

**LANA‘I PLANNING COMMISSION
REGULAR MEETING
NOVEMBER 17, 2021**

A. CALL TO ORDER

The regular meeting of the Lanai Planning Commission (Commission) was called to order by Ms. Shelly Preza, Chair, at approximately 5:00 p.m., Wednesday, November 17, 2021, online via BlueJeans Meeting No. 589 607 544.

A quorum of the Commission was present (see Record of Attendance).

Ms. Shelly Preza: I do think we have quorum, but I'm just going to take a quick roll call just to make sure everyone who said was going to here is here. So if you're here just unmute yourself and let me know you're on the call. Sally Kaye?

Ms. Sally Kaye: Here.

Ms. Preza: Thank you. John de la Cruz? John, are you here? I see a John D, but I don't know if that's de la Cruz. But we can't hear you if you are here. I'll circle back. Zane de la Cruz?

Mr. Zane de la Cruz: Here.

Ms. Preza: Thank you. Lisa Grove?

Ms. Elisabeth Grove: Here.

Ms. Preza: Thank you. Sherry, I don't think is coming. Sherry, you're not here, right? Natalie Ropa?

Ms. Natalie Ropa: Here.

Ms. Preza: Thank you. Shirley Samonte? You're not here. Chelsea Trevino? I think might be coming late. Okay, with that there's five us so we still do have quorum. I just want to follow up, John, are you here? John de la Cruz?

Mr. John de la Cruz: I'm here.

Ms. Preza: Oh, okay, thank you. We can hear you. Great. So we definitely have quorum, so we'll get started. And thank you, everyone who is joining us. We -- I'm just going to go over the rules real quick, which is, you know, we'll take public testimony at each agenda item when it's discussed and testimony will be limited to a maximum of three minutes. I'll call anyone to offer testimony that's calling in via BlueJeans and then I'll offer anyone who's calling in via phone. And if you're not a commission member or presenting we ask that you continue to mute your audio and video just so it's a little easier for everyone to stay organized. And we are not going to be checking the chat function. So if you have specific questions, you can, you know, directly message Leilani and she'll try to relay those to us, but thank you. So thanks everyone for being here.

B. PUBLIC HEARING (Action to be taken after public hearing.)

1. A BILL FOR AN ORDINANCE AMENDING MAUI COUNTY CODE CHAPTERS 19.04 – GENERAL PROVISIONS AND DEFINITIONS, AND 19.08 – RESIDENTIAL DISTRICTS

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

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

We'll get started on Item B.1. which is a bill for an ordinance amending Maui County Code Chapters 19.04 on resident -- and 19.08 on residential district. So I do believe there -- we received a slide deck, so I think there is presentation. I don't know if that's you, Jordan or Jacky. Hi Jacky, you're on mute if you're talking.

Ms. Jacky Takakura: Good evening, everyone. I guess I'll get started. So just to give you some background. This is the residential zoning district and the motivation for this update was really -- it came from within internally and it's to try to help our staff in making some fixes to this code, which if it makes it easier for staff, it will be easier for the community. And hopefully I can kind of explain that as I go through. So it's just a short presentation. I'm going to share screen, if that's okay Chair Preza?

Ms. Preza: Yes, please. Thank you.

Ms. Takakura: So as you can see, it's two parts of Title 19 that we're looking at making some updates to. One is 19.04 which is the general provisions. And then the other one is 19.08, which is the residential district. And I know that a lot of the things that I bring before the Lanai Planning Commission are not always related to Lanai, but this one, it does relate to Lanai because there is residential zoning on all three, the main islands of the county. But I'm happy to say it does and your input is really important because it does affect you.

So let me just get started. Next one. Oh, what we're trying to do here is kind of fix some terms that have kind of become outdated over time and need some clarification and other minor fixes. We're proposing some options that will hopefully increase housing opportunities, trying

to include sustainability and climate change in our zoning code, and then codifying policies that we have, that have accumulated over the years. And really because the appropriate place should be in the zoning code. And just for some background information, with residential zoning district, there's 19,641 parcels and that's either R-1, R-2, or R-3 and those different categories are based on the lot size. But generally speaking, it's residential zoning district. And I was kind of surprised to see that number, 19,000, because I believe we have about 41,000 parcels in the County so this is almost half of our parcels. I mean, they might be smaller parcels, but still the quantity is it's quite significant for Maui County.

Okay, so let's go through the changes in order of the chapters starting with Chapter 19.04 and then going to the actual residential chapter, which is 19.08. For this first part compliance, these are just minor revisions and they don't change the substance of the section. For this first part that you see, items A and B, all it's really doing is taking out the part about subdivisions and putting it in its own section because subdivisions are different from building and structures and, you know, they, they have their own criteria for compliance. It's different from buildings and structures. So that was the purpose of those two, A and B, is to separate those two out. So the building and structures is one thing and that, like it says, that it has to comply with the building code and so forth, and that subdivisions have to have their own criteria for compliance.

And then the third one item C, it's just rewording it a little bit to simplify the wording without changing the meaning. Instead of being passive, you know, they may be permitted in the zoning districts. It's simply that in the zoning districts these categories are permitted.

So that's it for that part of 19.04, compliance.

Now we move to definitions and these are setbacks. Within the proposed changes to definitions, all of the proposed revisions refer to setback area, and that is generally the open area extending inward from the property line. And the width of that setback varies by zoning district. And so what we're proposing is to make some updates for front of line, replacing the word yard with the term setback area, clarifying the definition of the setback line, and that also just updating the definition for private street. So, you know, in an ideal world, a lot would be like a perfect square or a rectangle with a straight line. But that's not how it is in the real world. Usually the lines can kind of curve depending on the topography of the land. So what we're proposing is that the front of lot or front lot line meaning -- means every lot line bordering a public or private street for which a driveway provides access to the lot area. And you can see from these examples here that the front is going to be determined by the driveway. And that's if you look at this front row, I have the driveway just in red. So like these examples, especially in the top row, you've got like for this one here, three streets. This one, you have two streets and you also have two streets. And so -- I mean, the setback could be either one but we're going to define it based on where the driveway is. This has been a point of confusion for a long time. So setback is going to be, the front setback will be determined by . . . (inaudible) . . . And I think on Lanai there are some properties that are like this where they have three

streets or a front and back street. So this will add some clarity about which one is going to be the front. And it will be determined by the driveway access.

Ms. Kaye: Jacky, I have to ask you a question about that because there are some properties here where the driveway is in the back. And if the, if the setback area is different from the front or the back then does that switch it? We have shared driveways and standalone garages. It doesn't neatly fit into this.

Ms. Takakura: Anything that's already been determined is going to be, is going to stay okay, you know, it will be like nonconforming. But for new developments, the property owner is going to have to make that decision of where that setback is going to be. Like say they have three streets here, a lot of times we usually go with the narrowest of, of sides to determine the front. And then that actually allows them more developable area because the front setback is usually bigger than the side and the rear setbacks. But yeah, so by having these definitions, it will hopefully provide a little bit of clarity because we, we have seen that where, you know, it's not clear where the setbacks should be. But for existing, they would stay the same as wherever they, they already are. Does that answer your question Commissioner Kaye?

Ms. Kaye: Yes, thank you.

Ms. Takakura: For setback area, that would be the area between the setback line established in the zoning district and the lot line which includes the boundary of the public or private streets. The setback area would have to remain unoccupied and unobstructed from the ground upward by any structure or swimming pool except if specifically allowed in each zoning district. And we'll go over that when we get into the residential zoning because there are some things that would be allowed.

Setback line is simply the line beyond which no wall of a building or structure may project. And each zoning district specifies the distance from a lot line to a setback line. And then private street, we just modified the definition a little bit; open passage of land, easement, or right of way.

Now this is just a little bit of a diagram to explain which one of these different setbacks would be what, and this is for a typical residential lot. Like I said, in an ideal world, these lines are all straight. But you can see a driveway here going into the carport, so this would be the front setback area. The green would be the sides. Rear is this here in . . . (inaudible) . . . And you'll see that eaves are allowed up to three feet in the setback. So that's why the line goes out a little bit more than what you see this gray structure area. So hopefully a simple diagram like this provides some clarity what those setback areas are in. I'm trying to put more images and graphics into the code just because it's easier to see rather than trying to read and interpret all those words.

And the other definition that I mentioned that's not related to setbacks is this impervious surfaces. And this is similar to the definition than the City and County of Honolulu land use

ordinance. And that's a surface covering a pavement of a developed parcel of land that prevents the land natural ability to absorb and infiltrate rainfall or storm water. It can including but not limited to rooftops, walkways, patios, driveways, parking lots, impermeable concrete and asphalt, any other continuous watertight pavement or covering. So the bill proposes to include a limit on impervious surfaces to mitigate damage from increased coastal flooding, hurricanes, and tropical cyclones resulting from a warming climate. Existing structures and impervious surfaces would not be affected. And this is just the definition because right now there we don't have a definition for impervious surfaces at all in Title 19. And I'm going to refer to this definition when we get to the residential standards.

And I just want to show you, this is a, an aerial image of just somewhere in Kahului. And you can kind of see like say, say, this parcel in the middle, you can see the structure and you can see this paved area, the driveway. So you can see that quite a bit of impervious surface in this middle parcel. This one next to it across the street it's, it's, there's a lot of impervious surface too. There's a little bit of grass here so that's also drainage here. But you can kind of see from these aerial images like this one here, you've got impervious here and then the driveway, then the house, and then the rest probably standard grass, and so that is pervious. Existing impervious surfaces are -- can continue. Proposed revision would be for anything new. And like I said, it's to try to mitigate the flooding drainage as we know these things are changing.

Okay so moving to Chapter 19.08, the actual chapter regarding residential districts. For permitted uses, most of the changes we're proposing are grammatical in nature or to clarify - - for clarity purposes. We do have two changes that we would like to have in the code. And one is about allowing walls and ohanas to be built before the main dwelling. Because a lot of times property owners build walls prior to building the dwelling unit, or they might build the ohana unit before the main dwelling. So we would like to include language that clearly allows that type of accessory use prior to the development of the primary use. And then the other part that we're adding in for day care, nurseries, and care homes, is reference to Hawaii Revised Statutes, Chapter 46. Because that's the state law that regulates adult family boarding homes, care homes and family child care homes, hospice homes, and similar facilities in residential areas.

The next part is the special uses, and these are the uses that require a County Special Use permit. And those will be approved by the appropriate planning commission. So those would be the things that would come before the Lanai Planning Commission. A lot of the revisions are grammatical in nature and non-substantive. But we do have a few that are proposed to provide more opportunities for housing and increase walkability within neighborhoods.

