

**LANA'I PLANNING COMMISSION  
REGULAR MEETING  
AUGUST 17, 2022**

**A. CALL TO ORDER**

The regular meeting of the Lanai Planning Commission (Commission) was called to order by Mr. Reynold Gima, Chair, at approximately 5:00 p.m., Wednesday, August 17, 2022, online via BlueJeans videoconferencing platform, Meeting No. 381228233, and at the Planning Conference Room, Kalana Pakui Building, 250 South High Street, Wailuku, Hawaii, 96793, and the Maui County Council, Lanai District Office 814 Fraser Avenue (entrance on Gay Street), Lanai City, Hawaii 96763.

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

Mr. Reynold Gima: August 17, 2022 meeting of the Lanai Planning Commission. Let the record show that we do have quorum. Commissioners, can you all turn on your cameras, please? And can you let us know if there is any one in the room with you? I'll start with you, Chelsea.

Ms. Chelsea Trevino: No one with me.

Mr. Gima: Okay, thank you. Nikki?

Ms. Nicole Alboro: Sorry, no, no one with me.

Mr. Gima: Alright. Thank you. Erin?

Ms. Erin Atacador: I'm alone.

Mr. Gima: Okay. Thank you. Zane?

Mr. Zane de la Cruz: There's no one here besides myself.

Mr. Gima: Okay, thank you. Shelly?

Ms. Shelly Preza: I'm alone.

Mr. Gima: Okay, thank you. Sally?

Ms. Sally Kaye: Yes, I'm here.

Mr. Gima: Alone?

Ms. Kaye: Yes.

Mr. Gima: Okay, thank you. Lisa?

Ms. Elisabeth Grove: No humans. Here.

Mr. Gima: No other humans. Okay, thank you. And I am alone, too, in my kitchen. All right, thank you, everybody. Before we move on, I know in the past depending on shared screen, sometimes I could not see all of you. So if you need to speak, Commissioners, and I don't see your raised hand icon, you know, please, you know, ask to be recognized.

At this time I'd like to welcome -- as she walks out the door -- Nikki Alboro. This is her first meeting in attendance, so thank you, Nikki.

And let's see for public testimony. For those of you in attendance, if you choose to testify this evening, please sign up in the chat with Leilani and give the agenda item that you wish to testify on. Until you do so, please keep your audio, mute your audio and video until you testify. We will also be having possible testifiers at the County Building on Maui and in Councilman Gabe Johnson's office here on Lanai.

Okay, so at this time, we will proceed with --

Ms. Leilani Ramoran-Quemado: Chair, I see Sherry raising her hand.

Ms. Sherry Menze: I wanted for the record to let them know I'm here and I'm alone too.

Mr. Gima: Oh, I'm sorry, Sherry.

Ms. Menze: I'm here. Okay, I see you. It's alright. I'm here.

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

**1. A BILL FOR ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE, RELATING TO TRANSIENT ACCOMMODATION CAPS**

**Ms. Michele Chouteau McLean, AICP, Planning Director, transmitting Resolution No. 22-70, CD1, FD1, referring to the Maui, Molokai and Lanai Planning Commissions a proposed bill to amend Chapters 19.11, 19.12, 19.14, 19.15, 19.18, 19.20, 19.22, 19.32 and 19.52, Maui County Code to: (1) cap the number of transient accommodation units to the existing levels for properties in the Apartment and Hotel Districts; (2) remove transient accommodations as a permitted use in the SBR Service Business Residential, B-CT Country Town Business, B-3 Central Business, B-R Resort Commercial, Planned Development, and Lahaina Historic Districts; and (3) prohibit transient accommodations of more than 20 bedrooms in the B-2 Community Business District. The bill also proposes to amend Chapter 19.36B to prohibit temporary parking of camper vans**

**and recreational vehicles used for transient accommodations unless authorized by zoning and permit, and to amend Chapter 19.32 to limit time share plans to Hotel Districts, and transient accommodations to B-2 District only.**

**The entire text of the proposed bills for ordinance is available at <https://www.mauicounty.gov/DocumentCenter/View/133475/Resolution-22-70-DD1-FD1-relating-to-Transient-Accommodation-Caps>**

