar system to pump the well  
12          and have some living force out there. And that was  
13          costing me lots of money, because I am the pioneer. I am  
14          been doing that since 20 years.

15          And people write about me. I get, about every  
16          week, a phone call, can we do an interview, we have a new  
17          green site out there, you are the future of Maui. And I  
18          go like, yeah, well.

19          I need to be out there to talk about  
20          sustainability, to teach our young people. And to make  
21          this possible is that you allow certain people on  
22          agriculture land to have a subsidized income. I need you  
23          to help me in that. Otherwise, I have to shut down. And,  
24          yet, I feel I am the future of sustainability.

25          CHAIR BAISA: Thank you very much. Thank you

1 for your testimony.

2 Members, questions?

3 Member Johnson.

4 VICE-CHAIR JOHNSON: Thanks so much for coming  
5 in. I've enjoyed, you know, hearing you speak before  
6 about your passion and your sustainable project that you  
7 have done.

8 My question would be that, with the property  
9 that you have, because you're principally off -- are you  
10 off the grid totally?

11 MS. DECOSTERD: Yeah.

12 VICE-CHAIR JOHNSON: I guess my question is from  
13 a regulatory perspective -- because we've heard other  
14 people say that the regulations are very difficult to  
15 meet, like fire flow standards, and if you are, obviously,  
16 operating any kind of commercial type, I guess, bed and  
17 breakfast or whatever it is. Do you -- have you ever  
18 checked into whether or not, from a County standard, that  
19 you would meet all the criteria in order to get a  
20 conditional use permit from fire flow and from all those  
21 other standards?

22 MS. DECOSTERD: Well, I am glad you asked me  
23 that question. And with that, I just want to give a  
24 really big mahalo to the Planning Department, to Jeff Hunt  
25 over there.

1           I am working with the Planning Department, with  
2 Robyn Loudermilk, my application is in. And I am so happy  
3 how Robyn works with me. I got through all the  
4 departments. I am actually very close for a Planning  
5 Commission hearing.

6           I have 120,000-gallon pond which is for my fire  
7 protection. I have sprinkling system. I am the state of  
8 the art, in a way. But I am not quite through. I have to  
9 actually go over and find out what else I need to do. But  
10 I am getting closer.

11           And I hope I will be approved because I feel my  
12 guests are safe, I have everything, and I have created the  
13 water flow. But believe me, it will be nice to know I can  
14 switch on and have juice coming from the County. It would  
15 be nice to know County pumps water out.

16           And, yet, I don't have those. And, yet, if I am  
17 looking into the future -- actually, I am starting to be  
18 proud and go like, wow, I am glad I don't have it. It  
19 made me to create something which maybe everybody has to  
20 look at, how we can create new ways of living. Green is  
21 really the buzzword. And we have to become green.

22           VICE-CHAIR JOHNSON: I am really glad that you  
23 are making progress. Because I think that this is  
24 something that I find really interesting, how are we going  
25 to accommodate those people that are actually not on the

1 grid with our current ordinances.

2 So thank you.

3 And be grateful that you are not on electrical  
4 provided, because the fuel surcharges are just going  
5 through the roof. So be happy that you are not getting a  
6 MECO bill.

7 Thank you.

8 MS. DECOSTERD: Well, I know. And right now, I  
9 am researching, actually, because the biodiesel goes up,  
10 too, it's \$3.99 a gallon. And I do need to subsidize in  
11 the winter. I don't have enough sun. And I have all  
12 solar. Now I am researching on tower, wind tower. Not  
13 windmills because I want -- the windmills corrode very  
14 fast. So I hope, by winter, I am going to have the wind  
15 tower in it. So when it rains, then there is wind; when  
16 it shines, I have the solar. And get even better power  
17 out there.

18 VICE-CHAIR JOHNSON: Thank you.

19 Thanks.

20 CHAIR BAISA: Member Victorino.

21 COUNCILMEMBER VICTORINO: Well, thank you. And  
22 you are a living example of green. And that's -- that's  
23 -- that is terrific.

24 I just want to make one clarification. Just so  
25 that you don't get excited, we don't provide electricity.

1 It's Maui Electric. The County does not control  
2 electricity. Just so that you get that clarification.

3 MS. DECOSTERD: Noted.

4 COUNCILMEMBER VICTORINO: The other part I  
5 wanted -- the other question I had for you is, how much  
6 solar panels do you have to provide the necessary power  
7 that you were just referring to?

8 MS. DECOSTERD: I have my entire house roof, and  
9 that is about 2,000 square foot roof, full with solar  
10 panel. And then I have a generator as a backup which runs  
11 on biodiesel. And I have to run that on late when I don't  
12 get enough sun. And that gives me enough to pump the  
13 well, which gives me -- but the well I only use for the  
14 house, and the rest is catchment. I also catch the water  
15 to irrigate our gardens.

16 Because, right now, we fully focus on food  
17 gardens. I want to be able, not only to sustain our  
18 family with the gardens, I want to give to my neighbors.  
19 And I will be ready, like Sharyn Stone was saying, to  
20 bring to the food bank.

21 I am now really hot to make that because I put a  
22 beehive in, because I didn't got enough of the  
23 propagation, I thought the bees. So I have two fully  
24 beehives working.

25 And, yes, my trees are getting a little bit



1 closer of maybe getting some fruits out.

2 And I have the state-of-the-art vermiculture,  
3 which I invested \$1,000 of a place where everybody can  
4 compost, and I get the best casting. And this --- this  
5 vermiculture station they use at the college schools where  
6 they get trained, you know, to put -- what do you feed  
7 worms.

8 And I love my worms. This is truly amazing.  
9 That -- I would say every school, everybody should have  
10 vermiculture.

11 And I train my guests. When they do come, they  
12 have to go to a little school, how to feed the worms, what  
13 is recycled, everything. So they really educating.

14 COUNCILMEMBER VICTORINO: Thank you. I was  
15 going to ask the next question, but she answered it all  
16 already.

17 So thank you, Madam Chair.

18 CHAIR BAISA: Thank you very much.

19 Members, any additional questions for our  
20 testifier?

21 (Silence.)

22 CHAIR BAISA: If not, I would like to thank you  
23 very much for testifying and for the pioneering that you  
24 are doing. I think it's admirable.

25 MS. DECOSTERD: Thank you.

1 CHAIR BAISA: Thank you very much. And please  
2 sign up --

3 MS. DECOSTERD: Yes.

4 CHAIR BAISA: -- with our clerk.

5 MS. DECOSTERD: Thank you very much.

6 CHAIR BAISA: Any additional testifiers in the  
7 audience? Anybody wanting to testify?

8 Seeing nobody rushing up here, I guess we are  
9 all tired and need a break.

10 Members, with no objections, the Chair would  
11 like to close public testimony.

12 COUNCILMEMBER MOLINA: No objections.

13 VICE-CHAIR JOHNSON: No objections.

14 CHAIR BAISA: Public testimony is closed.

15 ...END OF PUBLIC TESTIMONY...

16 CHAIR BAISA: And we will be taking our morning  
17 break. It is just about ten minutes to 11:00. We will be  
18 back at five minutes after 11:00.