First of all, allowing for housing, housing for aged and housing for low and moderate income families operated by a governmental or non-profit organization. If the normal unit density is increased by more than 25 percent, the current percentage which triggers commission review is ten percent. And we're hoping that by increasing the percentage, the development of more units would be incurred.

We're proposing to allow duplexes, which is two family dwelling units. And this is different from an accessory dwelling unit because with the accessory dwelling units the size is limited by Chapter 19.35. And the maximum floor area ranges from 500 to 1,200 square feet depending on the size of the lot. With a duplex, it would, it could allow two families to live independently of each other on the same lot. And each home could be potentially larger than an accessory dwelling.

We're proposing also to allow small, very small retail, food and beverage establishments excluding liquor stores. The size limit would be 2,000 square feet of gross covered floor area. And this proposed addition is to promote walkability in neighborhoods and to reduce vehicle miles traveled. So you don't have to get into your car because you forgot to get milk or eggs or something. You know, in Wailuku we have some small stores like Kaohu Store down the street which is approximately 1,800 square feet in size and so it would be limited to that. One thing I want to mention that I learned today that Honolulu has a similar provision of allowing small retail, and they actually have time limits. It can only be open from 6:00 a.m. to 10:00 p.m. That's something if you would want to have these if you wanted to impose hour limitations too, that would be . . . (inaudible) . . .

Also to further encourage affordable housing. We're proposing to replace the current language about affordable housing because as far as we know, it's never been used to develop affordable housing. And we'd like to modify it and have the criteria to meet the needs of low, below moderate, and or moderate income families, and ensure owner occupancy, and the prevention of limitation -- for limitation of speculation. Have shared use, shared use paths so that there's some connectivity especially for bicycling and for walking. And as kind of a carrot or a way to motivate or encourage this is to allow the imperviousness requirements to be increased to no more than 75 percent of the total lot area.

Ms. Kaye: Jacky, before you move on, can I ask you a question, please?

Ms. Takakura: Yes.

Ms. Kaye: How to ensure owner occupancy --. Okay, prevention . . . (inaudible) . . .

Ms. Preza: Sally, sorry, is it okay if we --? Can we -- I kind of want to get through the presentation first before we start discussion. If you could hold your question.

Ms. Kaye: Certainly.

Ms. Preza: Thank you. Jacky, go on.

Ms. Takakura: We'll talk more, some more about that one. Okay, now comes the part that I spent a lot of time with, with staff to get this clarified because this part of the Code has not changed since at least 1974. And first and foremost, everyone I talked to said put it in table

format so it's easier to follow. So that's what I have proposed. And we're proposing to consolidate and put everything in there; the area regulation, the height regulations, and the setback information into one section. And that's consistent with some other chapters in the zoning district. You can see from this little image here, you know, that's what we had to follow regarding setbacks. It's from a 2008 policy memo. And we'd like to have some clarity for that about the increased setback for the second floor. And so we have a newer drawing, which we're hoping provides a little bit more clarity. And the setbacks would be based on the exterior height, which is easy to measure. And we -- you know, for planning we don't go inside, so we don't, you know, exterior, it's just clear, easy to see, and there's no question about that's where the 15 foot mark would be. And that's where, that's where it would trigger the, the ten foot setback for the upper part of the structure. So we're hoping by having a diagram like this, it'll be easier for the public and for our staff when they review permits.

And so now back to the part of our impervious surfaces, which I mentioned back in the definition. This would be the development standard for residential. And this would mean that no more than 65 percent of the total lot area can be covered by impervious surfaces. Impervious surfaces prevent the land from naturally absorbing and infiltrating rainfall or storm water. And impervious surfaces would include but are not limited to all buildings, driveways, access paths, patios, lanais, swimming pools, roof overhangs, eaves and most walkways. For existing lots with more than 65 percent impervious surfaces, they would be nonconforming and can continue. The amount of impervious surface on those lots may be redistributed, but the total amount of imperviousness surfaces can't be increased. And we know that with a changing climate, rainfall events are likely to have more consequences, so we need to start somewhere.

So this is the last part of the changes and these are the permitted structures in the setbacks. And the following list of what is permitted structures in the setback comes from policy memos that have accumulated over the years. And really, they should be in the zoning code. That's where that the public can see it, and this is the criteria, and it's really clear and easy to understand for everyone. This would include walls and fences; no taller than seven feet. That's approved by the Director. Roof eaves, as I mentioned, no more than three feet to the setback. Porches, lanais, decks, and walkways that are uncovered or under roof. Mailboxes and trash enclosures, minor utility equipment and their enclosures. And then one proposed change is existing greenhouses. For some reason since 1974 greenhouses have been allowed to be in the setback, and proposing that they would be following the rules like other structures that they would have to comply with setback limitations, at least for new ones. Existing greenhouses can stay where they are, but new ones would have to be following the setback limitations.

So that's it. I know it's a lot, but this is really important. So take our time and go through each item and questions. But that's it in a nutshell. I'm going to stop sharing, if that's okay. And we can always come back too.

Ms. Preza: Thank you, Jacky. So, Commissioners, before we get to our questions and discussions, I did want to open up public testimony. Leilani, has anyone contacted you to testify?

Ms. Ramoran-Quemado: Chair, no one signed up to testify.

Ms. Preza: Okay, thanks. I'll just open up one more time. If anyone is here who would like to testify, you can unmute. Is anyone calling via phone would like to testify? If not, then we'll close public testimony. And Commissioners, you can ask Jacky any questions or comments.

Ms. Kaye: Alright, okay. Well, then, I'll go back. Jacky, we're on page-8, letter L, if anybody wants to turn back to that. Limitation of speculation, how would that be accomplished?

Ms. Takakura: I'm going to that page. I think the biggest thing we can do to limit speculation is making sure that there's no vacation rentals. I think that's the one thing that causes speculation, at least from what I've seen.

Ms. Kaye: Wait. Okay, so adequate provisions, it means that when the properties develop there would have to be conditions recorded with the property, right? So no short term rentals can be controlled otherwise. So what kind of limitations would be recorded with the, with the property? I'm not, I'm not following how that would work.

Ms. Takakura: I think that can be -- and I'm not sure if Jordan has more information on this one -- but that could be recorded when the, in the subdivision and also with the, in the, in the CCRs. But, yeah, the main thing would be to prohibit the short term rental home and allowing those.

Ms. Kaye: But that's -- that would be insured by owner occupancy. That doesn't -- that's not the same thing as preventing or limiting speculation which would, which speaks to resale.

Ms. Takakura: You know, actually Vice Chair Kaye that is in the existing language and so I'm not sure of the history of where that came from. But it's in the existing language now, and we just we didn't -- we left that part in. If you look at the top of page-nine, B, it has that in there.

Ms. Kaye: Okay, got it. Got it. Okay.

Ms. Takakura: I'm sorry. I'm not sure of the history of how it got in there, but we didn't take it out.

Ms. Kaye: Okay. That -- I realize it was left in, but I figured it must have been left in for a reason, which meant that originally it had a purpose. So, okay, if that's --. Okay, thank you.

Ms. Preza: Jordan, did you have something to add or good?

Mr. Jordan Hart: I was just going to add that our Maui County Code Chapter 2.96 regarding affordable housing has provision, provisions in it to limit resale of affordable units as well. Where that had been an issue in the past where there was like a shorter time period. I think it was -- had been ten years and even lower than ten years at times where people would come into affordable developments and then resell shortly thereafter.

Ms. Preza: Go ahead Jacky.

Ms. Takakura: If I may Chair Preza. We did consult with Department of Housing and Human Concerns, and yeah, especially on this part. And so, yeah, we got their blessings about . . . (inaudible) . . .

Ms. Preza: Thank you. Commissioners, other questions, comments? Yes, Lisa, go ahead.

Ms. Grove: Going back to that point you made, Jacky, about putting in some provisions for the hours around the retail food and beverage. Can you provide a little bit more about that? Are other commissions considering that as well? Seems like a good idea.

Ms. Takakura: Commissioner Grove, Lanai Planning Commission is the first of all the commission.

Ms. Grove: Okay, thank you.

Ms. Takakura: So Maui is next week and then Molokai is actually in December.

Ms. Preza: Thank you. I actually, I had a comment on that just for discussion for commission members. But I mean, I could see like where in Wailuku maybe this makes sense. They're trying to encourage more walkable neighborhoods. But I mean, in Lanai City, you know, everything's, everything is pretty much walkable. And we've concentrated our, our businesses to the Lanai town business district. So do we want to consider, like, adding, like maybe it's like allowable in other places? Like I don't want to limit Maui if this is a need that they designate for their neighborhood. But I personally don't think I would want like a retail shop or like a beverage, you know, food and beverage like in our neighborhoods. And I know that Jacky said it would be like those are special uses that they would come to individual planning commissions anyway. But I just don't think I foresee like a time when I would want those like things to be happening. But I'm not -- but that's just my opinion. I wanted to gather your feedback too. Commissioners, your thoughts on that. Or if you don't have thoughts, I mean, we could just leave it in and I guess leave it up to future planning commissions if there is ever a request for special use on that.

Ms. Grove: That's where I go. Like, we don't know, what we don't know. And let's say there's some kupuna housing and there could be a physical therapy that's quote unquote retail or something that is specific to the need of that particular place at that particular time. So I'm a little reluctant to want to throw something in there. But I defer to others.

Ms. Preza: Thanks. I think I'm not speaking necessarily about potential housing for the elderly, but I think like the food and beverage is kind of what I'm thinking about, you know.

Ms. Grove: Right. But what if there is sort of like a kupuna, cultural food, little nook or something, you know. I think about like a . . . (inaudible) . . . that might be serving our kupuna in a particular way or, you know, a smoothie, a little smoothie shop or something. Again, I'm with you. I just worry about a specific circumstance that's coming up that we would go, oh, that might be, that might make some sense.

Ms. Preza: Okay. Thank you. Commissioners, other thoughts or --? I mean fine leaving it too. I mean, I just thought I would bring it up because Lanai . . . (inaudible) . . .

Ms. Kaye: I'm thinking that the BCT guidelines that that we have and the zoning that we already have in place for residential areas would control that problem. I don't, I don't think we need to carve out . . . (inaudible) . . .

Ms. Grove: . . . (inaudible) . . .

Ms. Kaye: Oh, that's, that's where I thought you were going with this, Lisa, yeah.

Ms. Grove: That is where I was going. Yeah. Yeah. And I wouldn't even go six. I'd say like seven to nine, or seven to eight or something, but I defer to others.