Mr. Gima: Okay, so for the first item on the agenda is a public hearing, the bill for ordinance amending Title 19, Maui County Code, relating to transient accommodation caps. Michele McLean, Planning Director, transmitting Resolution Number 22-70, CD1, FD1, referring to the Maui Planning Commission, Molokai Planning Commission and Lanai Planning Commissions, a proposed bill to amend Chapters 19.11, 19.12, 19.14, 19.15, 19.18, 19.20, 19.22, 19.32, and 19.52, Maui County Code to, number one, cap the number of transient accommodation units to the existing levels for properties in the apartment and hotel districts. Number two, remove transient accommodations as permitted use in the SBR, Service Business Residential, BCT Country Town Business, B-3 Central Business, B-R Resort Commercial, Planning Development and Lahaina Historic Districts. Number three, prohibit transient accommodations of more than 20 bedrooms in the B-2 Community Business District. The bill also proposes to amend Chapter 19.36B to prohibit temporary parking of camper vans and recreational vehicles used for transient accommodations unless authorized by Zoning and Permit. And to, number five, and to amend Chapter 19.32 to limit timeshare plans to hotel districts and transient accommodations to B-2 District only.

I noticed on our agenda a planner was not identified for this item. So Planning Department who's taking the lead on this agenda item?

Ms. Michele McLean: Aloha Chair. This is Michele McLean. Aloha Commissioners and welcome Commissioner Alboro. Jacky Takakura, who is now our Deputy Director has a power point presentation. If it suits the Chair and the Commission, we'd like to give the presentation first and then take public testimony after that, followed by commissioners' questions, if that sounds okay to you.

Mr. Gima: Yes. Okay, go ahead, Jacky. Thank you.

Ms. McLean: Thank you, Chair.

Ms. Jacky Takakura: Thank you Chair Gima. Good evening Lanai Planning Commission. It's nice to see you all. I'm going to share screen. This is just a short power point presentation if I can do this correctly. When I share screen at the conference room, I'm not really good at this. Let's see. Can you see it now the light blue screen?

Ms. McLean: Yeah.

Ms. Takakura: Thank you. And it's the proposed bill to reduce transient accommodation caps. And this is a bill from the County Council, and it's to cap TVRs, or transient vacation rentals to existing numbers or to remove the use in some zoning districts. And also, there's proposals for the parking chapter and for the timeshare chapter. Can you see this list here?

Ms. McLean: Yes we can.

Ms. Takakura: So just offer some background information. In the last few years, there have been many updates for vacation rentals. I'm not going to read them all, but you can kind of see caps, fines, caps, moratorium, no new ones, uses removed, no new ones. You can see back in September 2020, we had the one year moratorium for Lanai Island, and then we had a caps established for bed and breakfast and STRHs, short-term rental homes for Lanai in September 2021. And then the most recent one was for the Island of Maui, and that's the two year moratorium, which was adopted in January of this year.

The other thing we can't forget that happened during this time was the pandemic, which changed everything. It really brought to light our dependence on tourism and what Maui, and I'm sure Lanai too, is like without visitors.

Just for some context, according to Real Property Assessment Division, this is the count from 2021 of visitor lodging units for the County of Maui. So this -- I don't have the breakdown by island, but this would be for the entire County and that includes hotels, condominiums, bed and breakfasts, short term rental home permits, and so forth. So there's about 24,000 units. And just so you know, these are existing and they're not affected by the moratorium because they're already existing, and they wouldn't be affected by any, by any proposed cap. The cap is to, you know, not have any new ones. So there's, there's the potential for some minor adjustments, but generally speaking, most of these would be allowed to continue. We can get into the details later.

But this is just a summary of the proposed revisions to Title 19. And that would be to cap the number of accommodation units to the existing levels for properties in the apartment district and hotel districts. Remove, accommodate transient accommodations as a permitted use in some other of the zoning districts SBR, BCT County Town Business, which we do have on the Island of Lanai, B-3, B-R, Planned Development, and Lahaina Historic Districts. Also in B-2 District prohibit transit accommodations of more than 20 bedrooms. And then there's some revisions to our Chapter on parking and loading, which is Chapter 19.36B, to prohibit temporary parking of camper vans and RVs that would be used for transit accommodations unless they're authorized by zoning and by permit. And then just some minor revisions to 19.32, to clearly say that timeshare plans are limited to hotel, and transient vacation rentals are limited to B-2 District.

Now this next one, this is just Maui, and the little red specks are where we have B-2 zoning districts. And you can see on Maui it's all over West Maui, Central, South Maui, a little bit up-

country and some in Hana. We don't have any B-2 on the Island of Lanai. There's about four parcels on the Island of Moloka'i.

The proposal for the zoning district would be that there can be transient vacation rentals, but they would not be able to exceed 20 bedrooms. And then all the other zoning districts would either be capped at existing, become nonconforming use, or if the use is allowed by a special permit, then the use would have to stop when the permit expires. They wouldn't be able to renew.