19 We're now in recess....(gavel)...

20 RECESS: 10:48 a.m.

21 RECONVENE: 11:12 a.m

22 CHAIR BAISA: ...(gavel)...The Planning  
23 Committee will come back to order, please.

24 Thank you for the break. I think we all needed  
25 it. It had been a very busy morning.

1                   Members, I have asked the Staff to distribute a  
2                   memo, or a list, dated October 5th, which clarifies where  
3                   we stand procedurally regarding the B&B bill. And I am  
4                   hoping all of you have that.

5                   COUNCILMEMBER VICTORINO: You mean August 5th,  
6                   Madam Chair.

7                   CHAIR BAISA: Correct. I'm sorry. August 5th.

8                   COUNCILMEMBER VICTORINO: Okay. Thank you,  
9                   Madam Chair.

10                  CHAIR BAISA: Yes. The memo recites the four  
11                  motions approved on July 1st. In addition, the memo  
12                  indicates that I would like to receive a motion to  
13                  incorporate the recommendations of the Hana Advisory  
14                  Committee, Lanai Planning Commission, and the Molokai  
15                  Planning Commission.

16                  So to begin our deliberations, may I please  
17                  request such a motion so we can discuss it?

18                  VICE-CHAIR JOHNSON: So moved.

19                  COUNCILMEMBER MOLINA: Second.

20                  CHAIR BAISA: Thank you.

21                  We have a motion by Vice-Chair Johnson and a  
22                  second by Member Molina that we will now consider  
23                  incorporating the recommendations of the Hana Advisory  
24                  Committee, Lanai Planning Commission, and Molokai Planning  
25                  Commission. And that information has also been

1 circulated.

2 Any discussion?

3 Member Johnson.

4 VICE-CHAIR JOHNSON: I think it's important just  
5 to, you know, note that we have a summary that has been  
6 handed out of the Hana recommendations, the Lanai  
7 recommendations and the Molokai Planning Commission  
8 recommendations. So I think that maybe for purposes of  
9 the viewing public, if Staff would be so kind as to just  
10 read what those recommendations are? And then, if there's  
11 any comments by Mr. Hunt --

12 CHAIR BAISA: Before we do that, Member  
13 Victorino, do you have a copy of that list?

14 COUNCILMEMBER VICTORINO: Yes. Yes, Madam  
15 Chair. But I have a procedural question I want to ask.

16 CHAIR BAISA: Yes.

17 COUNCILMEMBER VICTORINO: This is the first time  
18 that we've gone straight into a motion to accept this.  
19 And being a non-voting member, okay, in the past we  
20 discussed, then motions are made and all that. So I want  
21 to ask either Corp. Counsel, or somebody, the procedural  
22 setup as far as our participation once a motion is made on  
23 the floor.

24 CHAIR BAISA: The Chair can answer your  
25 question.

1                   COUNCILMEMBER VICTORINO: Okay. Please, if you  
2 will.

3                   CHAIR BAISA: According to Robert's Rules of  
4 Order, proper parliamentary procedure is that there is a  
5 motion and a second and then a discussion.

6                   COUNCILMEMBER VICTORINO: Okay.

7                   CHAIR BAISA: And that is the procedure that we  
8 have been following. So we ask for a motion, we ask for a  
9 second, and then we open for discussion. You will have  
10 much opportunity to participate in the discussion that  
11 we're about to begin.

12                   COUNCILMEMBER VICTORINO: Okay. Thank you,  
13 Chair.

14                   CHAIR BAISA: Okay. Does everybody have the  
15 list? Okay.

16                   We will ask Mr. Raatz if he could please read  
17 what is on that sheet that everybody has for the benefit  
18 of our audience and our viewing audience.

19                   MR. RAATZ: Thank you, Madam Chair.

20                   As you mentioned in your memo which was  
21 distributed during today's meeting, this list is taken  
22 from the attachment to County Communication Number 08-61.  
23 That is the first document in the Committee's binder for  
24 this item. There are three recommendations that apply to  
25 this bill from the Hana Advisory Committee. Number one,

1 require one square foot -- excuse me. Require a  
2 one-square-foot permit identification sign. Number two,  
3 take the required project notice sign down five days after  
4 the permit is granted. Three, for more than three  
5 bedrooms, require public hearing by the approving entity.

6 So, again, those are the three recommendations  
7 that apply to the B&B bill from the Hana Advisory  
8 Committee.

9 Also, recommendations relating to B&Bs in the  
10 agricultural zoning district are not included on this list  
11 because of the Committee's prior vote to not authorize  
12 B&Bs in the agricultural zone.

13 Moving on to the Lanai Planning Commission,  
14 there are two recommendations. Number one, allow for  
15 grasscrete and tandem parking for the required parking  
16 stalls. Number two, require a one-square-foot permit  
17 identification sign which shall be attached to the -- an  
18 existing structure on the property, such as a fence.

19 Moving on to the Molokai Planning Commission,  
20 there are five recommendations. Number one, no more than  
21 three bedrooms shall be used as B&B rentals per each  
22 permit. Number two, the Molokai Planning Commission may  
23 grant a one-year permit, and the Planning Director may  
24 approve one-year extensions. Number three, allow for  
25 grasscrete and tandem parking for the required parking

1 stalls. Number four, require a one-square-foot permit  
2 identification sign which shall be attached to an existing  
3 structure on the property, such as a fence, and which  
4 shall identify the permit number and the permit holder's  
5 telephone number. Five, reduce the project notice sign to  
6 four square feet.

7 CHAIR BAISA: The Chair will -- thank you,  
8 Mr. Raatz.

9 The Chair will now ask our Planning Director if  
10 he has any additional comments to add, and then we will  
11 open it up for questions.

12 MR. HUNT: Thank you, Chair.

13 No, we have nothing to add to those comments.

14 CHAIR BAISA: Thank you very much.

15 Members, discussion?

16 Member Molina.

17 COUNCILMEMBER MOLINA: Thank you, Madam Chair.

18 Question for Director Hunt with regards to  
19 the -- I guess the recommendations that, you know, differ  
20 from, say, the Molokai Planning Commission, the Lanai  
21 Planning Commission. Can I get comment from the Director  
22 with regards to Molokai? The Molokai Planning Commission  
23 there suggested that they may grant a one-year permit and  
24 the Planning Director may approve one-year extensions,  
25 whereas the Lanai Planning Commission didn't go for that.

1 I mean, how was this process initiated?

2 And, again, I realize these are recommendations,  
3 but I am just curious why one planning commission kind of  
4 somewhat differs in their recommendations versus the  
5 other, and how does this compare to Maui, you know?

6 CHAIR BAISA: Mr. Hunt.

7 COUNCILMEMBER MOLINA: I don't know if you can  
8 answer all of that at once, but I would like to hear your  
9 thoughts.

10 CHAIR BAISA: Mr. Hunt's lived it, so I am sure  
11 he can tell.

12 MR. HUNT: The process is that we take these  
13 bills to each planning commission. Because they affect  
14 each of the islands, we have to go to all three of the  
15 planning commissions. Then they have their opportunity  
16 based on their local concerns, or their views, to make  
17 their recommendations or suggestions. So they don't  
18 always know what the other planning commissions are  
19 recommending. Sometimes they do, but not necessarily.  
20 And quite often, it's just very provincial in the sense  
21 that they are looking out after their own concerns. So  
22 they don't necessarily mesh up.

23 COUNCILMEMBER MOLINA: Okay. So in the instance  
24 where the Molokai Planning Commission wants this authority  
25 where they can grant one-year permits, what was the cause



1 for that? And, also, giving you the approval for one-year  
2 extensions? What is the nexus for that?