Ms. Kaye: Yeah, and it really would apply from what I'm understanding, Jacky to be saying mostly to those areas in Maui, not necessarily us anyway. So if Honolulu did it and the other commissions who are more directly impacted, I think it's a good idea. We -- were -- I don't know why we wouldn't recommend that there would be limited hours for special establishments so they're not open 24/7.

Ms. Preza: Yeah. So I'm hearing maybe just leave as is. And I mean, Jacky, like if there were special, special use permits, when you apply for those you can also put conditions on like the opening hours and stuff, right? So I mean, there's room for that, like depending on the situation.

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

Ms. Preza: Thank you. My other thought and sorry I'm opening up for anyone else who has thoughts, but on the impervious surface requirement for future homes being built, I guess my only concern specifically for Lanai is that some of these home lots are very small. So, you know, like I mean, we, we, like, we haven't had new homes in quite a while. And a lot of these, like some of the older homes, those are plantation homes, right. So their square footage is so small. And so I think like if people, like, if they've been in the house for generations, but maybe there's, like, they want to expand beyond just their little plantation house. I mean, and their

square footage of the lot is already so small, I guess I'm wondering if the 65 percent like impervious surface thing might hinder them from like --. You know, they might have other options, right, to purchase other lots if this is what they have and, you know, I guess that's my only concern with that, for in particular those kind of smaller lots. As long as they're still abiding by all the setbacks and everything. But, you know, some of the lots are very small. So I'm not sure if commissioners have other thoughts on that. That was just something that crossed my mind because, you know, there's not a lot of options for housing. And, you know, especially if you're you have a growing family, you want to expand a little, but maybe your percentage wise of your lot is going to be over the 65, which I think it would be for a lot of these older plantation lots. That's my concerns on that.

Ms. Takakura: Chair Preza, I have just two thoughts on that. I don't know what the general a lot size is, and especially in Lanai City, but maybe for a lot size and smaller, it can be more or they may not be included, or maybe take something into consideration for a smaller size. And then just, you know, for City and County of Honolulu, their, their percentage is 75 percent. So just for discussion purposes, I'm putting those two thoughts out there.

Ms. Preza: Thank you. Yeah. I think that, I think that's an interesting idea about like if it's under a certain size, then maybe the, the percentage is a little higher because I think also the impact, right? Like if you have an incredibly small lot. Like I was -- I mean it really varies. But I was looking at like the, you know, the . . . (inaudible) . . . and stuff, like some of these lots are like point, zero six acres. It's very small, so I don't think their impact would, you know --. I can see the 65 percent working for like a much bigger lot where, you know, showed on that aerial, like, it's a huge house with pavement. And like I can see where that's kind of more of an impact, but maybe not so for these smaller ones. But I also don't feel I'm equipped enough to be like recommending like a certain acreage at which like the percentage goes up. So I don't know if it's possible, like, if that's just a comment that's provided to the Maui County Council for someone with better understanding of these things to propose like a certain -- like consider that as a like a range kind of what you what you said.

Ms. Grove: I think it's a really good point.

Mr. Hart: So what might be some of the, you know, lot sizes that you would consider to set a cap on? Because, because the origin of it, I think, is the concern. We do have larger lots in other areas in the County, and some people just pour concrete over their entire parcel. And it's a, I mean, it's a, an issue, especially if a lot of people do it. Especially in hotter areas or areas that are prone to flooding. You can have the heat island effect or you can have storm water issues. But there are --. It is a unique situation in Lanai City and there are quite a few smaller lots. You know, do you have any suggestions or guidance for the Council on how they might set the cut off?

Ms. Preza: I'm not sure. I, I -- sorry, I'm just looking into this now, like on the map, so I don't think I'm, like, well equipped enough to recommend, like, a specific acreage because I'm just kind of clicking on some of these lot sizes. And I mean, they range from like point zero, six

acres to point one, seven. So I don't, I don't know how that compares to Maui. But I also think Lanai is kind of different too, right, because our town is so small compared to --. You know, I think on Maui it's a very big concern because you folks are pretty much at, I mean, like at least in Wailuku and Kahului, like at sea level, there's like a high concentration of homes that are maybe creating that heat effect. But on Lanai, I don't -- I mean, not --. You know, global warming is real and of all these considerations I'm glad there's sustainability thoughts of going into the Code. But I guess I'm just wondering how applicable it is to Lanai. But, sorry, to answer your question, Jordan, I'm not sure, if off the top of my head right now, I can give you, like, a good idea about the acreage. Commissioners, do you have other thoughts? I don't know. Sorry, that's not very helpful, Jordan.

Mr. Hart: That's fine.

Ms. Kaye: Okay, so I have -- to follow up on that for purposes of L, just the modification of the minimum lot development to encourage low or moderate income families. It seems counter - - this is just separate from what was just said -- it seems counterintuitive to say that there is an impervious problem for storm drainage. But yet if you're going to do low income housing on a smaller lot, you're going to allow it to be more impervious. So I, I disagree with that approach, but I do totally agree with, with Shelly that on Lanai, it's, it's, it's going to be an issue because our, you know, we have 3,000, 4,000 square foot lots with the house. That, that's the smallest that I'm aware of. Some, some I think are even 2,500. But it, but it says the Commission can increase it. So does that mean that if somebody wanted to avoid this and it isn't low income that the Commission could approve it? That's unclear.

Ms. Takakura: I mean, yeah, this would be something that the Commission has to approve to allow the lot size to be 4,000 square feet, which is smaller than R-1. But yeah, it has to meet all of those criteria. And they could still go with the proposed 65 percent. But I guess as to, like you know, I mentioned as a carrot, letting them a little bit more, ten percent more.

Mr. Hart: It does seem like it's similar to what the Chair is discussing. It's just that we weren't necessarily considering the situation of Lanai. We were considering a situation where smaller lots were proposed. But, but it sounds kind of comparable with the sentiments that are being raised as well as the, the proposal that was put forward.

The reason I had asked if you had any suggestions is because I would assume that the Council is going to ask the Planning Department for an opinion on, on where to set the cap. So if you had wanted to give us any guidance. Otherwise, we should probably put some thought into it and come up with some recommendations for Council. But I don't think we can do that with you here now. So if you wanted to give us some guidance or just kind of acknowledge that we're going to be trying to use a methodology and come up with a recommendation. Probably how it will unfold as far as Council will have comparable questions that you do, and we would be the agency to respond to those.

Ms. Preza: Yes. Thank you, Jordan. Maybe I can follow up with you since I had a little time to think. Sorry, I was just thinking about this like as we were meeting so maybe I can follow up.

Mr. Hart: Just a procedural note on that. Maybe if you were going to do that, maybe you provide your testimony to Council outside of a meeting. Otherwise, if this was going to be re-agendized or something like that. But I think we have to take the body's input and the individuals might --they could testify to Council directly, but I don't think we could correspond with individual commissioners on their separate opinions.

Ms. Preza: I see. I will follow up, but I think yeah, sorry. I should have been better prepared for thinking about, like, the size in particular. Yeah, but I think you folks will do -- but, you know, you'll, you'll do your due diligence to look into the, the varying lot sizes, especially on Lanai. Anyway, sorry, I wish I could be more helpful on that.

Mr. Hart: You do establish the 4,000 square feet as the, as the kind of lower limit. What if we were to say something like for existing lots, 4,000 square feet and below that they could pursue the larger 75 percent coverage.

Ms. Preza: Yes. Actually, sorry, let me just do some quick math. So fewer than 4,000 square feet?

Mr. Hart: Just as an opening proposal that's comparable to what was already being recommended by the department.

Ms. Preza: Yeah, I think that makes sense. I just put in --. So I mean, I just, I was clicking on some of the plantation homes and what their square footage, right, it's like 2,600, 3,000, so maybe that's a good number. Sorry Commissioners, I don't mean to drag this out, but does that sound kind of fair?

Ms. Grove: He was saying below 4,000, right which still covers that same territory, right?

Ms. Preza: Yeah. I think so.

Mr. Hart: It would be saying those one would be, those below 4,000 would outright have the opportunity to pursue 75 percent impervious surface.

Ms. Preza: That sounds good. I think just as a good starting point at least. Then maybe the County, maybe they'll have other thoughts too about number ranges. But I think that that seems fair.

Mr. Hart: We can point out that you discussed this issue and were considering how it should be addressed for Lanai City.

Ms. Preza: Thank you. I think that that would be great. Yeah. Okay. Commissioners, other thoughts on this or ready to take some action? Oh, Richelle, hello.

Ms. Richelle Thomson: Hi. I was just listening to the discussion. Maybe because Lanai City is such a unique place, there could be another category of special permit. You know, such that increases in the impervious surface may be granted by the Planning Commission, you know, just as outright, not tied to whether they're . . . (inaudible) . . .

Ms. Preza: Sorry, your audio cut out for like a second at the end.

Ms. Thomson: Okay, just so they're not part of an affordable housing project, so they may not meet all three criteria. But in those areas, I think Hana town may also have some really small lot sizes that the appropriate planning commission would grant a special permit that would allow a larger impervious surface. So it would just be a standalone.

Ms. Preza: Thank you. So you're saying that like the special use requests would be -- or not special use. Sorry, are we talking about special use requests or just residents, residential homes in general?

Mr. Hart: Let me -- if I could clarify. What I had been suggesting is that we, we propose to add for, for Lanai under the development standards an additional section for parcels, existing parcels under 4,000 square feet could pursue the 75 percent. And then I believe Richelle is proposing also adding an item in the special use categories where somebody could petition the commission for more than that.

Ms. Preza: Is that what you're saying Richelle?

Ms. Thomson: . . . (inaudible) . . .

Ms. Preza: Okay. I think that makes sense.

Ms. Grove: Somebody could petition for that if they were under the 4,000 square foot threshold, or could it be anyone? Because I worry about the anyone part.

Mr. Hart: That's something to consider. I think, I think -- mine, mines was, was anybody who's under 4,000 that they would be allowed to do it. I think that Richelle proposed an option for, for or a special, special use permit line item. But I mean, I think that that's, it's for discussion with the Commission.

Ms. Kaye: I agree with Richelle. I think that's a, that's a good solution to the problem.

Ms. Preza: Thank you. Okay, any other comments on this? Or, it kind of sounds like we're, you know, we have a few options. What would our comments that we're sharing right now, would that be considered like amendments or are those just, you know, if we wanted to

recommend approval? Which sounds like we're leaning towards that. But would these comments be considered amendments or just, just we approve with our comments provided to you?