As I mentioned, there's some revisions to Chapter 19.36B, which is the chapter about parking. And this bill proposes to prohibit temporary parking of camper vans and RVs if they're rented out for short term accommodations or commercial purposes unless, as I mentioned, they would be allowed by zoning and the proper permit is obtained.

So when we have bills, we like to compare them to our long term plans, and one of them is the Countywide Policy Plan. And the Countywide Policy Plan it provides broad, broad goals, objectives, policies, and implementing, implementing actions that portray the desired direction of the County's future. And you can see some keywords here, you know, renovation and enhancement of existing limits, sustainable balance, and discouraging new entitlements along the shoreline. From the Lanai Community Plan, there's language regarding from the Hunting Advisory Council regarding hunting tourism that could grow if there were more accommodations available to serve their needs. One of the existing conditions pointed out is that there's few options for low cost visitor accommodations. One of the strategies is to encourage development of a greater variety of accommodations to increase visitor options and foster small business expansion. One of the policies is to support diversification of the economy and then also in the Lanai Community Plan is a policy to support the growth of permitted B&Bs, small inns, guesthouses and other alternative lodging units.

This is just the digital zoning map from Lanai City, and the ones that would be affected are the light-pink, kind of in the middle. That's the BCT Business Country Town. Currently permitted in that zoning district is up to 12 bedrooms with Planning Commission approval. The other zoning districts that you see like the purple-ish, which is Project District; the light green, which is Ag; the darker-greens like open space and park; and then the bright pink, which is interim. Those are not affected by this bill. So only the BCT would be impacted by this bill for the Island of Lanai. And then, I guess if there's any camper vans there, those would be affected.

The Department does have some recommendations which are listed in the memorandum in the packet. One of them is regarding --. Actually the first two are regarding Apartments District. And one of them is to add the word legally to the first sentence. And this is regarding those apartment district properties that are allowed to conduct transient vacation rental use. And for the Island of Lanai, I believe you folks do have some apartment district properties, but they don't have vacation rental use. So this is mostly the ones on Maui that do have the vacation rental use that would be affected. First, to add the word legally so that transient vacation rental

use that was legally conducted; for that one G.2. And then G.4. the proposal in the bill is that the Planning Director and Director of Finance would have to maintain a list which we have on the website. But we want to add a caveat that this list is to the best of the Department's knowledge at the time the list is posted. And then the Department's concern about the camper vans in the RVs, is that it's really difficult to enforce, and the Department recommends finding a better approach, like maybe working with Corporation Counsel on language that, you know, just would be more effective for us. Because a lot of times if we get a call or, you know, a notice that there's some RVs by the time we get out there, they're gone. So we can kind of work with Corporation Counsel or figure out some way to word this so that we can enforce it that would be better. So those three are the Department's recommendations or revisions to the bill.

So the Lanai Planning Commission can recommend approval to the County Council, recommend approval with the amendments. You know, like I mentioned, the Department has some. If Lanai Planning Commission wants to make some also, that's an option. You can deny or you can defer if you need to. And that's all I have for my presentation. I'm going to see if I can figure out how to stop sharing screen, and but I can always go back to any slide if you need to. Thank you very much.

Mr. Gima: All right. Thank you, Jacky. We have several in the chat have indicated their desire to testify on this first item. Is that accurate, Leilani?

Ms. Ramoran-Quemado: Thank you, Chair. Yes, I do have two individuals signed up. The first one is Lahela.

Mr. Gima: Okay. Welcome Lahela.

Ms. Lahela Aiwohi: Aloha Chair, aloha Commissioners, and mahalo for giving me the opportunity to speak on behalf of this item. I am a registered lobbyist. I am with Hawaii Hotel Alliance, and I also was born and raised here on Maui. I do understand the issue and we --. Just start off, we want to be part of the solution. And there was a moratorium that was put in place on January 7<sup>th</sup>, 2022, and we want to take that time to use the moratorium that is currently in place to actually do a study, to actually bring all of us together, the main stakeholders, to see what we can do to, to better manage tourism. Because we agree, we agree that the island has been very, very crowded with tourists. And you know, that's not something that we can deny or turn our heads from. But we do want to echo that the moratorium has been put in place and we want to be part of that solution. And I believe that during this two-year moratorium that the Hawaii Hotel Alliance along with other stakeholders and community leaders can be brought together in, in collectively thinking together and finding a solution. So that's how I'll start there.