3 MR. HUNT: The Molokai Planning Commission, in  
4 general, takes more of a view that there shouldn't be  
5 delegation down to the Planning Department. They like to  
6 make those decisions at the Planning Commission level.  
7 For example, SMA exemptions, they passed a rule that said  
8 the Department can't issue a SMA exemption, that it has to  
9 be done at the Planning Commission level. They like to  
10 retain the control. And the other side of the coin is it  
11 causes streamlining problems.

12 COUNCILMEMBER MOLINA: Okay. Thank you. That  
13 is all I have for now. I'll probably have some more  
14 later.

15 Thank you, Madam Chair.

16 CHAIR BAISA: Thank you, Member Molina.

17 Member Hokama.

18 COUNCILMEMBER HOKAMA: Chair, first, just a  
19 point of clarification. The motion is a motion to amend  
20 the main motion, correct?

21 CHAIR BAISA: Correct.

22 COUNCILMEMBER HOKAMA: Thank you.

23 I will be speaking in support of the -- your  
24 recommendation.

25 One, I think, for me, Madam Chair, I think each

1 commission was concerned and showed great respect for the  
2 community planned process. If you notice in the minutes  
3 of the commission's hearings on the subject matter, there  
4 was great discussion about retaining control through the  
5 community planned processes, that each region should be  
6 viewed independently, although we are looking at some sort  
7 of comprehensive overall legislation to authorize it. I  
8 believe that we are at a point of our maturity as a  
9 community and as local government that we need to  
10 appreciate the differences of each community planned  
11 region.

12 And so, for me, again, even though I may have  
13 some differences with my own commissioners from Lanai, I  
14 will support their recommendation that has been put  
15 forward to the Council. Because I think it reflects  
16 executive gesture the -- the recognition of the community  
17 planned region.

18 And, you know, for Mr. Mateo, who is  
19 unfortunately not here this morning, and his continued  
20 advocacy to recognize Molokai's uniqueness, as well as my  
21 advocacy of Lanai's uniqueness, and the differences of  
22 inventory, the variety of accommodations that are  
23 available for use on each island, I am happy to support  
24 your motion to amend at this time.

25 CHAIR BAISA: Thank you very much, Chair Hokama.

1 The Chair shares your sentiments exactly.

2 In discussing this with the Planning Director, I  
3 felt it was very, very important to incorporate and  
4 respect the recommendations of the various commissions,  
5 because I don't see any point in going out and spending  
6 all that time and energy in having them work so hard to  
7 produce what they feel are representative of their  
8 community and then not paying attention to it. And we do  
9 have to recognize that those, you know, neighboring areas  
10 are very different and very distinct in their needs. And  
11 I think that we have to respond to that. That way, we  
12 encourage their participation because they say, wow, they  
13 paid attention to us.

14 So I think it's really important. I appreciate  
15 your support. Thank you.

16 Members, any further comments?

17 Member Johnson.

18 VICE-CHAIR JOHNSON: I'd just like to, first of  
19 all, thank you and, also, thank Staff and Mr. Hunt for --  
20 and I guess looking at -- because there were  
21 recommendations and you had to go through the minutes.  
22 And, you know, it sometimes is difficult to know what is  
23 legal, what isn't legal, what is within the sign  
24 ordinance, what isn't within the sign ordinance, and to  
25 test all these things for actual compliance with existing

1 laws. So I appreciate that.

2 And as has been said before by, you know, both  
3 yourself and Council Chair Hokama, it is an issue of  
4 respect for those communities. And I think that they are  
5 very different, they have very different problems, and  
6 their approaches are very different.

7 So I am in full support of this modification,  
8 even though it -- it may seem, well, it's inconsistent,  
9 you know, the beauty of making laws is that it's not  
10 always a one size fits all. And so that is what I like  
11 about this, that we respect those various areas that are  
12 very protectionist about their communities and maintaining  
13 that uniqueness. So I am happy to support it.

14 CHAIR BAISA: Thank you, Member Johnson.

15 You know, it's -- you brought up something that  
16 is one of my favorite things. You know, when you go to  
17 the store and they have a garment, and they say one size  
18 fits all. And my comment is always, they haven't seen  
19 all. You know, it's about this big. Right? And I  
20 couldn't put my toe in it. And it's always funny. So you  
21 are right, you know, one size does not fit all.

22 Member Molina.

23 COUNCILMEMBER MOLINA: Thank you, Madam Chair.

24 You know, obviously, as seconder of the motion  
25 I'll support it. But I think it's important that I ask

1 the question as to why it's so diverse. So -- because  
2 it's educational for all. Because here on Maui island, we  
3 may look at something different versus what Lanai or  
4 Molokai or even Hana Advisory Committee has. I mean, look  
5 at Hana, they want the signs taken down within five days  
6 after the permit is granted, where I don't see anything of  
7 that nature for Lanai and Molokai. But it's just  
8 interesting to know why, you know, each community is  
9 diverse.

10 I mean, we all say we're one county, you know.  
11 So sometimes we're talking we're all together and, at  
12 other times, we're different. So just to, you know, let  
13 people know, we're all one, but there are times when we  
14 need to be different. And even when considering laws,  
15 sometimes changes have to be made in certain areas or in  
16 certain things. So it's okay to be different, but it's  
17 important we understand why we are different.

18 So, anyway, thank you, Madam Chair.

19 CHAIR BAISA: Thank you very much, Member  
20 Molina.

21 I think that is a point well-taken. You know,  
22 when we first started talking about this between myself  
23 and the Planning Director, you know, of course, the  
24 Planning Director would like to have everything be  
25 consistent. It's easier to implement. It's usually, you

1 know, easier to enforce. But he also recognizes that, you  
2 know, we have distinct areas. And it's really important  
3 that our laws make sense to the people who live in those  
4 areas. Otherwise, you know, I don't think we serve them  
5 well.

6 So, again, thank you very much for your comments  
7 and your second and your support.

8 Are there any additional comments or questions,  
9 or are we ready to vote?

10 Chair sees nothing happening. I guess we're  
11 ready to vote.

12 All those in favor of supporting this amendment  
13 to the main motion, please say "aye."

14 (A chorus of ayes.)

15 CHAIR BAISA: Opposed, no?

16 (Silence.)

17 CHAIR BAISA: Motion is carried. We have ayes  
18 from our all four members present. That is myself, Member  
19 Hokama, Member Johnson and Member Molina. And excused  
20 today is Member Medeiros.

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1 VOTE: AYES: Councilmembers Hokama and Molina,  
2 Vice-Chair Johnson, and Chair Baisa.

3 NOES: None.

4 ABSTAIN: None

5 ABSENT: None.

6 EXCUSED: Councilmember Medeiros.

7 MOTION CARRIED.

8 ACTION: APPROVE amendment.

9 CHAIR BAISA: Okay. Thank you very much. We  
10 will move on here.

11 We know that there are many other issues that  
12 have to be handled. Are there any other motions, or  
13 should we -- would you prefer that the Planning Director  
14 kind of guides us through the rest of the issues? He is  
15 prepared to do that.