Mr. Hart: By the way the process unfolds, I would prefer that we, we provide line item kind of bullet points of the, of the issues that you raised, and then we consolidate them into a proposed final draft rather than providing a draft that would be a revised version for the Commission. Because that would need to be concurrent with a draft that's, that's provided by the department. So I think it'd be cleanest for the department to be able to consolidate all the comments that we hear from all the commissions in a draft ordinance, but also specifically point out what the comments of each commission were because there may be overlap and need to interpret when you consolidate all of them. And then we also have the, the -- we also have a need to provide our comments to the Council as well.

Ms. Preza: Thank you. So, I mean, with that, would anyone like to make a motion and maybe that could be part of the motion, Jordan, is, you know, that our comments are consolidated and presented to the County Council? Is that, sorry, is that not what you were saying?

Mr. Hart: I don't think that you need to make a comment that -- it's up to you. I don't think that you need to make a motion that we will consolidate your comments. I think that if you agree on what your comments are, then we'll provide them. Here's the issue is that sometimes if you consolidate all of them into an ordinance, there's no way to say, and this came from --. I mean, sometimes if you say for Lanai or for Molokai, but there's no way for the Council to know who said what. It's much easier for them to read a letter that says, Lanai said this, this, this, Molokai said this, this, this. And then they see a draft ordinance that reflects the consolidation interpretation of all those things together.

Ms. Preza: Right. No, that really makes sense. I just was wondering, as we vote, if we should just say like and we're okay with the Planning Department, you know, submitting these comments as, as we stated.

Mr. Hart: I think that that would be appropriate; the comments as stated.

Ms. Preza: Okay. Would anyone like to make motion so we can move on? Our options are to recommend approval of the proposed bill, recommend approval with amendments, or recommend denial, or to defer. Or is there further discussion to be had on this? Yes, Zane.

Mr. Z. de la Cruz: For me, I guess the big thing is I want to know where this 65 percent comes from because I'm assuming it has to do with the infiltration rate of the property as in to prevent surface runoff. And like that, that could be a very important number because I know we're like we don't really want to limit people's ability to, like, have houses on their lots. But the entire point of this language is to prevent flooding. And you know, if we continuously allow for exemptions to this rule what does that lead to? So I would like to know what that 65 percent is based on. I'm not sure if it has -- I mean, I highly doubt it has like a strong basis in, like,

infiltration rates of certain land types. But getting, I think pushing away from it without knowing why it's there is going to lead to complications that it's trying to prevent just basically just surface runoff and flooding. And, yeah, so I --

Ms. Preza: Thank you. Oh yeah, go ahead.

Mr. Z. de la Cruz: Yeah. I just I don't feel super comfortable trying to allow for all of these exemptions without knowing what the impacts of that are. Because I'm assuming that, you know, this department has a good reason for that 65 percent. That's it.

Ms. Preza: Thank you, Zane. And I don't know Jacky or Jordan if you know off the top of your head, why?

Ms. Takakura: Chair Preza, I can start. So, you know, in my research, I found that our zoning code doesn't have a lot of provisions for sustainability and climate change. And this is one of those things that I noticed Honolulu had added in 2019, and they had used the percentage of 75 as their criteria. And their goal actually was twofold for having this new criteria about limiting impervious surface. One is about the drainage and the runoff and flooding. And the second which is a much bigger issue there, but it's an issue in some places on Maui too is controlling the monster homes. And when you have limitations in impervious surfaces, it really makes the developer think about the layout of when they are going to develop that lot, and how they're going to put the dwelling unit and the driveway. And it has been effective because I talked to somebody in Honolulu about that, that it has helped with the problem of the monster homes over there. But we didn't want to have the numbers so low that it affects development of the lot. A 75 percent, it seems like a good number, at least from Honolulu. It might be a little bit different, you know, a less urban area like, you know, Maui County. But, you know, say you have a 6,000 square foot lot, you know, you can still develop 75 percent. And, you know, so that would still give you adequate developable area for, for your, your house. And, you know, if you want to patio and a driveway. So we didn't want to overdo it and make it onerous on a developer, you know, somebody who wants to build a house and have adequate housing in there. But at the same time allow for the flooding, that drainage in there. I don't think if that specifically answers, but we didn't do any scientific studies about the percentage or anything. Initially we wanted to make sure there was still -- you can build a house on the lot.

Ms. Preza: Right. And actually Zane brought up a good point because I just had assumed there were, like, it is based on some sort of scientific understanding of like this will allow for flooding to be controlled or something. So I wonder how Honolulu got their number or maybe they did. I'm not sure if, you know, if they did do any research about how they landed on 75.

Ms. Takakura: I didn't ask them.

Ms. Preza: Okay. So I mean, there is an option to defer and, you know, to gather more information Commissioners, if you know folks feel more comfortable with that. That is an option.

Mr. Hart: I want to point out that they have the ability to go to a second story. So we're talking about, you know, in an impervious surface on a second story isn't detracting from the total percentage. You still -- you would you would have it in a single story structure. And if you build another story above that, you're not changing that percentage. So I think that there is capacity to develop. But, you know, Jacky's right, we didn't, you know, conduct engineering studies in order to propose this. We were doing an overhaul of the residential zoning district, and, you know, these were one of the things to address that we saw was going on so we added it. But we weren't trying to make this the, the hitch that would derail the rest of the initiative.

Ms. Preza: Okay. Thank you, Jordan, for sharing. Okay, Commissioners, time to make a decision or discuss further.

Ms. Trevino: Just for clarity's sake. It's actually 65 and if they want 75, they'd have to come to the Commission, correct?

Mr. Hart: Clarify though, unless they were on a parcel that was less than 4,000 square feet on the island of Lanai.

Ms. Trevino: Oh, I thought Sally's comment was redirecting that.

Mr. Hart: Okay. Perhaps it was.

Ms. Trevino: I don't know. Maybe I misunderstood.

Ms. Preza: Sally, do you want to clarify your comment again, just so we're on the same page?

Ms. Kaye: My original comment was, it seems counterintuitive and counterproductive to lesson a lot size for a low income, moderate income development, housing development. But on the other hand, allow them more imperv-ability, if you will, when the core root of the issue is drainage and storm runoff. As Zane pointed out, I assumed that the 65 percent had some sort of scientific basis. So, I'm not sure whether --. I mean, I think they are two separate issues. The one issue is what I just said. And the other issue is the fact that we have 2,500 to 4,000 square foot lots on Lanai. If somebody wanted to tear down their house and rebuild, then would -- and it's not low income, it's, it's just they want to do it -- does this provision, does the 65 percent apply to them? And if so, and they wanted to increase it, could they come to the Commission for approval. I guess that kind of summarizes where I think we're at right now. I don't know.

Ms. Preza: Yes. And I think we had some discussion about maybe recommending if there is a lot size under 4,000, like what you're saying, if they're not affordable housing or whatever,

they just want to rebuild their house for more space. Maybe there's a provision that says if you're under 4,000, then you can just go to 75. You don't have to go to the Planning Commission.

Ms. Kaye: Well, but I think that's the opposite of what we discussed and what Richelle was recommending was that if you wanted to do that, you would have to come to the Commission for approval. Perhaps I misunderstood that.

Ms. Trevino: Right. That's what I was understanding too.

Ms. Preza: I think we're kind of getting to --. Yeah, go ahead.

Mr. Hart: So, there is two separate things that were discussed. Commissioner Kaye had raised that concern, and I had pointed out that that we thought that our proposal was, was comparable, but was not considering Lanai City. And so I had suggested that we could add in the, the development standards that there would be a standard situation for Lanai that if you're under 4,000 square feet that you could automatically pursue the 75. And it seemed that the Commissioners had said that that was a good idea.

And then Richelle, separately also suggested that there be another Special Use Permit line item for parcels that may be greater than 4,000 square feet on Lanai so that they could come to the Planning Commission and ask for that consideration.

Ms. Preza: I see. Thank you, Jordan. So Commissioners, so let's break that down. So one is if it's under 4,000 square feet, you know the 75, like, they could just -- they wouldn't have to go to the Planning Commission. Is that something we're in favor of?

Ms. Grove: So listening, I think they should have to because I think our goal should still be to try to get as much impervious areas, as little imperviousness as possible. Once that happens. Forgive me. So coming to explain why they want the extra ten percent seems to make sense to me.

Ms. Preza: Okay. And then secondly, on the Special Use Permit, if they're over 4,000 feet they could still seek out the extra ten percent by coming to the Planning Commission. So it sounds like we kind of want them to take that extra step to come to the whatever existing planning commission there is at the time. But I still don't know if this is addresses, you know, Zane's question about why those numbers, you know. So I don't know, do you folks feel comfortable with those numbers, just, you know, based on the effort to try to, you know, improve the drainage situation or I, I don't know.

Ms. Grove: May I ask one more question? Jacky, do you know if the Office of Climate Resiliency or whatever it's called, Resiliency Office, weighed in or set those percentages? Because we a huge amount of faith in the, the work that those folks are doing. Not to say

anything against the planning commission in Honolulu, but I know that they have been thoughtful about all of their other climate related proposals.

Ms. Takakura: Commissioner Grove, I'm not sure. But it is consistent with, you know, that one O'ahu one climate document that really encourages, you know, the increase density. And they didn't specifically say if it is, but I know that this is consistent with the goals of that.

Ms. Grove: Thank you.

Ms. Preza: Thank you. So based on that, how do you folks feel about moving forward? Sally, I see you're unmuting.

Ms. Kaye: I apologize.

Ms. Preza: Oh, okay. I mean, if you folks don't feel comfortable making a decision we could defer action. But if, you know, we could also recommend approval. I guess, I'm not sure. If we deferred, could we ask for advice from the Office of -- ? Lisa, what were you suggesting?

Ms. Grove: I was going to make a motion to move to approve with the comments we've already suggested, and if people vote it down, that's fine.

Ms. Preza: Would you like to make that motion then?

Ms. Grove: Yes, I move that we approve with the comments that we've already stated and stipulations.

Ms. Preza: Thank you, Lisa. Is there anyone who would like to second that?

Ms. Kaye: I'll second.

Ms. Preza: Okay, Sally seconds. Is there any discussion? If not, then we can vote. And since I can see you all, we can just go by raising hands. So if you're in favor, please raise your hand. Okay, any nays or abstentions?

It was moved by Ms. Elisabeth Grove, seconded by Ms. Sally Kaye, then unanimously

VOTED: To approve with the comments as discussed.
(Assenting: J. de la Cruz, Z. de la Cruz, E. Grove, S. Kaye, N. Ropa, C. Trevino)
(Excused: S. Menze, S. Samonte)

Ms. Preza: That passes unanimously. So thank you, Lisa. I think, you know -- and thank you, Jordan and Jacky, for hearing out our comments. I think hopefully that will be helpful for the County Council when they, when they look at this again. And like you said, Jordan, we can still individually testify when that comes before them, right? So, I mean, if you folks have other

thoughts like the one that, when that comes up, we can kind of -- you guys can do that individually.