But I also do want to just state that with, the with the Resolution 22-70 and basically put in this permanent cap on transit accommodation unit. We also agree that the residential areas it does make sense to have something like that put in place. We should limit and phase out

the number of STVRs that we have out here because they do drive up the housing prices. It all ties hand in hand with affordable housing and what's available for those who cannot purchase but are looking for places to rent, and it crowds our neighborhoods. So we do want -- we don't want visitors in our own backyards or in our neighborhoods. We want them out into resort zoned areas. I don't believe we should cap units in our hotel resort areas. We should actually be directing our visitor accommodations to those areas consistent with our planning and zoning. Zoning and planning already limit the number of units that can be built because zoning and planning set the physical location of hotels and impose things like setbacks and the height limitation.

On Lanai, the cap wouldn't, doesn't really make sense. The cap wouldn't apply to Manele or Koele because those areas are considered to be in the project district. The caps would only apply to Hotel Lanai, is what I believe, which I don't --. I mean, looking at Hotel Lanai, I think that might be the original building. I'm not certain. But I don't think that they've had any additional units since I have no idea. But it looks pretty original and I can't foresee anything happening in the near future.

But the Lanai Community Plan also calls for expanding transit accommodation units, and this cap in the hotel district goes against that policy.

Ms. Ramoran-Quemado: Three minutes.

Ms. Aiwohi: Thank you. So we are opposed to Resolution 20-70. Mahalo.

Mr. Gima: Thank you Lahela. Could you state again who you're affiliated with? Who you're lobbying for?

Ms. Aiwohi: Sure. Hawaii Hotel Alliance.

Mr. Gima: Okay, thank you. Commissioners, any, any questions for Lahela? Zane?

Mr. de la Cruz: Oh, hi. Can you guys hear me? So in the letter that, I guess, the group you're representing sent in, they are stating that, I guess, on average hotel occupancy is 76 percent or below. Is that, is that considered high or low or normal?

Ms. Aiwohi: So I believe really quickly I just got to correct you because I believe that came from Lisa Paulson from Maui Hotel Lodging Association.

Mr. de la Cruz: Oh, okay. Sorry.

Ms. Aiwohi: Yeah, I and, I don't want to speak on, on her behalf since the testimony came from her.

Mr. de la Cruz: Okay. Sorry about that.

Ms. Aiwohi: No problem.

Mr. de la Cruz: Wrong organization.

Mr. Gima: So Zane, you don't have any questions for Lahela?

Mr. de la Cruz: No, my question was really regarding the 76 percent. I wasn't --. I don't know, like as an industry, if that's a high number, a low number, normal number.

Ms. Aiwohi: Yeah, I mean, I could answer that if that's okay.

Mr. de la Cruz: Yeah, I guess in general --

Ms. Aiwohi: Okay, so 76 percent --

Mr. de la Cruz: -- maybe not --

Ms. Aiwohi: So 76 percent is I wouldn't consider it low, but it's also not high. We would say 80 percent is when you hit like the high average in the hotels or the high, a high point in the hotels. The 76 percent falls below that 80 percent, which is just saying that with the amount of tourists, or the amount of visitors that are coming into Maui on a daily basis, which is about 13,000, if only 76 percent of our rooms are being taken in the hotels, where's that other 24 percent staying? So that's basically what we're saying is that that --. Or that's why that number is so significant. It's more of where is that 24 percent of the other visitors staying if they're not staying in the hotels? Where our hotel should be the basis of accommodating the visitors and we should be keeping them in the resort bubbles. Was that clear?

Mr. de la Cruz: I guess that answered my question. Thank you.

Ms. Aiwohi: Okay, thank you very much.

Mr. Gima: Okay. Commission, any other questions from the Commissioners? Okay, seeing none, thank you very much Lahela.

Ms. Aiwohi: Thank you.

Mr. Gima: Leilani, who else? Who's next on our list to testify?

Ms. Ramoran-Quemado: Thank you, Chair. The next person is Keiki-Pua.

Mr. Gima: Okay, welcome Keiki-Pua.



Dr. Keiki-Pua Dancil: Aloha Chair Gima, Members of the Lanai Planning Commission, Vice-Chair Kaye. I sent in written testimony, but I just want to call a couple of highlights out. So we believe there's good intentions with unintended negative impact on Lanai. The intent of bill, of the bill before you tonight is to prohibit, limit, or cap the number of transient accommodations in the hotel and apartment areas. As mentioned by Deputy Director Takakura, other areas are not applicable on the Lanai because they just don't exist. Capping the number of transit accommodations will not manage tourism on Lanai. Inserting an arbitrary cap will likely push guests to seeking lodging options in areas that are not zoned for such use and potentially increase the number of illegal transient accommodations in areas that are not zoned to accommodate such use. Hotel uses should be limited to hotel zoned areas and kept out of residential neighborhoods. While the bill, as written, supports to manage tourism, the caps will have unintended consequences.