16 Yes, Member Anderson.

17 COUNCILMEMBER ANDERSON: I would like an  
18 opportunity to ask a question regarding the vote at the  
19 last meeting allowing B&Bs as a permitted use in rural  
20 zoning districts. It was brought to my attention that if  
21 -- if B&Bs become a permitted use in the rural zoning  
22 district, then all housing in the rural zoning district  
23 that is not occupied by a homeowner and classified as  
24 homeowner, meaning all housing in the rural zoning  
25 district that is dedicated to long-term rental, that

1 housing, as well as the B&B housing, will be classified as  
2 hotel for real property tax purposes. Meaning that if you  
3 have a B&B in the rural zone and it is now listed as a  
4 permitted use in rural zoning, then property tax division  
5 looks at the highest and best use of the property. And if  
6 B&Bs become an automatic permitted use in rural, then all  
7 housing in rural will be classified -- or will be taxed at  
8 the hotel rate because that would be the highest and best  
9 use in rural. Unless, of course, the housing is occupied  
10 by a homeowner who gets the homeowner exemption and goes  
11 into the homeowner's class.

12 This concerns me, Madam Chair, because, you  
13 know, the hotel tax rate is at least -- it's double what  
14 the rural and agricultural rate is, thereby doubling the  
15 property tax for that property owner. And if that  
16 property owner is renting to long-term renters, they are  
17 going to pass that on to the long-term renter.

18 So I just want us to be very clear on what the  
19 consequences are if -- if -- if we allow B&Bs as a  
20 permitted use, if the result would be an increase in the  
21 property tax for all housing in the rural zone that is not  
22 homeowner-occupied.

23 So if -- I see Scott Teruya is here, if he might  
24 want to answer that or address that for clarification.

25 CHAIR BAISA: Thank you for your question.



1           Before I turn it -- before we ask Mr. Teruya to  
2           comment, Members, any additional comments you would like  
3           to make?

4           Member Hokama.

5           COUNCILMEMBER HOKAMA: It is my understanding,  
6           if we are talking specifically about bed and breakfast,  
7           Madam Chair --

8           CHAIR BAISA: Correct.

9           COUNCILMEMBER HOKAMA: -- that how we've viewed  
10          it in the past in the proposal is that it needs to be  
11          occupied by the property owner.

12          CHAIR BAISA: Right.

13          COUNCILMEMBER HOKAMA: So, therefore, the  
14          property owner, for that portion of his own personal  
15          family use, will be able to qualify for a homeowner's  
16          exemption under the current real property tax provisions.

17          When we grant, though, a B&B as it is currently  
18          in the ordinance, and we have reaffirmed it on a past few  
19          renewals of application, we've assessed them at improved  
20          residential. And that is my current understanding of the  
21          practice of rural property.

22          So if Mr. Teruya can either confirm what we  
23          believe has been the County's practice -- or is there a  
24          new interpretation? Again, we're going, again, back to  
25          interpreting, you know, and opinions. I think we need to

1 make it very clear so that those that wish to endeavor  
2 into another use of property, they are well aware and no  
3 one can plead ignorant of exactly what is required from  
4 the County for such activity.

5 CHAIR BAISA: Any other Members want to comment  
6 before I call on Mr. Teruya?

7 Member Johnson.

8 VICE-CHAIR JOHNSON: I know we haven't gotten to  
9 the part of the capping of the number and the areas where  
10 they are permitted, so I guess I will wait to, you know,  
11 hear. Because my understanding is that this is not going  
12 to be everybody that would fall under that category  
13 necessarily because we would be putting limitations on the  
14 number of permits actually issued.

15 Thanks.

16 CHAIR BAISA: Thank you, Member Johnson.

17 All right. We are very fortunate to have with  
18 us today our Real Property Tax Administrator, Scott  
19 Teruya.

20 Thank you for coming, Mr. Teruya.

21 He has been very patiently waiting in the corner  
22 for us to get to him. We really appreciate his  
23 attendance.

24 Scott, if you could answer the questions,  
25 please.

1                   MR. TERUYA: Madam Chair and Council Members,  
2                   seems like I might have muddied the water a little for  
3                   Ms. Anderson. You know, we're in a lot of meetings with  
4                   B&B and TVRs. And I think we've got to get them  
5                   straightened out.

6                   In regards to bed and breakfasts, if it's  
7                   allowable in the agricultural district, no, it will not  
8                   impact or change it to hotel resort, because it is -- the  
9                   B&Bs, you must be owner-occupied. So it would be --  
10                  Chairman Hokama is somewhat correct in that it goes back  
11                  to the original zoning. It doesn't necessarily go back to  
12                  improved residential. Because if you -- for example, if  
13                  you are in Maui Meadows where it's zoned agriculture and  
14                  you do a B&B, first of all, you got to be an  
15                  owner-occupant, right? Or rural zone. Okay. It would  
16                  fall back to agriculture. You don't get the home  
17                  exemption, so you can't go into the homeowner class. So  
18                  you will fall back to your current zoning, which is rural,  
19                  which would be agriculture. However, if it is a  
20                  TVR-approved area, then, yes, it would go to hotel.

21                  So it's a little different from B&B because it's  
22                  not a true short-term rental, yeah. It may be a room,  
23                  right? But if it's allowed for TVR purposes, the  
24                  structure could be short-term rented. Right? So,  
25                  therefore, it would be in hotel resort.

1 CHAIR BAISA: I think one of the big differences  
2 here is the fact that, at the moment, we are talking about  
3 B&Bs.

4 MR. TERUYA: Yes.

5 CHAIR BAISA: Yeah. And I think we get confused  
6 a lot between what exactly is on the table. Right now, we  
7 talking about bed and breakfast. And we have already  
8 decided that means an owner.

9 Member Anderson.

10 COUNCILMEMBER ANDERSON: Yes. So just to  
11 clarify, as long as the owner is on the property, they get  
12 the homeowner's exemption and the property would not be  
13 taxed at the hotel rate. But if TVRs -- is that correct?

14 MR. TERUYA: Well, are we talking about bed and  
15 breakfast?

16 COUNCILMEMBER ANDERSON: Yes.

17 MR. TERUYA: Because bed and breakfast, you have  
18 to live in the property. But according to the ordinance,  
19 it doesn't allow you to get an exemption. So you cannot  
20 be in the homeowner class. You will be in the zoning that  
21 underlies your property. So if you are in the residential  
22 district, it would be improved residential. If you are in  
23 the rural or agriculture district, it would be  
24 agriculture.

25 COUNCILMEMBER ANDERSON: Okay. And that's as

1 long as the property owner is on the property that is  
2 being used as a B&B?

3 MR. TERUYA: Yes.

4 COUNCILMEMBER ANDERSON: So if -- the scenario  
5 that I described earlier, that would apply to TVRs?

6 MR. TERUYA: Correct.

7 COUNCILMEMBER ANDERSON: If the owner of the  
8 property is not on the property that is being short-term  
9 rented, then that property would be taxed -- no matter  
10 what the zoning classification is, it would be taxed as  
11 hotel?

12 MR. TERUYA: That is correct.

13 COUNCILMEMBER ANDERSON: So if this body were to  
14 require -- I guess a property manager wouldn't qualify.  
15 So if they were to allow -- if they were to require a  
16 homeowner to be on the property for a TVR, then it's  
17 essentially the same as a B&B?

18 MR. TERUYA: I kind of got lost in that.

19 CHAIR BAISA: Yeah. So did I.

20 MR. TERUYA: I will put it this way. If you are  
21 operating a transient vacation rental and you do not have  
22 a home exemption, a qualified homeowner, you will be in  
23 the hotel classification.