2. A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.26, MAUI COUNTY CODE, RELATING TO M-2 HEAVY INDUSTRIAL DISTRICT

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

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

Ms. Preza: Great. Moving on. The next item is B.2. which is a bill for ordinance amending Chapter 19.26, Maui County Code, relating to the M-2 Heavy Industrial District. And I do believe we also have a presentation for that. Is that, is that you again, Jacky?

Ms. Takakura: Chair Preza, it's me again.

Ms. Preza: Thank you.

Ms. Takakura: So I'm going to share screen again. So now we're talking about Chapter 19.26 and this one doesn't --. Well, you do have this zoning district on the Island of Lanai, but those parcels are not, would not be eligible to take advantage of these proposed changes. But we'll go through this, though.

So what this bill is about -- and this is proposed by the department -- is to amend this chapter, which is the heavy industrial district, and to allow for apartments as a permitted use in certain situations. And so the heavy industrial district is normally reserved for manufacture or treatment of goods from raw materials like the former pineapple cannery in Kahului. These are some pictures from the 60s. Lanai being the Pineapple Island, these probably look somewhat familiar. But anyway, this is Kahului back in the day. It was heavy industrial back then. But now, as you know, it's a shopping mall. There's some warehouse businesses and it's part of this Transient, Transient Oriented Development (TOD) corridor of Kaahumanu Avenue. So it's not quite the heavy industrial that it used to be.

A similar area is what was previously the Wailuku Sugar Mill, which is now the Millyard. And now it's got businesses and services, so forth in there. So what the department is proposing

is to create the opportunity for these property owners to transform or redevelop vacant or underutilized parts of their properties into housing. So therefore, the bill is proposing to allow apartments in M-2 zoning under specific conditions. And here's what those conditions would be. And all of the criteria would have to be met. And that way we're protecting the integrity of the zoning district so that only in certain situations apartments would be allowed.

They have to be located on the same lot as business or industrial uses. Existing businesses or industrial uses would have to be located within 500 feet of any existing residential use. So if you ever come over to Kahului, like, Kaahumanu Shopping Center across a street, are, is a residential area. So that parcel would obviously meet this criteria, for example. Appropriate physical or spatial buffers are provided between residential and any noxious uses, uses. And of course, transient vacation rental use would be prohibited.

I have some maps here to show you where these M-2 zoning districts parcels are. So this is Central Maui. Here's Kahului Harbor, Kaahumanu Shopping Center, and going out towards Kihei, here. Lahaina side, right over here, above the highway. Kihei side, South Maui, over here. Maalaea area, and over here in Kihei. Molokai, in Kaunakakai. And then this is where this zoning district is on the Island of Lanai. It's not too far from the airport.

And so in looking at the properties that meet the criteria, you can see here, Lanai doesn't -- the properties on Lanai don't meet the criteria because there's no existing residential nearby. Properties that do meet the criteria would be like I mentioned Kaahumanu Shopping Center. Other areas in Kahului Industrial, the Wailuku Millyard that used to be the sugar mill. The mill is nearby residential use. This was Kihei side. So this would just be in some limited areas to allow these apartments.

And actually that's it. So recommend approval, you can propose some amendments, or deny, or defer action. That's it for the presentation. And I can always go back, especially back to the maps if you want to see.

Ms. Preza: Thank you, Jacky. I just so you're aware, I'm going to ask you to go back to the map. But before that, I'm going to open public testimony. Leilani, has anyone signed up to testify?

Ms. Ramoran-Quemado: Thank you, Chair. No one signed up to testify.

Ms. Preza: Okay, would anyone like to who's here. We have a pretty small group tonight so I don't see anyone calling in via phone. So with that, I'll close public testimony. And Commissioners, we can offer comments or ask questions. I'll just get us started. So if you wouldn't mind going back to that map, Jacky. I guess what I'm wondering is so and, you know, it said that this doesn't apply to us because there's no residential uses within 500 feet of that M-2 industrial. But there are homes there that I looked up on the TMK that they're --. And so I don't know, maybe they're outside of the 500 foot boundary. Actually, do you want me to share my screen I can show you what I'm looking at?

Ms. Takakura: Yes, please. I believe we measured those because, yeah, that was a concern because we don't want, you know, the residential next to, you know, . . . (inaudible) . . . But yeah, please, I'm going to stop sharing.

Ms. Preza: Okay, actually, if you guys measured, then that's okay. Because, I mean, I think everyone here on the call or at least the commission members are aware of like those homes that are on the cliff and like above, that's next to the M-2. So I mean, I just looked at the zoning in that and it's non owner occupied slash residential. So but if you guys did the measurement and they're outside of the 500 foot requirement, then that's fine. It's kind of hard to measure. Like there's a little measuring thing that you can add, but it was kind of teetering on that, like between the four to six hundred. So I was like, you know, maybe folks already measured. Okay, so, so you guys did measure. It's outside, it's outside of that?

Ms. Takakura: Yes. The, the existing business or industrial uses are not within 500 feet of existing residential use.

Ms. Preza: So, resident, residential use, like the actual buildings themselves or the, the --?

Ms. Takakura: Right. We looked on the parcel, yes.

Ms. Preza: Okay.

Ms. Takakura: To make sure.

Ms. Preza: Okay, it's not just like, oh, it's within 500 foot of the residential zone because it's right next to it, right? Okay. That was one of my comments. And my second one was, I guess what, what, what -- I guess I'm wondering, like clarifying, what constitutes an appropriate physical or spatial buffer? I don't know if you folks had discussions on that or --.

Ms. Takakura: Chair Preza, that's going to vary depending on what the noxious use is. I mean, in some situations, it might be actual, you know, . . . (inaudible) . . . In other areas, maybe it's . . . (inaudible) . . . It's going to be really depending on what the, the noxious use is.

Ms. Preza: So the Planning Department would decide like --

Ms. Takakura: Yeah.

Ms. Preza: -- what's appropriate?

Ms. Takakura: Yes.

Ms. Preza: Okay, thank you. Those are all my questions. Commissioners, do you have other questions or comments?

Mr. J. de la Cruz: This is John. I had a comment on the word existing. The two sides on Lanai do not currently qualify for this provision. But in the Miki industrial area, in previous discussions, there was talk about how there's going to be apartments there, but they're not considered residences. But if they build those apartments, which are not residences, would that qualify, the Miki area, for this provision?

Ms. Preza: I'm sorry, Jacky, you can answer. I think because that is not available yet or I don't know if we've even seen, like, any of the, the maps for that. I'm not, I'm -- I don't know, Jacky or Jordan, if you can clarify or it seems like that might be a little preemptive.

Mr. Hart: Yeah. Could you clarify, Commissioner de la Cruz? You said that there are going to be apartments that are not residences. I don't really --. I need --. I don't really understand.

Mr. J. de la Cruz: Yeah, go back two or three meetings and on the, on the map of Miki Basin's proposed industrial area. Okay, if you go in with the development . . . (inaudible) . . . ten, 20 years ago, there is going to be a set of dwellings which they will allow people to live in. And there are in fact apartments, but they're not calling them apartments or they're not calling them residences. But if they are built, in the future, will they be considered residences and will this make the Miki area available or permissible to build those apartments being discussed in this statute change?

Ms. Preza: I guess I'm wondering, like, this is all like a lot of speculation about what like what exactly those are going to be, you know, and I'm not sure if we have enough information at this time to --. And Jordan, if you do have a clear answer that I'm going to let you take it away. But I think, I mean, if that, if they were to be residences there, would that change how you approach this, like our recommendation tonight? I guess I'm wondering, like, what's the impact of that, you know?

Mr. Hart: Yeah. Let me say --

Ms. Kaye: Yeah, let me just interrupt for a second. John, are you, are you going back to the discussion of the condominium structure out there? Is that what's leading you to think that there's going to be apartments permitted in the Miki area?

Mr. J. de la Cruz: Yes. Because isn't a condominium a residence?

Ms. Kaye: Yeah, but that's not, that's not the same thing. It's not a condo the way we think of it, a condo. It's, it's -- I'm sure Jordan or Richelle can, can explain this better than I can -- it's a way in which things are divided. The heavy industrial area would be divided under a condominium development. It's not for residential use. I thought that might be where you were going with this. But that doesn't mean it's going to be apartments. Is that correct, Jordan?

Mr. Hart: Okay. Yeah, so, so condominiumization is a method of selling ownership in, in raw land or a condominium unit; you could do either. So, so my understanding of the existing commercial project is that it is --. It is --. Well I have to check on it right now. I was under the impression a subdivision wasn't being proposed. But anyway, I'm not aware that that specific heavy industrial project had any proposal for residential use inside of it. You did -- I thought you were talking about the larger project. And I believe that that 200 acre project has light industrial included in it as well. Light Industrial does allow for multi-family uses under existing conditions. So that's relevant to the issues of that you're trying to raise.

The other thing I would add to that is that, for the larger project, generally the way the Land Use Commission is operating now, you, you need to present to them what you're developing. So those things would all need to be disclosed, you know, through the review and approval process for that project.

But in a situation where they did propose to develop apartments in the light industrial component of the project, and there was adequate separation from the noxious uses that may be occurring on some of the heavy industrial areas with this proposal as it's drafted now, they hypothetically could also develop multifamily on heavy industrial components. But with the -- you'd really have to look at the State Land Use Commission decision in order to see whether or not they need to address any of those things there, or whether or not they could outright approve it. I think with regard to the older properties that are designated, especially on Maui, they won't have those State Land Use Commission decision and orders to relate to them so they would have more flexibility. But I think it would be a little bit more complicated with things that have been approved by the State Land Commission under their current methodology of review and approval. I don't know if that was helpful or clear, but that's basically responding to the issue.

Ms. Preza: Thank you. Commissioners --

Mr. de la Cruz: So any building of residence in any of those areas would have to come to the Lanai Planning Commission first?

Mr. Hart: I don't know. I don't know. I don't think that there was any proposal for residential uses within the existing small heavy industrial project because this concept was not conceived of at the time that that thing was approved. So if they were going to try and do that there, you'd have to review the State Land Commission decision and order and see whether or not there was any implication that it could have been included. I think that would be pretty --. I don't know that, but, but based on the fact that it was never included in the zoning district, I don't think that would be very likely that they would have alluded that they may develop residential uses when they were not permitted by zoning. But I'd really have to review those things to tell you the answer. If they needed to do changes --. This is really abstract. I'm not really sure the answer to that, but I don't think that they would --. I don't think that they would come to the Lanai Planning Commission if it was an issue that pertained to their decision and order issued by the State Land Commission.