The Lanai Community Plan has pointed out specifically request that low cost accommodations be added to the accommodation mix on Lanai. This should happen in areas that are zoned hotel. The bill, as written, would eliminate the possibility in the future for this to happen unless there's legislative action that reverses what you're putting forth tonight in the bill. The 2016 Community Plan has no objective, call for legislation, or referencing, or managing, or capping the number of transit accommodations. On the contrary, it seeks to add a variety of lodging accommodations. I'm not going to go through the section. Deputy Takakura pointed them out, and they're highlighted in my testimony.

Tourism is the economic engine on Lanai, and provides many of the jobs, either directly or indirectly. A group of residents worked with the Hawai'i Tourism Authority on the Lanai Destination Management Action Plan. Some of you on this Commission actually sit on that working group. It was published in 2021. The DMAP, or Destination Management Action Plan put forth Lanai specific management action tools. In fact, one of the opportunities identified in the DMAP was to quote, increase variety of accommodations and activities for a broader range of markets to foster small business development. The proposed bill before you tonight is the wrong tool to manage tourism on Lanai. During the DMAP discussions, capping transit accommodations on Lanai never came up. The complaint about managing quote unquote day trippers from Maui came up often, and the Hulopoe Beach Council – some of you sit on that – and have been active in those discussions, are the issues, is the issue at hand for managing tourism on island. The DMAP specifically address the day trippers and their action plan.

We suggested some edits should you choose to pass the bill this evening. And those are highlighted in my testimony. Or, we recommend that you respectfully request that you just deny –

Ms. Ramoran-Quemado: Three minutes.

Dr. Dancil: Mahalo for your time and I'm here for questions.

Mr. Gima: Okay, thank you Keiki-Pua. Commissioners, any questions, comments for Keiki-Pua? Um, I had a couple of questions Keiki-Pua. How is Pulama's opposition and, or Pulama's recommended language related, if any, to short-term rentals in the Manele and Koele Project District.

Dr. Dancil: It is not.

Mr. Gima: So there's no short-term rental issues in either Project District?

Dr. Dancil: Not that I am aware of.

Mr. Gima: Okay. And can you talk about the current entitlements you have for units in the Manele and Koele Project Districts as it, as it relates to this bill?

Dr. Dancil: This bill does not affect the Koele or Manele Project District. As stated by Deputy Director Takakura, Chapter 19.70 or 19.71 related to Manele Project District and Koele Project are not part of this bill this evening.

Mr. Gima: Okay, thank you. All right, last call for comments, questions for Keiki-Pua.

Ms. Kaye: I have a question.

Mr. Gima: Okay Sally.

Ms. Kaye: I'm a little confused if that there is a cap in residential areas that's been established, and as the Planning Department noted the only area that it would impact is the BCT, which we do have on Lanai. And so the only hotel districts are actually Manele and Koele, which Pulama controls, so the goal to increase low cost accommodation is that something you're committing to?

Dr. Dancil: At this point, I just want to correct the record. I apologize. But Hotel Lanai is in the hotel district, so that actually is affected by this. So I just want to point that out, and apartment accommodation, so expanding in the apartment --. So both apartment and hotel do exist. At this time, we don't have anything in the record. However, it's been discussed in the Community Plan and talked about often about expanding to look at low cost accommodations. However, if this bill passes this evening and we put forth entitlements for rezoning of hotel, that wouldn't be able to move forward because of the cap.

Ms. Kaye: And then a follow up question. If you did want to increase the number in either of the project districts because they are separate animals, wouldn't they have to go through some revision anyway?

Dr. Dancil: Correct. It would be through the, through the phase which we are currently hopefully on next agenda.

Ms. Kaye: Okay, thank you.

Mr. Gima: All right. Thanks, Sally. Okay so no other questions or comments for Keiki-Pua? Alright, Keiki-Pua, thank you very much. Leilani, any other testifiers on BlueJeans?

Ms. Ramoran-Quemado: Yes, I have one more add on. It's Councilmember Keani.

Gima: Okay, welcome Keani.

Council Vice-Chair Keani Rawlins-Fernandez: Aloha Chair Gima, Vice-Chair and Commissioners. Mahalo for your dedication to our County by serving on the Commission, and a warm welcome to Commissioner Alboro. I'm Council Vice-Chair Keani Rawlins-Fernandez here to offer myself as a resource person for the Commission. I'm the author of the bill attached to Council Resolution 22-70 establishing the cap on transient accommodations in the various zoning where that use is permissible, and prohibiting camper vans as vacation rentals.