24 COUNCILMEMBER ANDERSON: Okay.

25 MR. TERUYA: Yes.

1 COUNCILMEMBER ANDERSON: And then in that  
2 instance -- if I may, Madam Chair -- I know you were  
3 talking about the B&B bill, but I think it's important to  
4 see the big picture. And since we do have the advantage  
5 of Mr. Teruya being here, I just want to take it one step  
6 further.

7 So if -- in a transient vacation rental  
8 situation, whether or not there's a property manager  
9 on-site or not, that property, no matter what its zoning  
10 classification, it's going to be taxed at the hotel rate?

11 MR. TERUYA: Under your circumstance, yes.

12 COUNCILMEMBER ANDERSON: And if it happens that  
13 this body were to permit TVRs in the rural zone, as a  
14 permitted use under rural zoning, then would that mean  
15 that all rental properties, i.e. properties not occupied  
16 by a homeowner, would then be taxed at its highest use,  
17 which would be hotel?

18 MR. TERUYA: Yes.

19 COUNCILMEMBER ANDERSON: Okay. Thank you, Madam  
20 Chair.

21 CHAIR BAISA: Okay. Mr. Hopper.

22 MR. HOPPER: I just wanted to clarify and make  
23 sure Real Property is aware of the amendments that you  
24 have considered to the bed and breakfast bill which would  
25 now allow someone to reside in one dwelling on the

1 property and rent out a separate dwelling on the same  
2 property. I don't know how that would apply, but I  
3 believe that's -- that's an additional situation that the  
4 Body may consider under these circumstances, which could  
5 be significant.

6 CHAIR BAISA: Mr. Teruya, comments?

7 MR. TERUYA: Yes. The current ordinance states  
8 that when a person qualifies for a home exemption, the  
9 entire parcel is classified as homeowner. We are not  
10 current -- as soon as you get that home exemption, whether  
11 you have two or three homes, the whole property is  
12 classified as homeowner. You don't separate it in  
13 separate classifications, unless you guys identify that  
14 it's going to be different.

15 CHAIR BAISA: Okay.

16 COUNCILMEMBER ANDERSON: And just to follow up  
17 on that, Mr. Teruya. That is because, when you look at  
18 the way the property tax is assessed, you assess the land  
19 and you assess the buildings and then you -- and because  
20 we happen to have tax rates the same for the land and the  
21 building, basically you add it together. And so it  
22 doesn't matter how many buildings that you are assessing,  
23 it's the value, the total value that you are assessing, is  
24 that correct? And I mean the way that it's structured  
25 right now?

1           MR. TERUYA: Well, currently, the assessments  
2           are done based on its value. Right? Land and building  
3           are separate. By ordinance, we are required to do it.  
4           But, ultimately, what we are doing is we are doing a total  
5           value, this is what the property is worth.

6           The allocations in a condominium, for example,  
7           are relatively very hard to understand on how we  
8           proportion what is land and what is building. But the  
9           total value is there.

10          And like I mentioned, the Code specifically  
11          states that it's going to be the highest and best use of  
12          the land. But once you qualify for this home exemption,  
13          the property is classified as homeowner, the entire  
14          property.

15          COUNCILMEMBER ANDERSON: Okay. Thank you,  
16          Chair.

17          CHAIR BAISA: Thank you very much.

18          And Member Molina.

19          COUNCILMEMBER MOLINA: Thank you, Madam Chair.

20          I just need further clarification from  
21          Mr. Teruya related to Member Anderson's question. By us  
22          allowing bed and breakfasts in a rural area, how does this  
23          impact, you know, somebody else's property in terms of  
24          assessed value? Does this mean they are going to be  
25          paying higher property tax because we're allowing bed and



1 breakfasts in a rural area?

2 MR. TERUYA: Okay. Well, first of all, we got  
3 to remember that assessments and our taxes are different.  
4 Right? If you are going to ask me an assessment question  
5 on allowing a B&B in the rural district, only sales would  
6 dictate whether it's up or down. All right.

7 So right now, without it being clearly defined  
8 as what properties are B&B or TVRs, there is no study to  
9 see whether or not it's worth more or worth less. I don't  
10 know until -- if you were to designate properties that  
11 have TVRs or B&Bs, and we can flag them, and, when they  
12 sell, do an analysis of whether a B&B or TVR sells more  
13 than one that doesn't have one, I couldn't tell you. So  
14 until you guys clearly define the differences and we can  
15 do analysis on the sales, I couldn't tell you which way it  
16 would go.

17 COUNCILMEMBER MOLINA: So at this point  
18 everything is just speculation, then?

19 MR. TERUYA: Exactly.

20 COUNCILMEMBER MOLINA: Okay. That's what I  
21 wanted to know. Because I got concerned when I heard that  
22 question. I am like, whoa, you know, I certainly wouldn't  
23 want to support something that is going to cause someone  
24 else's property tax --

25 MR. TERUYA: The assessments are based on sales.

1           Until we get the data to do -- to provide that analysis  
2           for you, it's -- it would be speculation.

3                   COUNCILMEMBER MOLINA:   Okay.  Thank you very  
4           much.

5                   Thank you, Madam Chair.

6                   CHAIR BAISA:   Thank you very much.

7                   Member Johnson.

8                   VICE-CHAIR JOHNSON:   Yes.  And this would  
9           probably be for Mr. Hunt and then Mr. Teruya.

10                   Because we have a -- you know, like we're  
11           looking at caps, or we're looking at still a process, a  
12           permit process, and because the permit is not  
13           transferable, and it's not just wholesale outright  
14           permitted use in these rural areas for B&B, do you see  
15           everybody being impacted or only those people who are  
16           actually seeking the permits on that rural-zoned land?

17                   MR. HUNT:   Impacted tax-wise?

18                   VICE-CHAIR JOHNSON:   Yes.

19                   MR. HUNT:   I would defer to Scott on that.

20                   VICE-CHAIR JOHNSON:   Okay.

21                   CHAIR BAISA:   Mr. Teruya.

22                   MR. TERUYA:   Sorry, I had a brain drain.  Can  
23           you repeat the question?

24                   VICE-CHAIR JOHNSON:   Mainly because what we are  
25           doing is it's not that we are changing the rural zoning to

1 have TVRs as an outright permitted use --

2 MR. TERUYA: Okay.

3 VICE-CHAIR JOHNSON: There is going to be a  
4 process, which is why we are going through this ordinance,  
5 because we're also looking at certain constraints and  
6 certain areas as to numbers. And the person has to  
7 specifically apply for the permit. Would somebody who has  
8 gone through that process be taxed at a similar rate by  
9 somebody who hasn't gone through the process?

10 In other words, I am not wanting to subject  
11 somebody who is living in a rural district from having  
12 their taxes go up because his next door neighbor has a  
13 TVR. And because it is controlled, at least, you know,  
14 where we're going with this would be by permit, wouldn't  
15 it be only those properties that are applying for those  
16 permits that would be specifically impacted?

17 MR. TERUYA: Yes. This would be similar to a  
18 conditional use permit.

19 VICE-CHAIR JOHNSON: Uh-huh.

20 MR. TERUYA: That if you blanket approve all  
21 those in rural, then all those have a greater use.

22 VICE-CHAIR JOHNSON: Uh-huh.

23 MR. TERUYA: So then they would all be impacted.  
24 But if it's only like spot or by -- by permit, then it  
25 would be just that applicant or that parcel that would be

1 under the different situation. Yes.