Ms. Preza: Thank you, Jordan.

Mr. J. de la Cruz: Thank you Jordan.

Ms. Preza: It sounds like it's being proposed kind of more like oriented towards Maui and trying to make better use of like the, the zoning that is heavy industrial, but they're no longer in use, right. And so we're trying to be more adaptive with the space. So I don't know. Commissioners, other thoughts on Lanai in particular? We only have that small zone in Miki and Kaunalapau.

Mr. Hart: I can add a little more context and maybe it will be helpful. So we also added the M-3 Restricted Heavy Industrial zoning district recently. And that was because there's been a land use pattern within the County, primarily on Maui Island, for the use of light industrial for commercial and residential purposes, as well as the heavy industrial district and so -- the M-2 Heavy Industrial District -- and that has pushed away the -- it's made it harder for the heaviest industrial operators to, to operate. So there's this M-3 Restricted District that's been made and those ones are much more remote and they can do the most noxious uses there. But as a result, these patterns have changed. For example, we've got shopping malls or, you know, restaurants in heavy industrial. And so this would be a way to, where appropriate, make more synergistic use of those properties.

Ms. Preza: Thank you, Jordan. Zane, I saw you raised your hand.

Mr. Z. de la Cruz: Yeah, I guess I just have two kind of comments. I think what the other Commissioner de la Cruz might be alluding to is not necessarily of plans in the works, but based on these restrictions, like, or qualifications they, you'd be able to fairly like would how easy would it be, like, if they were to set up. You know, because one of the comments he made was that the residential area is butted up, down in Kaunalapau is butted up right next to the industrial area, but there are currently no houses there. But since this is a residential area, like if you built the house within 500 feet of that heavy industrial area, does that now qualify the heavy industrial area for housing units?

And the other, I guess I'm -- so the heart of this bill, I want some clarification on is it to preserve heavy industrial zoning in case heavy industrial zoning is needed? Because right now I'm guessing they have more inventory than they're using. But the idea that in case we have to increase heavy industrial in the future that they won't have, they'll have that land available? Is that what this is about? To kind of use it as housing in the meantime?

Mr. Hart: So I think the M-3 Heavy Industrial zone was added recently. I believe it was added in 2012. And that was in response to the -- so there's commercial uses that are permitted. There's commercial uses that are permitted in the light industrial district that have really changed our inventory of practical, usable light industrial because the industrial uses get end up getting pushed out by the commercial uses. So the M-3 district was created. With the M-3

restricted industrial district was created specifically to make a place for these heavy uses that do need, like they're required and they need a place to operate without interference.

At the same time, there has been development pattern changes so that like heavy industrial is starting to be used for like M-2 Heavy Industrial is starting to be used for like warehousing showroom like tile. Tile companies, or like, or marble companies have like a showroom and a warehouse and it's being integrated into a commercial use. So because we have these changing patterns and we have some of these properties that are right across the street from single family residential uses, for instance, as Jacky had noted, that there are situations that are appropriate. Kaahumanu Center, for instance, is a shopping center. It's not really heavy industrial. I mean, it is heavy industrial zone, but, but the use is not, and it's right next to residential uses. So when you have these situations that are appropriate to begin to evolve, then, then and we also have housing need at this time, then this is an opportunity to, to, you know, create adaptive reuse of existing properties. While we have already maintained a specific place for only restricted heavy industrial uses with the creation of the M-3 of industrial zoning district.

Mr. Z. de la Cruz: I guess a follow up question. So why, why are they looking for this more flexibility in the use of the heavy industry area district instead of rezoning?

Mr. Hart: Well, the department is actually doing this. We see these evolving patterns and, and we see that there is a number of opportunities at the same time that we would like to create the possibility to take place. And Jacky showed that we did our -- we are in the process of doing our transient, transit oriented master plan for the Kaahumanu Avenue corridor. And so basically, rather than putting the onus on a number of individual property owners to come in and petition the Council for one by one changes, we see this is an important thing that could happen. That there's a department initiative that we're proposing because we see these patterns taking place and we think this is the right thing to do at this time, and we'd like to, to make it happen, and so we're proposing it.

Ms. Preza: Thank you, Jordan. I'm sorry, do you want to comment real quick on it? So if there is a, like, Zane's first question, which is if there is a home that is built in that residential zone that abuts the M-2, is that now qualify it for these zones, these new uses?

Mr. Hart: Okay, so, so there's a couple of parts to that. So my understanding is that's generally completely occupied by the harbor. So, so in a practical matter, you have to consider whether or not is there legitimately going to be any sort of retreat or downscaling of the harbor in order to, to conduct apartments? And then also --

Ms. Preza: No, I don't think so. I don't think so. I was just --

Mr. Hart: Setting that aside. I just wanted to address that because you really do need to put things in in the context of practicality because, you know, any, in a hypothetical anything can happen. But I don't necessarily think that that's realistic.

And then we also have the provision that there be adequate buffer from any sort of noxious uses. So you know, how do you maintain the operation of an important harbor while creating separation in order to put multifamily there? And then also, why would you even propose to do that? So, so, you know, there's a hypothetical situation where something like that could be proposed. But I don't, I don't -- from the perspective of the Planning Department, I really don't think that that's the kind of thing that we would determine is, is feasible or appropriate.

Ms. Preza: Thank you. And Zane, did you want to follow up with that?

Mr. Z. de la Cruz: Yeah. So just, this is just my follow up to that is like when we came into this, like it opened with, you know, Lanai doesn't currently have or Lanai doesn't have any zoning that would be affected by this because of current conditions. To me, that just, I know it's not intentional, but it seems misleading just because, you know, the situation currently, like none of our M-2 Heavy Industrial is currently affected by this. It doesn't mean that it won't be. And so I just felt a little like I had to play kind of a game of catch up looking at this like --. Yeah, I just I don't, I don't feel like that's like a good lead to have into this conversation that our, our areas aren't affected by this just because they currently aren't affected by this.

Ms. Preza: Thank you, Zane. I think, you know, the good thing, at least in the letter that was draft or the memorandum that was drafted up, is that it says, you know, as the proposed bill as drafted would, you know, wouldn't immediately apply to us. So, I mean, I guess hypothetically in the future, it could, at least the word immediately, which is . . .(inaudible) . . . right now.

Mr. Hart: We can --. We understand the style comment and we can take that under advisement in the future. But I don't think it was intended to, to kind of like blow smoke or make you think that this has nothing to do with you. But I do think in the situations that we're talking about, I think it would be a little bit more complicated than, than it, it might appear on the surface to actually execute something like this with regard to, like I said, the function of the harbor or the existing, the existing decision and order for the existing heavy industrial or what would need to be proposed, reviewed and approved for the, the new 200 acre portion that's being discussed.

Ms. Preza: Thank you, Jordan. Commissioners, other comments? Yes, Lisa.

Ms. Grove: I want to say quickly that I think it's a good idea and we really needed especially on the transit oriented corridor piece. The walkability scores there are like 32 and 36. There's a whole, you know, like there's a sort of dream of building kupuna housing and having it all with the wraparound services and things I talked about at the last meeting. And I think it's, the zoning is pretty critical to getting that done and getting that housing that's desperately needed, especially for low income people over the age of 60, which is a growing urgent need on Maui.

Ms. Preza: Thanks, Lisa. Okay. Other questions or comments or can we take some action?
Yes Jacky.

Ms. Takakura: Chair Preza, I'd just like to apologize to Commissioner Zane de la Cruz. I just know that there's a lot of bills that I bring before you that, you know, there's no zoning of it on Lanai, or you know, I feel like I'm wasting your folks this time. And I did not intend to mislead or anything, so I apologize for that.

Ms. Preza: Thank you. Okay, Commissioners, would anyone like to make a motion of how we should move forward? Or, is there further discussion?

Ms. Trevino: I'd like to make a motion that we approve it.

Ms. Preza: Thank you Chelsea. Would anyone like to second?

Ms. Grove: I'll second.

Ms. Preza: Lisa seconds. And any further discussion? If not, then all in favor, please raise your hand. Any abstentions or nays? Okay, so John, you abstain. Sorry, you're muted. You abstain? I can't hear you.

Mr. J. de la Cruz: Sorry I had the mute on. I abstained.

It was moved by Ms. Chelsea Trevino, seconded by Ms. Elisabeth Grove, then unanimously

VOTED: To approve the proposed bill.
(Assenting: Z. de la Cruz, E. Grove, S. Kaye, S. Preza, N. Ropa, C. Trevino)
(Abstain: J. de la Cruz)
(Excused: S. Menze, S. Samonte)

Ms. Preza: Okay, thank you. Well that is one, two, three, four, five, six yeses and one abstention, so it passes. Thank you.

- 3. NOTICE: Due to errors in noticing, the public hearing item below will not take place at this time, and no public testimony will be received on this item. A Public Hearing Notice will be republished and this matter will be placed on a future Lanai Planning Commission meeting agenda.**

COUNTY SPECIAL USE PERMIT

T-MOBILE WEST LLC, requesting a County Special Use Permit for modifications of an existing telecommunications facility, located

HI05004A Lanai City, TMK (2) 4-9-002:001(por.), Island of Lanai (CUP 2021/0001) (K. Willenbrink)

Ms. Preza: So moving on to -- so Item B.3. is -- should I just read this, Jordan, just for the record or -- the notice? The notice is that due to errors in noticing the public hearing item below will not take place at this time in no public testimony will be received on this item. A public hearing notice will be republished and this matter will be placed on the future Lanai Planning Commission meeting agenda. And that's regarding the T-Mobile Special Use Permit that we discussed last month. Okay, so moving on to item --. Yes, Sally.

Ms. Kaye: Yes. I just wanted to ask Jordan if it's or if it's okay to ask a question about this item, not what it is, but just the status of whether the CUP is still in effect or has expired.

Mr. Hart: Counsel, could I get --? Can I get input if we should be talking about this now? I mean, I can respond, but I just want to make sure it's not out of order.

Ms. Kaye: Right. That's my question. I'm not sure I can even ask it.

Ms. Thomson: It shouldn't go probably any further than that. But I think as a threshold matter, you know, it would be okay to answer that question.

Mr. Hart: Okay, so thank you. So, so we received clarifying documentation from the applicant and it looks like there is documentation that it was actually timely file received or responded to, but that material was not --. And we had discussed not having a compliance report and that caused a series of disconnects in our process. And it's, it's related to that.

Ms. Kaye: Wait, I'm sorry. I'm confused. This is, this is a new one. This isn't the AT&T from last month. This is a new one for T-Mobile?