I included all the districts in the County, including Lanai, to not leave anyone out of this opportunity. If you'd like to add any of the special districts on Lanai as stated by Ms. Dancil, I would also be open to that. As Deputy Director Takakura mentioned in her awesome presentation, the Council's intention in this legislation is to help manage tourism, and I'm supportive of the amendments in the presentation to you. I think there was three of them. So adding the, just adding legally to that first section, adding a disclaimer to the public list, and I am happy to work with her, the Planning Department and Corporation Council to implement better or incorporate better language to better regulate and enforce the prohibition of camper vans as used as vacation rentals.

The caps that would be established would be the current operating units used as transient accommodation, transient vacation rentals. And just like the STR and B&B caps that we currently have in residential zoned areas, the caps are flexible, so it can be changed. So if you wanted to add more units to Hotel Lanai, this, you would just amend the ordinance to add, to increase the cap in the hotel zoned areas. So it's, it's meant to be flexible and accommodating to each of the districts.

Mahalo for this opportunity to testify. And again, Chair I will be on if the Commission would like to have me as a resource person.

Mr. Gima: Thank you very much Keani. Commissioners, any questions, comments for Keani? Lisa?

Ms. Grove: Hi there. First of all, thank you so much for your service and your dedication to the County; appreciate everything you do. I had a couple of questions. One is what is the,

what prompted the decision in the middle of the temporary moratorium without the sort of research and data to see how well it was going to put in something permanent?

Council Vice-Chair Rawlins-Fernandez: Mahalo for the question Commissioner Grove. So when we were deliberating on the establishment of the moratorium for up to two years, we talked about establishing a TIG to -- sorry, a temporary investigative group -- to come up with legislative proposals that could help us manage tourism and diversify our economy. In that TIG we developed this, this one proposal. And in discussion with the tourism industry folks who are worried about the length of time the moratorium would last for, I promised that I would work really hard on legislation so that the moratorium wouldn't last for two years. I think it's disingenuous to, to think that during the time of the moratorium would have that, that time -- let's see -- less than a year of it lasting, that there would be any data that would be substantial enough to be used to determine whether legislation like this would be helpful or not. I think it's something that we can see with our own eyes and follow the principles of our, our Community Plan, Countywide Policy Plan -- County what's it called? -- Countywide Policy Plan, yeah, recommendations.

I'm sorry, what was the second question?

Ms. Grove: Oh, I, I -- that was just my first one. I do have a couple of others, if you don't mind. So I philosophically have issues of moratoria because it feels like we don't know all the what ifs. What, we know that we have a physician shortage on Maui, for example, you know, across the way, for example, what if a resort wanted to build some villas that allowed for, say, accommodations of, you know, medical doctors that are desperately needed on Maui? That's just one example, but I like how much did you kind of try to project into the future to determine the impact this could have over time? And why did you choose a moratorium instead of saying, let's manage the tourists, let's, instead of the structures that they live in or that they're staying in? Because when I see tourism problems on Maui and granted we're only over there running errands like crazy like everyone on Lanai. But it's, it's traffic, it's crowding the beaches, it's being inappropriate where they're parking. You know, have you thought about shuttles to Hana instead of having people drive? Have you thought about the reservation systems like at Haunama Bay?

The other thing I wanted to say is as a person who lived on Oahu for four years, I really appreciated the fact that I didn't really see tourists because they were sequestered in the resort areas. They were in Waikiki. They were in Kolina. They were up on the North Shore. And I just wonder, what's the rationale for not wanting to sort of, you know, remove the caps from the hotel areas so that we can keep them sort of in places. You know, in Honolulu, if you decide to go to Waikiki, you know what you're going to get. You're going to get restaurants, amenities, and tourists. And the thing that I think is part of the problem in Maui is that we've got all these visitors that are showing up and not staying in the accommodations. And I'm just concerned that it's going to get worse.

Council Vice-Chair Rawlins-Fernandez: Okay, there's a lot of questions.

Ms. Grove: I'm sorry.

Council Vice-Chair Rawlins-Fernandez: So, one, I mean, you know, when is enough, enough? I don't know when you lived on Oahu, but that, having them sequestered in Waikiki after the platforms of Airbnb, VRBO, et cetera, et cetera, was established, they no longer stayed in Waikiki. So I don't know when you lived there, but they kind of took over Kailua.