2 VICE-CHAIR JOHNSON: Okay. I appreciate that.

3 And then with regard to, I think you spoke  
4 briefly about condominiumization. Because, oftentimes, a  
5 tax map key will be split into a condominium property  
6 regime, and because what is occurring now currently on  
7 some of our zoned lands, if you have two people living on  
8 one TMK -- and I am thinking because we're talking  
9 strictly about rural -- they both get the homeowner  
10 exemption currently on one TMK, is that correct?

11 MR. TERUYA: Yes. That is partially correct.  
12 It is one master parcel that gets condominiumized and  
13 ultimately reassigned CPR numbers to each of the units.  
14 Each unit can qualify for their own home exemption. And  
15 each unit will be classified based on its actual use.  
16 Once you condominiumize, 3.48.305C allows the owner to --  
17 that condominiumized, that right to declare their actual  
18 use.

19 VICE-CHAIR JOHNSON: So you could conceivably  
20 have one parcel -- depending on what the Code would allow,  
21 as far as structures on that property, you could  
22 conceivably have several homeowner exemptions on that one  
23 lot if it was condominiumized?

24 MR. TERUYA: Yes. That is correct.

25 VICE-CHAIR JOHNSON: Okay. Thank you.

1 CHAIR BAISA: Okay. Well, this gets  
2 complicated, doesn't it?

3 Okay. The Chair would like to at least address  
4 one more item before we adjourn today. We may have a late  
5 lunch.

6 Okay. Director Hunt, can you please take us to  
7 the next issue? I know you have a list.

8 Did we take action? We voted. Yes, we voted on  
9 the Molokai, Lanai issue.

10 We did not have a motion in regards to the issue  
11 we were just discussing on taxes.

12 Okay. You are next, Mr. Hunt.

13 MR. HUNT: The memo of June 27th made some  
14 proposals that we never got action on. And one way or  
15 another, we would like your input.

16 On page two, we suggested some house rules be  
17 incorporated into the B&B ordinance. Essentially, these  
18 house rules would become part of the law. And each B&B  
19 would be required to post those house rules. They address  
20 impacts to the neighbors.

21 CHAIR BAISA: Can you point us to the page --  
22 I'm sorry -- in number -- in ordinance number two, the one  
23 we are looking at, the B&B ordinance.

24 COUNCILMEMBER ANDERSON: What's the date again,  
25 Madam Chair?

1 CHAIR BAISA: June 27th.

2 MR. HUNT: The memo is dated June 27th from the  
3 Department. It is on page two of that memo.

4 It would affect 19.64, Section 30. And we're  
5 suggesting that house rules be codified. And the house  
6 rules would address quiet hours, amplified sound, vehicle  
7 parking. I guess that is it, those three items. This was  
8 in response to some concerns expressed at the Planning  
9 Commission hearings. And I believe that before this Body,  
10 also.

11 CHAIR BAISA: To allow us to proceed with this  
12 discussion, may I have a motion to adopt -- to amend the  
13 main motion to include the house rules?

14 VICE-CHAIR JOHNSON: So moved.

15 COUNCILMEMBER MOLINA: Second.

16 CHAIR BAISA: Thank you very much.

17 We have a motion by Member Johnson, a second by  
18 Member Molina.

19 Members, questions in regards to the house  
20 rules?

21 VICE-CHAIR JOHNSON: I am not going to ask any  
22 questions, but I just think that my comment is that the --  
23 exactly what was expressed by Mr. Hunt is why this section  
24 should be added in because it, at least, gives a little  
25 bit more enforcement capability. And if people are found

1 to be operating a B&B and are in violation of not having  
2 posted house rules or not having people adhere to them,  
3 then I think that also gives cause for reviewing the  
4 permit.

5 CHAIR BAISA: Thank you.

6 Any other comments?

7 Member Molina, and then Member Hokama.

8 COUNCILMEMBER MOLINA: Thank you, Madam Chair.

9 Mr. Director, the number three, where it says  
10 vehicles shall be parked in the designated on-site parking  
11 area and shall not be parked on the street overnight, how  
12 do we monitor that?

13 MR. HUNT: We would probably rely on concerns  
14 from the neighbors, frankly. We do site inspections when  
15 we look at time extensions.

16 COUNCILMEMBER MOLINA: Uh-huh.

17 MR. HUNT: But we don't go out there on a  
18 regular basis and do that.

19 COUNCILMEMBER MOLINA: So it will just be,  
20 basically, complaint-driven. Because I know we don't have  
21 our planners -- or our enforcers going out at night, in  
22 general, right? Okay.

23 Okay. Thank you.

24 CHAIR BAISA: Thank you, Member Molina.

25 I don't see this as any different than all the

1 other parking rules we have. You know, I was shocked a  
2 few meetings ago to find out that there was a rule about  
3 parking on the street overnight. Because if we were to  
4 enforce that, there would be major issues in this  
5 community. There's cars parked overnight all over the  
6 place.

7 Member Hokama.

8 COUNCILMEMBER HOKAMA: I would -- I would concur  
9 with your statement, Chair.

10 Although, I think the primary concern, and I  
11 support the intent, is the safety of the road system and  
12 the ability of emergency vehicles to have access through  
13 very narrow roadways. Because I believe the Code is 16  
14 feet minimum width. And if you got cars on each side of  
15 the lane, and we all know how big our fire trucks and  
16 other equipment are nowadays, there is a concern of  
17 access. So I appreciate the consideration.

18 The -- my question for the Department, and maybe  
19 Director Hunt, would be the choice of the word amplified  
20 sound. Because I have been to functions in areas that, as  
21 we use the term in government, legal non-conforming lot  
22 size, whereby it doesn't have to be amplified, but, at  
23 midnight, you know, a paina in your neighbor's yard is  
24 very loud. So help us appreciate the recommendation of  
25 that it needs to be amplified sound only, please.



1           MR. HUNT: I think we were looking at -- and we  
2 probably pulled this up off of some existing language  
3 somewhere. Condition Number One speaks to just quiet  
4 hours in general.

5           COUNCILMEMBER HOKAMA: Uh-huh.

6           MR. HUNT: And so if people are partying in the  
7 hot tub without amplified sound and they are still  
8 disturbing people, we still have some recourse.

9           COUNCILMEMBER HOKAMA: Uh-huh.

10          MR. HUNT: I think this is just an extra step.

11          COUNCILMEMBER HOKAMA: I think it's --  
12 Mr. Alueta is -- I think haven't we put this as part of  
13 our normal conditions of various conditional permits  
14 regarding the County's concern of supporting neighbors'  
15 ability of enjoyment and peace of property during the  
16 evening and night hours? This would just make it standard  
17 instead of part of one condition of every single permit or  
18 request that has come before the County.

19          MR. ALUETA: It's been mostly specific to areas  
20 where we granted conditional permits. The most recent  
21 permit that I -- I haven't done land use permits in a  
22 while, but was Haleakala Ranch Visitors Center was where  
23 that -- was amplified music was specifically prohibited  
24 during that State special use permit and County  
25 conditional permit. That was -- but it has been more

1 specific to land use permits such as those.

2 COUNCILMEMBER HOKAMA: Chair, I am happy to  
3 support this proposal. One, I think because even with my  
4 concerns such as my colleague, Mr. Molina, regarding  
5 vehicles and on-street parking, the Department, as I have  
6 been made to understand, will be reviewing the site plan,  
7 the parking for the amount of rooms that are being  
8 requested for bed and breakfast type of use. And there  
9 should be no excuses why that vehicle needs to be on the  
10 road for parking purposes. So I can support this  
11 consideration.