Ms. Preza: Oh, this is a new one.

Ms. Kaye: Yeah.

Ms. Preza: I'm sorry. I thought it was what we discussed last month, but my sorry, my brain must be --. My apologies.

Mr. Hart: Chair, I apologize. I thought you were asking me about the one that we had seen last month.

Ms. Kaye: No, I'm asking you about the one that was delayed or deferred because they hadn't provided notice to the 500 people within -- or the people within 500 feet. That is a new one, correct?

Mr. Hart: Okay. I believe that it is, but I haven't prepared for that one because we weren't going to address at this time. I thought you were asking me about the item that had been reviewed last month and was not acted on.

Ms. Kaye: No, no.

C. UNFINISHED BUSINESS (Action to be taken)

1. A BILL FOR AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE RELATING TO CONDITIONAL PERMIT AMENDMENTS

Ms. Michele Chouteau McLean, AICP, Planning Director, transmitting Resolution No. 21-92 referring to the Lanai Planning Commission a proposed bill to amend Maui County Code Chapter 19.40, Conditional Permits, to remove the planning director's authority to approve non-substantive amendments that do not result in significant impacts above what would result from the approved conditional permit. (J. Takakura) *(Public Hearing was conducted at the September 15, 2021 meeting, and discussed at the October 20, 2021 meeting.)*

The entire text of the proposed bill for ordinance is available at <https://www.mauicounty.gov/DocumentCenter/View/127556/Resolution-21-92-Referring-to-the-Planning-Commissions-a-Proposed-Bill-Relating-to-Conditional-Permit-Amendments>

Ms. Preza: Sorry, that was my mistake because I think I said, oh, this is what we discussed last month, but that was a different one. So I apologies for my, my mistake. But it seems like we should move on. So, Item C.1. -- Sally, you okay? Okay, C.1. is a bill for an ordinance amending the comprehensive zoning ordinance relating to Conditional Permit amendments. So this is something that we had, you know, public hearing was conducted in September, we discussed it in October, and I believe we just got a letter back. So the Director, the Planning Department, wrote a letter on behalf our Commission asking some certain, you know, clarifying questions. And then we received a document back from Alice Lee, who is the Council Chair. So we do have unfinished business on this because we do need to vote on it. But I'm going to open up public testimony if there's anyone. Leilani, has anyone signed up?

Ms. Ramoran-Quemado: No one signed up, Chair. Thank you.

Ms. Preza: I don't see anyone calling via phone. Would anyone like to testify? If not, then we'll close public testimony. And we can discuss what was presented to us. So just to refresh our memory, this was like the Maui County Code -- the non-substantive --. The Planning Director may approve amendments to Conditional Permits if the amendments are non-substantive.

But it was proposing removal, correct? Sorry, I don't know if there was -- I don't think there's another presentation for this because we discussed in September.

Mr. Hart: The proposal was to remove the Director's discretion on non-substantive changes.

Ms. Preza: Right. Right. So, I mean Commissioners, we have Alice Lee's comments. I don't know if you folks have discussed, you know, want to discuss this a bit more. I was a little confused by --. They were saying that, you know, we asked, like, what is the reasoning for the resolution? And Alice was saying like -- she said something about it was as a result of County Planning and Sustainable Land Use Committee's discussion of a bill that was exclusive to ziplining and not all conditional permits. Jordan, if you can offer any clarification.

Mr. Hart: Yeah. I'm going to have to let the response speak for itself. I was -- I kind of anticipated it might not be as satisfactory for the Commission. But, that's the response that we received.

Ms. Preza: Okay. Thank you.

Ms. Elisabeth Grove: I think non-substantive would also describe the response we received. That might just be me.

Ms. Preza: Yeah. Yeah, I don't really quite understand, you know, what is the problem the Council is hoping to solve. The proposed bill would prevent the Planning Director from granting further amendments as authorized. I feel like that we got that. We had that information. It's not really answering why they want to remove this so that's a little confusing. Yeah, I still don't think we have clarity which leads me to think maybe we should deny because I don't think they, they've provided us any information that's really like pushing us towards agreeing with this proposal, you know. Like, I thought, you know, I think we'd all deferred this because we thought maybe there was a reason why they think that we should remove this particular section that will, that kind of streamlines the process. But I don't really see a compelling argument here or any argument which is kind of --. I don't know what you folks think, Commissioners?

Mr. Zane de la Cruz: Shelly?

Ms. Preza: Yes, go ahead, Zane.

Mr. Z. de la Cruz: Yeah, and like, so more than like not having a compelling argument, there seems to me, there seems to be some contradiction for that question to what problem the Council is hoping to solve? Or, they're saying, from my interpretation, is they want to remove the Planning Director's ability to make these, to allow these non-substantive changes when the original document, like the first thing is the guy talking, is someone, Vice-Chair is saying that they want, they want this because it will streamline the process. And to me, those sound

like two contradictory things. So it -- I honestly don't understand any of the train of thought for this.

Ms. Preza: Yeah, I agree. Yeah, no Zane, I totally agree. I think especially because when we heard the history of like why that was even implemented. It was to streamline the process, right, instead of going through this whole, like, winded permitting process for a non-substantive change, which they gave us examples of, right, which they're pretty minimal. So, I agree with you. Other comments or --?

Ms. Sally Kaye: Yeah. My sense is that the Department was against this. We didn't have an adequate explanation for why the Council wanted to do it. They pretty much ignored us for a while, and then send something which I agree with everyone else, is fairly inadequate. And the fact that there is a reservation that we will always be notified if the Department wants to take such action that they consider non-substantive. And we can either waive it or review it. It retains our ability and our authority over it somewhat. So I would move to recommend denial of the proposed bill to the Maui County Council. And that would be --

Mr. Z. de la Cruz: I second

Ms. Kaye: -- the recommendation of the Department.

Ms. Preza: Thank you. And I heard Zane second. So, is there any further discussion on this? If not, then all those in favor for the motion, please raise your hand? Any opposed? Any abstentions? No. So that passes unanimously. Thank you very much Jordan, and Jacky, and everyone for drafting that letter to the County Council kind of asking for clarification. And, yeah, I wish, I wish there was some better answers, but, okay, great.

It was moved by Ms. Sally Kaye, seconded by Mr. Zane de la Cruz, then unanimously

VOTED: To recommend denial of the proposed bill to the Maui County Council.

(Assenting: J. de la Cruz, Z. de la Cruz, E. Grove, S. Kaye, N. Ropa, C. Trevino)

(Excused: S. Menze, S. Samonte)

D. DIRECTOR'S REPORT

1. Open Lanai Applications Report as distributed by the Planning Department with the November 17, 2021 agenda.

Ms. Preza: So moving on to item D.1., which is the open application, Lanai applications, which we always get. I don't know if there's any questions on that.

2. Highlights from the Lanai Planning Commissioners who attended the Virtual 2021 Hawaii Congress of Planning Officials (HCPO) Conference, October 4-8, 2021.

Ms. Preza: If not, then D.2. highlights from the Lanai Planning Commissioners who attended the virtual 2021 Hawaii Congress of Planning Officials (HCPO) that occurred on October 4th of 8th. Did anyone go to that that would like to share?

Ms. Kaye: Actually I think I was the only one that attended and I would ask the Commission's indulgence and ask you to defer this till next month because it was really, really a good one. And I, I would like to be a little better prepared to be more substantive in what I would, I would share with people.

I also have a question and that is because I'm the only one that attended and it was one of the better conferences. I think I've been to four or five of them. Is there any way, Jordan, that some of the materials could be shared with other commissioners so it's just not relying on one person's opinion of what they heard?

Mr. Hart: Sure. I can, I can have staff check on what was made available. I did not, I was not able to attend this year, so I don't --. I heard it is also good, but I don't know what material was missed or how it was provided, so I can have staff check on, on how those things are provided. Normally they are, and request that that be distributed to the Commission.

Ms. Kaye: That would be great because there was one presentation about a Supreme Court decision that I'm sure Richelle knows backwards and forward, but I haven't been, been able to read in its entirety that really might have a negative impact or potentially having an impact on customary rights. And so I'd like to read that first before. So if we can share this, that would be really, really helpful with others.

Ms. Preza: Thanks, Sally. Thanks, Jordan, for being willing to kind of look into if there are any resources available.

Ms. Kaye: Commissioner, can I get a clarification? Is that -- do you want us to make sure that you get all resources or is it relating to the case that that has an impact on customary rights?

Ms. Kaye: No, no, no. I have. They sent me all the, the slides and the sessions, but with under a strict restriction that I can't share with anybody. And I just, you know, usually when I've gone to these, there have three or four of us that have gone and we can all kind of, you know, we get to go to different things and we get to share. This was totally a different format. And I just there was such good stuff there about climate change, and shoreline restrictions, and case law that I just think it would be wonderful if some of that material could be shared with other Commissioners.

Mr. Hart: Okay. In that context of them stating that it can't be shared, we'll request if it can be distributed to, to the Lanai Planning Commission members.

Ms. Kaye: Okay. Thank you.

Ms. Preza: Thank you. And yes, Sally, we can defer this to the next agenda so you can share. I'm looking forward to it.

3. Agenda Items for the December 15, 2021.

Ms. Preza: So item D.3. you know, speaking about agenda items for December 15th, Leilani, is there anything coming up that you know of right now?

Ms. Ramoran-Quemado: No Chair, I don't have any proposed legislations or any applications to be brought forward other than those items that you just . . . (inaudible) . . .

Ms. Preza: Great. Lisa, did you have a question or comment?

Ms. Grove: Is it possible to add an agenda item which is like an update report on we had the, the issue with potable water being used down at Manele that should have been non-potable and that exponential increase in water usage is down there. And I'd like just to have an update on whether or not that, that has been transferred over to the non-potable use. I believe --

Ms. Preza: I think --. Yeah, sorry, just answer --. I mean, I can't answer that question in particular, but we do get quarterly water use the reports.

Ms. Grove: I don't wait that long.

Ms. Preza: Okay. So --

Ms. Kaye: I don't think that would be part of it, Shelly. I think Joy, I think what Lisa is referring to is Joy actually when Lisa asked her the question, Joy said, I really don't know the answer to that, whether it was potable or non-potable.

Ms. Grove: No, she, she confirmed it was potable water being used for non-potable use. And what I want to know is whether or not it's been switched.

Ms. Kaye: Got it.

Ms. Preza: So I guess protocol for that, Leilani, because that requires us requesting or like the Planning Department requesting on behalf of the Planning Commission to the Water Company or Pulama Lanai to be present to answer that question? Is that correct? Maybe Richelle, you can -- is that is correct about how we could about adding that?