Ms. Grove: A couple of years ago. Yeah, I'm sorry. A couple of years ago. Like, Kailua was definitely overrun with tourists. There's no question. But . . . (inaudible) . . . you could go weeks without sort of interacting with tourists because they were a lot. And again, the Airbnbs are a huge problem. And the transit accommodations, I think on Maui and on Oahu are big problems. I'm just wondering why the hotel areas are part of this structure? Because I'm just concerned that they're going to be more people. We've got all these numbers and I don't know. Again, I don't know the accuracy, but there are --. I didn't look at the footnotes. But we have a 16.5 percent increase in people who are coming to Maui and only a two percent increase in the rooms, the available hotel rooms. And so that suggests that there was enforcement issues, right, that people are going out and staying in places that are not part of the designated preferred areas for them to be. And I worry that this is going to compound a problem that feels like it's already lacking enforcement. Because we've got a whole lot of people on Maui, not in the places that, you know, like that the legal, illegal accommodations, I feels like it's going to spike especially in a place that's so expensive to live like Maui. And are you prepared to do, you know, is there more money for enforcement? And how come there hasn't been enough focus on that so far?

Council Vice-Chair Rawlins-Fernandez: It would be easier if you ask like one question at a time so . . . (inaudible) . . .

Ms. Grove: I'm sorry. Alright, I can just take it from the top.

Council Vice-Chair Rawlins-Fernandez: So you wanted to know about enforcement, and enforcement has been happening. This legislation is just one of several that was proposed by the TIG. It's not the only that we're doing. Some of the things that you mentioned, the Council is working on. So this is just one that has come before you, the first one.

And you talked about enforcement. I think the Planning Department can confirm the exact number, but I believe what was reported after we established the requirement for the TMK to be displayed on legal on Airbnbs, VRBOs, and the different platform for the display -- for the TMK to be displayed so that there is better enforcement. Airbnb help to identify about 3,000 that were not displaying the TMK. So that's 3,000 less. So I think the Planning Department has been doing a good job with enforcement. And as we need more funding and resourcing, the Council stands prepared to do that as does the Mayor. So we're ready to provide that resourcing to our Planning Department for that enforcement. For the residential areas, there is a cap on B&Bs -- sorry, B&Bs and STRs. But for apartment zones, which Lanai thankfully

doesn't have any that are currently on what's been referred to as the Minatoya list, Molokai we have three that are in apartment zones that are being used for transient accommodations. And on Maui, it's just all over the place. So it's hard to distinguish between what is legal and what is not legal. And this is one way to cap that, those properties that are on the Minatoya list.

So if your question is about why would we cap hotels? It's to provide some kind of control. If we leave it up to the industry, they will, they will not control themselves. I heard a lobbyist earlier say that they are all about solutions, but they were invited to the TIG meetings and they never proposed any solutions. I asked for proposals. I worked with the industry to figure out how we can have win-wins and they have not proposed any. If we left it up to the industry, there would be endless resort development.

Ms. Grove: And, and I apologize because they don't really understand all of this very well, so I appreciate the way that you're explaining things. But if something is, is not pono, right? It's too big. It's too close to the water. It's too tall. It has too many rooms. We do have --. There's, there's systems in place now to say no, no, no hotels, you can't get to do that, right? Isn't there planning processes and things in place without a moratorium? Or would this be the only way to say, no, we don't want big, big, big. We don't want all these rooms. Because I thought the Planning Commission first had some jurisdiction and the County did to say, no, we don't want this if it's something that's not in the best interest of Maui.

Council Vice-Chair Rawlins-Fernandez: So I guess I'm going to give you a lawyerly answer, and that is it depends. But along the shoreline and in the SMA area, the Commission does have that, depending on the entitlements that enforcement authority. And I'm happy to allow the Department to add on when the time comes to anything that I may be missing out on. But so if it's not in the SMA zone, then I don't think the Planning Department, sorry, the Planning Commission. I would like to defer to the --. There's, there's so many different variations. It depends on the zoning. It depends on the entitlements. It depends on -- so like the BCT, BCT allows for 12 bedrooms, but that's with, with the Planning Commission approval. And B-2, up to 20 bedrooms are permissible. And I didn't hear Deputy Director Takakura say with the approval of the Lanai Planning Commission. So I'm assuming that in B-2 zones that up to 20 bedrooms would be allowed if it's outside of the SMA, SMA with . . . (inaudible) . . . of the Lanai Planning Commission.