12 Thank you.

13 CHAIR BAISA: Thank you very much.

14 I totally understand the need to keep our roads  
15 clear. I also understand that we must have a terrible  
16 time trying to enforce this because, you know, people just  
17 have nowhere to park and so they park wherever they can  
18 park. And I certainly don't want to encourage it. And I  
19 think as part of the permit process that like the  
20 Department checks to see, do they have enough space on  
21 their land, on their own lot, to accommodate the number of  
22 cars that their business is going to generate. And then  
23 we have to just, I guess, like everybody else -- unless  
24 somebody calls and says there's a car on the road and it  
25 shouldn't be there, I don't think that we have the

1 enforcement capability to go out and patrol the streets at  
2 night to make sure that the cars are where they belong. I  
3 mean, you know, I don't see this as such an unusual  
4 situation. I mean, I drive around at night. And I know  
5 you do, too. It's hard. It's really -- we have a lot of  
6 cars where they don't belong.

7 Yes, Chair.

8 COUNCILMEMBER HOKAMA: But I wish to state  
9 the -- Madam Chair, that the Department of Police does  
10 enforce, and that you occasionally get a citation for  
11 violating the Code regarding overnight parking. So it's  
12 not something that we just dismiss.

13 If we wish to adjust, then we need to amend the  
14 Code and do the proper legislation. But I don't wish by  
15 our comments in this open meeting infer that the  
16 Department of Police will not do their duty, you know. I  
17 have seen them cite vehicles for illegal parking,  
18 overnight parking, particularly those that tend to park in  
19 front of stop signs, for whatever strange reason, and  
20 block --

21 CHAIR BAISA: Or fire hydrants.

22 COUNCILMEMBER HOKAMA: -- the appropriate  
23 clearances for safety and intersectional use. So I just  
24 wish to make that comment.

25 CHAIR BAISA: Well, our men in blue are very,

1 very busy. And I think parking probably comes on the  
2 bottom of the list when they are dealing with all kinds of  
3 stuff. You know, I don't pay too much attention to police  
4 radios, but people who do -- and there's one newspaper on  
5 Maui that publishes the police blotter. And when I read  
6 it, I cannot believe how much stuff our policemen are  
7 dealing with. It's just unbelievable.

8           Anyway, we don't want to beat this to death.  
9 Are we okay with adopting the house rules, and are we  
10 ready to vote?

11           All those in favor of the amendment, please say  
12 "aye."

13           (A chorus of ayes.)

14           CHAIR BAISA: Opposed, no?

15           (Silence.)

16           CHAIR BAISA: The amendment passes. Mark it  
17 four ayes. And that will be myself, Mr. Hokama,  
18 Ms. Johnson and Mr. Molina. And excused, Bill Medeiros.  
19 So the amendment passes.

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1 VOTE: AYES: Councilmembers Hokama and Molina,  
2 Vice-Chair Johnson, and Chair Baisa.

3 NOES: None.

4 ABSTAIN: None

5 ABSENT: None.

6 EXCUSED: Councilmember Medeiros.

7 MOTION CARRIED.

8 ACTION: APPROVE amendment.

9 CHAIR BAISA: Can we try one more, maybe a quick  
10 one?

11 Yes, Member Johnson.

12 VICE-CHAIR JOHNSON: Madam Chair, I make the  
13 following motion, to add the following subsection to  
14 19.64.030 which states -- it would be Q -- the County  
15 shall be restricted in approving permits for bed and  
16 breakfast homes as distributed per the following community  
17 planned regions and as further restricted by the  
18 applicable community plan.

19 CHAIR BAISA: That is a mouthful. Do we have a  
20 second?

21 COUNCILMEMBER MOLINA: Second for discussion.

22 CHAIR BAISA: Okay. We have a motion and a  
23 second.

24 By any chance, do you have that written down  
25 someplace?

1                   VICE-CHAIR JOHNSON: Yes. I have it written  
2 right here.

3                   And the only reason, Madam Chair, that I changed  
4 the wording a little bit from the way it was stated is  
5 that, when you add up -- it says the County shall not  
6 approve more than 400 permits. When you add up all the  
7 other -- the permits, and then you leave out Molokai and  
8 Lanai, which doesn't have a limit, the 400 would cap them  
9 to having nothing. So what I did was I took out the 400  
10 and I changed the language to say, the County shall be  
11 restricted in approving. And then I struck -- the only  
12 thing I struck was the -- following, "the County shall,"  
13 in the memo that we have, I struck "not approve more than  
14 400."

15                   So -- so if you want it to be written out, I  
16 will do it. But essentially the data that is below, which  
17 is Hana would be limited to 40 permits, Kihei/Makena 100,  
18 Makawao/Pukalani/Kula, 48, Paia/Haiku, 108,  
19 Wailuku/Kahului, 16; West Maui, 88; then Molokai and Lanai  
20 would not be limited at all. That particular, you know, I  
21 guess, part of the ordinance would be stated, you know.  
22 So I think that it's very clear of what the percentages  
23 would be and what the totals would be, without limiting  
24 Molokai and Lanai.

25                   So that is --

1 CHAIR BAISA: I will ask -- thank you. I will  
2 ask the Planning Director for his comments, and probably  
3 Corp Counsel, on the motion.

4 MR. HUNT: I think those are good suggestions.

5 CHAIR BAISA: Member Hokama.

6 COUNCILMEMBER HOKAMA: I --

7 CHAIR BAISA: And we will get to Mr. Hopper.

8 COUNCILMEMBER HOKAMA: I hope Mr. Hopper doesn't  
9 have a problem because I like the proposed amendment that  
10 Ms. Johnson made. I think it's deceiving, and I wish we  
11 wouldn't use the word not limited. Because already we  
12 have recognition that the limitation will be by community  
13 planned regions through the community plan approval --  
14 process and approval. So there will be a limitation of  
15 some sort eventually. And so I hope we will be able to  
16 not make any infer that, for Lanai, we don't care how many  
17 units there is. We do. We just wish to do it through the  
18 community plan that recognized our unique situation of --  
19 basically, we have one community only, and that community  
20 will make its decision on what amounts and the type it  
21 wants, that fits our island needs.

22 Thank you.

23 CHAIR BAISA: Your comment is well-taken, Chair.

24 I don't think we want to be giving away the  
25 store, right? We have limitations here.

1 Corp Counsel, comments?

2 MR. HOPPER: No, Madam Chair. I was -- just  
3 wanted to clarify that the motion was to change this  
4 language in Q as well as adopt the rest of Section Q  
5 regarding the caps as written in this June 27th  
6 memorandum.

7 CHAIR BAISA: Member Molina, comments?

8 COUNCILMEMBER MOLINA: Yeah. I guess we're talk  
9 -- are we still currently talking about Member Johnson's  
10 amendment?

11 CHAIR BAISA: Yes, about her amendment.

12 COUNCILMEMBER MOLINA: Okay. My question is  
13 more related to the numbers of permits. So I don't know  
14 if you will permit me to go and discuss that part.