Ms. Thomson: Right. So the Planning Department could send a letter on your behalf requesting an update on that information and then requesting their presence to, you know, discuss any, any findings, and, and that it occur on December 15th. If there are no other items on December 15th, that may be the only item. So I just wanted to make sure that, you know, that you all know that or if you wanted it to be, you know, by the January meeting.

Ms. Preza: Okay. It is usually like a month's notice that's --. I don't know. We don't, we don't typically like --. I mean, I'm glad, Lisa, you brought this up like to ask for a follow up, but do you think a month is sufficient notice?

Ms. Grove: It's -- that's fine with me. And if it needs to go to January, I totally understand, especially with the holidays and everything. Is it possible just to get an update in writing or does it have to come through the, the process of the Commission?

Ms. Preza: Yeah. Richelle, is that possible to just request an update, whether that's, you know, it can be on the agenda, something that's just provided or, I don't know, like a written response?

Ms. Thomson: Right. I mean, the response can be requested, you know, and transmitted ahead of a meeting. But the caveat is don't discuss it with each other, and it should be on the, on the next agenda.

Ms. Preza: Okay.

Ms. Thomson: Whether it's December or January.

Ms. Preza: Thank you. So, I mean, Commissioners, are other people are in favor of that? I don't know if we have to make an official motion to ask for it to be on the agenda, but no one is opposed. Then, yeah, maybe -- would that be Leilani who drafts that or Jordan?

Mr. Hart: It would be me.

Ms. Preza: Okay. Yeah, so Jordan, if you wouldn't mind drafting the letter on behalf of the Planning Commission to follow up on that. Okay, any other thoughts? Yeah, Zane.

Mr. Z. de la Cruz: So I'm not, I'm not sure where this falls in, but, or if it's the right time to bring up. But like I, I'm aware of the sunshine laws and I think they're good, but I don't feel like these meeting times are adequate for discussion. And I haven't really been able to find anything on my own with the exception of like the executive sessions or executive meetings -- I can't remember what they're called -- but they also seem very limited in their scope of like how they're used. And like I don't know if there is a mechanism for this. I'm asking, like, is there a way for us to meet, like on the record, whatever is, outside of these commission meetings?

Because I do not feel I have adequate time and like we don't have adequate time during these meetings for a good review and discussion of the topics.

Ms. Thomson: That's a great question. You know, I think --. So, unfortunately and fortunately, the sunshine law constrains what you do in most circumstances to being in the, in the public view, so offering the opportunity for testimony by anybody in the public that wants to and that kind of thing. But what you could do is schedule special meetings, you know, and you just need to agree on a date that, you know, at least five of you could attend. You know, if you had topics that you wanted to explore in more depth outside of kind of your normal meetings, you know, I think that's an avenue that you can explore.

There are a couple of sunshine law, you know, exceptions like a temporary investigative group. But those are really you, you put them together. It's less than quorum. It's up to four of you that would basically be directed to one task, you know, investigate something, come back and report to the full body. That investigative group does not have to meet in public, doesn't have to take public testimony. You're basically kind of on your own on that task with some, you know, some guardrails on it. So those are a couple of ways that you could maybe look into doing a little bit more in-depth work on certain topics.

But, you know, if, if there, if you want to, you can give me a call and just let me know more of what you're thinking and we can discuss some, some ideas, if you'd like to Zane.

Mr. Z. de la Cruz: Yeah. I mean, because everything, like, for me, like I come into these meetings, I mean, I do as much reading and studying of the material provided as possible, but I don't have a lot of the institutional knowledge that a lot of other people or expertise, a lot of people on this commission do. And I, a lot of times, I just don't feel like especially because we have limited time and sometimes a great deal of things to go through that we have the time to really learn and discuss some of the consequences of our actions. And I would like something a bit more proactive, like the investigative groups and stuff sound great, but they also mean we have to wait until they're brought up before we can go into them, which essentially pushes everything back a month, right?

Ms. Thomson: Right. Yeah, at least a month. It's actually more. So it takes -- there's basically a three meeting minimum. So one to set it up, one for them to report, and then one for all of you as a Commission to take actions. And so they're, yeah, they are a little bit unwieldy. You know, one of the things that, you know, that I can offer to any of you is if there's anything on an agenda that you would like to discuss ahead of time, you know, that you just, you know, want my take on it or you know, and I know probably Jordan feels the same, you know, we are your resources. We can provide you information directly. So, you know, that's, that's available to you. In terms of just, you know, and always a caveat is that you can't discuss it between on all of you. But you can reach out to other sources of information ahead of meetings.

Ms. Grove: If we were going to talk to you, we couldn't do it as a collective, right, or have a discussion. It would have to be a one on one conversation, correct?

Ms. Thomson: Yes. It's no more than two. So no more than two, and then those two can't talk to anybody else basically.

Ms. Grove: I just want to say, I agree completely with Zane.

Ms. Preza: Thank you. So, you know, Richelle, if we, say we're in the middle of an agenda item because I feel like it's sometimes it's hard to predict how long these discussions will be because things will come up as we're discussing. And, you know, there's not a lot to process. So I wonder, is it for these special meetings, can we decide, like, in the middle of discussing an agenda item, like, maybe we need a special meeting for this? Is that, is that how that would work?

Ms. Thomson: Yeah, you know, really what you be doing is deferring and then, you know, you would discuss, you know, can we all at least five of us meet in two weeks or something like that. So you would be deferring to, you know, another day and . . . (inaudible) . . .

Ms. Preza: Thank you for that. So, I mean, thank you for asking that Zane because I feel like, you know, if there is ever a time when there's an agenda item we're discussing, I was going to say we could always defer it. But I know there's a kind of a fear of like just pushing it onto the next month and just getting kind of a backlogged with these things. But at least that's a good option. You know, if there is something we want to get back to and five of us are available, you know, within a couple of weeks, we could set up a special meeting. So thank you for clarifying that, Richelle. Yes, Sally.

Ms. Kaye: Yeah, I just -- I have a question, follow up for you, Richelle, because I'm so old and I've been around for so long, I like have this history in my head of the Miki Basin Industrial versus what's going on with something that's before the Planning Land Use Commission which was withdrawn and now is probably coming back up again. And we seem to want to move meetings along. But that kind of history, that kind of detail is really critical. And, and from the conversation tonight, I realized that even the staff at the Planning Department weren't around for the beginning of that. Is there any way that someone could put that in writing to the Commissioners? I mean, I don't, I don't know how to get that information across without violating your interpretation of the Sunshine Law.

Ms. Thomson: You know, I think, honestly, that's, that's one of the, the most rich parts of, of the planning commissions is that there's new perspectives. And then, you know, commissioners like you who've really got, you know, some amazing historical knowledge because you've seen it. You know, you were, you were there and you've seen it and you've been watching especially certain, you know, developments, you know, for quite a while. And you have, as you said, you know, you have this knowledge that, you know, it isn't written down anywhere. You know, any time an item comes up that is related, you know, obviously you'll

be free to offer, you know, your perspective on it within the context of the meeting. I think where it gets difficult is if it's not related to an agenda item, how do you communicate, you know, some of your, your insights to, to everyone else? I don't know. Maybe Jordan has an idea. You know, perhaps it could be wrapped into some type of training, you know, or something like that.

Mr. Hart: Perhaps. I do --. I believe it's okay for everyone to read existing records of prior approvals and proceedings, right. So, I mean, like, you know, the critical issues that people maybe, you know, the history that maybe people are interested in does exist it out there in the public record. I do think also when, when projects are being reviewed, there's an opportunity to request, you know, an analysis of related approvals and historic context of, of the region and things like that. Or the department obviously could set out and do the critical analysis of the interrelationship between all the areas of approvals and, and how they've adjusted over time and how they're all related. But I don't immediately want to volunteer someone's time to start doing that because it's going to be a complicated undertaking. And I do recognize the shortcomings that we have because of institutional knowledge that's lost, and comes and goes. And that's just the nature of how this, you know, entity is constructed. But I think, I think individual research and, and taking the opportunity to ask for supplemental analysis when items come before you, where that's appropriate. Or, like Richelle said, sharing when things come up, it's appropriate. But -- and then the department is your resource. But you know that that is a big undertaking for somebody to do in relation to all the other things that we have moving right now that we have to keep up with. So I would hope that you don't ask us to do that anyway.

M. Kaye: No actually, my question was, can I help by not violating anything and sharing the information? Maybe I'll think about and talk to you, Richelle, about writing something up that could go out to everyone that is absolutely factual. It links to where you can go to read the history. How about that?

Ms. Thomson: Yeah, and maybe, yeah, we can talk offline about that. I think that's a good idea.

Ms. Kaye: Thank you.

Ms. Preza: Thank you, everyone. I really appreciate the thoughtfulness and yeah, I, I think also --. Oh yeah. It's complicated. I'm trying to -- yeah, it's really hard to fit everything that we want to discuss into the time we have. But I appreciate all of you serving, and the time that you're putting in this Commission, so thank you all. And with that, that's pretty much it on our agenda. So we can -- our next --

E. NEXT REGULAR MEETING DATE: December 15, 2021

F. ADJOURNMENT

Mr. Hart: Chair?

Ms. Preza: Yes?

Mr. Hart: We do have the, the open applications list. But I wanted to see if you would let me go backwards and try to readdress Commissioner Kaye's question about agenda item B.3.

So unfortunately, I had not previously reviewed that because it wasn't going to be on, but I did go into the file while we were talking, and this appears to be a brand new submittal. And you can see that by the CUP date is 2021. And it was previously approved as CUP 2010-0009. But this appears to be an independent new application as opposed to an extension.

Ms. Preza: Thank you, Jordan.

Mr. Hart: Thank you.

Ms. Preza: Okay. Great. So our next meeting date is December 15th. Any other final thoughts or questions? If not then, thank you all so much. We're adjourning at 6:55 p.m. Have a good night.

There being no further discussion brought forward to the Commission, the meeting was adjourned at 6:55 p.m.

Respectfully submitted by,

LEILANI A. RAMORAN-QUEMADO
Secretary to Boards and Commissions II

RECORD OF ATTENDANCE

PRESENT:

John de la Cruz
Zane de la Cruz
Elisabeth Grove
Sally Kaye, Vice-Chair
Shelly Preza, Chair
Natalie Ropa
Chelsea Trevino

EXCUSED:

Sherry Menze

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Shirley Samonte

OTHERS:

Jordan Hart, Deputy Director, Planning Department

Jacky Takakura, Administrative Planning Officer, ZAED

Richelle Thomson, First Deputy, Department of Corporation Counsel