15 CHAIR BAISA: Yes, please.

16 COUNCILMEMBER MOLINA: Okay.

17 CHAIR BAISA: It's part of her -- her thing.

18 COUNCILMEMBER MOLINA: Okay. My question to the  
19 Department is how come Paia and Haiku has the distinction  
20 of having the most permits allowed? I mean, it's a simple  
21 question, but I think it's a very important one. I know,  
22 if my memory serves me correct from one of our other  
23 meetings, the Department sort of just basically threw out  
24 a number, which, of course, ultimately will be our  
25 decision to accept or adjust. But 27 percent in the



1 Paia/Haiku area, 108 permits, can I ask why?

2 MR. HUNT: We took the numbers that were in the  
3 Kauaian Institute Study that estimated the number of  
4 illegal operating TVRs. And the study broke those down by  
5 community plan areas. So we felt that the market was  
6 already saying, to some extent, this is what the demand  
7 is. So this is to reflect what the market is, is  
8 demanding on a percentage basis.

9 COUNCILMEMBER MOLINA: Uh-huh.

10 MR. HUNT: The overall cap is lower than the  
11 estimate that the study said we're operating out there.

12 COUNCILMEMBER MOLINA: Okay. And, also, when I  
13 look at Makawao/Pukalani/Kula, only 12 percent and 48  
14 permits. I represent Makawao as well, so I see a --  
15 somewhat of a disparity, between, you know, those regions,  
16 community planned regions. So I don't know. I have some  
17 reservations about the numbers of permits. I mean, I  
18 don't know if this is -- was ever discussed. For example,  
19 Haiku Community Association or Paia Main Street, Makawao.  
20 So I have some hesitancy on this, the amount of permits,  
21 especially in Paia/Haiku.

22 Because, I mean, I've stated from the beginning,  
23 I am concerned about, you know, throwing out huge numbers  
24 of permits. I mean, I -- I see we may have to look at  
25 making some adjustments along the way with the way the

1 economy is going, but -- and I am just speaking for my  
2 region. My thoughts on the region I represent. It is a  
3 really high number, in my opinion. So --

4 CHAIR BAISA: Member Johnson.

5 COUNCILMEMBER MOLINA: Anyway, I will just leave  
6 it at that.

7 CHAIR BAISA: Thank you, Member Molina.

8 VICE-CHAIR JOHNSON: And I offered to  
9 Mr. Molina, the only reason I did this was because the  
10 figures were there. So if you were to feel that a  
11 friendly amendment or amendment to what is on the floor  
12 right now is appropriate, let's say at least making, you  
13 know, Makawao/Pukalani/Kula and Paia/Haiku the same  
14 number, I have no problem with doing that, if that's, you  
15 know, what you want to do. Because I know that there's  
16 further restrictions on community plans.

17 So my reading of this, Madam Chair, though, is  
18 that simply because we have an arbitrary number down  
19 there, much like Chair Hokama had said, does not mean that  
20 if it's prohibited under the community plan, if they don't  
21 meet the criteria, or if it was -- in most of those units  
22 that are out there right now, we're not looking at it at  
23 this point in time on ag land because we have a little bit  
24 of work to do before we go that route. I feel that these  
25 are maximum caps. And so I don't have a problem with an

1 amendment, but I also don't have a problem with the way it  
2 is, because I know that that may be restricted. And, for  
3 example, the number in West Maui may have to be adjusted  
4 upward. So it's a number. And it's further restricted by  
5 the components that are listed in the community plan.

6 So I would say I feel comfortable in doing it  
7 because I don't expect that Mr. Hunt and the Planning  
8 Commission are just going to go helter-skelter and approve  
9 everything. Because there are other criteria that we're  
10 establishing, and even from Fire Code and other things  
11 that they have to comply with. It's not -- it's still not  
12 a complete open door.

13 CHAIR BAISA: No. From what I am familiar with,  
14 I find the process to be very arduous. It's dot the I,  
15 cross the T, and much, much compliance before anybody gets  
16 a permit.

17 So, Jeff, any more comments?

18 MR. HUNT: I agree with Councilmember Johnson's  
19 comments that these are absolute maximums. And there's  
20 going to be further restrictions. And Staff looked at  
21 some of these areas, could actually get that number of  
22 permits, at least right away.

23 Also, Councilmember Molina suggested that these  
24 are just numbers. And we are open to suggested changes or  
25 revisions. We thought we would give you something to

1 start with. If you want to modify them, by all means.

2 CHAIR BAISA: Thank you very, very much.

3 The Chair is very much aware of the time. And I  
4 always hate to go over in a morning meeting because it  
5 gives the members barely enough time to have a lunch or  
6 deal with what is on their desks before they have to come  
7 back for a 1:30 meeting.

8 Member Johnson, what the Chair would like to do  
9 is to table your motion to our next meeting, if that is  
10 okay with you and Mr. Molina.

11 COUNCILMEMBER MOLINA: Yeah. If I may speak,  
12 Madam Chair. I want to thank you.

13 I was going to ask -- request that. Because I  
14 would really like to network with the community leaders  
15 first before we act on this, so -- just out of respect for  
16 any concerns that may arise from it. I would definitely  
17 appreciate it.

18 CHAIR BAISA: The Chair is very responsive to  
19 the needs of my Members.

20 COUNCILMEMBER MOLINA: Thank you.

21 CHAIR BAISA: You've been a great team to work  
22 with. And I want us to be comfortable on what we are  
23 passing. So that is what we will do, we will table this  
24 motion for our next meeting.

25 I find that we have run out of time. I would

1 like to again thank everyone for their attendance today.  
2 Thank our testifiers for their manao and their patience.

3 I promise you that we are moving as quickly as  
4 we can. Unfortunately, our next meeting is scheduled for  
5 August 19th. And we will be sharing an agenda because we  
6 are -- we have promised the Department of Transportation  
7 that we would allow them part of our meeting to present  
8 their bus stop proposal, because they need action from us  
9 in order to proceed. And I know that having bus stops is  
10 a priority for our community. I listen to everybody  
11 saying I don't know where to hide from the sun or I would  
12 like to sit while I wait for the bus. And so I also --  
13 transportation is part of the Planning Committee's  
14 responsibility.

15 So rather than hold them up in having the  
16 ability to go ahead with bus stops while we, you know,  
17 work our way through these cumbersome ordinances, I  
18 promised Mr. Medeiros that his consultant will be here  
19 from the mainland and we're going to start our agenda on  
20 the 19th with bus stops. And we can continue for the  
21 second half of the meeting with what we are working on  
22 right now.

23 So I just want to assure you that I am dedicated  
24 to trying to move these things out of our Committee, so  
25 just bear with me.

1                   I would like to thank the Staff. I would like  
2                   to thank my Members. And, again, thank the public.

3                   And this meeting is adjourned....(gavel)...

4                   ADJOURN: 12:06 p.m.

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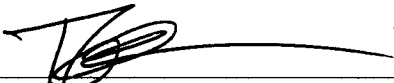
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CERTIFICATE

I, TONYA MCDADE, a Court Reporter of the State of Hawaii, do hereby certify that the electronic proceedings contained herein were taken by me in machine shorthand and thereafter was reduced to print by means of computer-aided transcription; that the foregoing represents, to the best of my ability, a true and accurate transcript of the electronic proceedings had in the foregoing matter.

I further certify that I am not an attorney for any of the parties hereto, nor in any way concerned with the cause.

DATED this 15<sup>th</sup> day of August, 2008.

  
\_\_\_\_\_  
Tonya McDade, RPR, CRR, CBC  
Hawaii CSR #447