Ms. Grove: Because it sounds like what you're saying, and I don't want to put words in your mouth, but that it's sort of done on a case by case basis that based on where the location is, and what the law is, and so on and so forth. To what extent are you worried that this is doing the opposite of that? That this is saying we're doing a blanket thing, the rules can apply to everything, and that we --. I just get worried about what I said earlier when I was rambling on endlessly about the what ifs. But like, what if something would be really good for Maui and like I said, I don't like the example was that like if we had little hotel villas for visiting physicians or oncologists or cardiologists or something and they would be built in a resort district and we

couldn't do that because of the moratorium. I'm trying to think of what kinds of things could happen, right? So I just wondered . . . (inaudible) . . . more than they case by case.

Council Vice-Chair Rawlins-Fernandez: It's, it's, it's -- so it's a cap. So the cap is flexible, so it can be increased. This is, this bill is not a moratorium.

Ms. Grove: Okay. So that it is case by case and there still is, including in the hotel areas? I thought there were caps in terms of what can happen in those places.

Council Vice-Chair Rawlins-Fernandez: Yeah. But the caps can be increased.

Ms. Grove: And can you explain to me how that happens? Like, how, if, does that again go before the Council to decide? Or how does that, how would the caps get increased or lower if we decided, you now, that our leaders said that it needs to be lower or higher. How does that happen? What's the process for that?

Council Vice-Chair Rawlins-Fernandez: It would be a bill.

Ms. Grove: So it just comes back to the Council and said that there would be legislation to change?

Council Vice-Chair Rawlins-Fernandez: And the Planning Commission. And the Planning Commission.

Ms. Grove: Okay. Thank you. This is super helpful. I'm sorry for taking up so much of your time.

Council Vice-Chair Rawlins-Fernandez: No, no, I'm here. So if Chair, if you would like to wait for questions until the item comes up, I'm here for the remainder of the time for this item. So if you wanted to wait until the item comes up, I'm happy. I'll be here.

Mr. Gima: Alright. Since you started. Commissioners, any other comments for Keani?

Ms. Preza: I have a question. Thanks Keani for being --

Mr. Gima: Okay, go ahead Shelly.

Ms. Preza: Thanks. I just --. So you said that since you were helping to write the bill and then you said that you wanted to include the Lanai so didn't miss out on an opportunity to participate in this. So I was just wondering if there, if you could share, if there, what, if any, there were like specific discussions about how this would affect Lanai? Or was it kind of mostly for what's happening on Maui and Molokai?

Council Vice-Chair Rawlins-Fernandez: It's County wide. I didn't want to exclude Lanai without, and not let Lanai have an opportunity provide input. So Lanai is included. And if it wants to be excluded, then that can be part of the recommendations to the Council.

Ms. Preza: Right. Thanks. I was just -- you know as you were coming up with this bill and discussing with others, was there any discussion about how this would impact Lanai or was it just to get our input so that, that we would be included?

Council Vice-Chair Rawlins-Fernandez: Yeah.

Ms. Preza: Okay. Thanks.

Council Vice-Chair Rawlins-Fernandez: Yeah, so we could get everyone's input.

Ms. Preza: Thank you.

Mr. Gima: Okay, thanks Shelly. Anybody else Commissioners? Erin, and then Zane.

Ms. Atacador: And this is apologizes; more for my understanding. So when we say transient accommodation caps, it's not only necessary speaking for tourists, right? It would apply to workforce housing and any transient accommodations that are short, shorter term, right?

Council Vice-Chair Rawlins-Fernandez: I guess I don't know what you mean by workforce housing.

Ms. Atacador: So I mean . . . (inaudible) . . .

Council Vice-Chair Rawlins-Fernandez: As like a B&B?

Ms. Atacador: Yeah, but for Lanai specifically a lot of what we see being rented out are for like contractors and construction workers. So would this apply to putting a cap on the amount of available units for them too?

Council Vice-Chair Rawlins-Fernandez: So if it's in the residential zone, I believe we enabled growth. Like, so the recommendation from the Lanai Planning Commission was to allow for room for growth. So if there were more B&Bs, I believe, and the Planning Department, please correct me later on if I'm mis-speaking. But we set it so that they're in residential zone, there would be growth for additional STRs and B&Bs in residential zone.

Ms. Atacador: Okay, thank you.

Ms. Preza: Sorry, can I just jump in? Since we were, the Planning Commission before I was involved in like the STRH and B&Bs discussions, so I think what the Council ended up passing was 15. Like, we have a cap now of 15 in the STRH and residential and 15 B&B's. Is that



correct? I believe it's in this as well, this revision. But Erin, I think you were asking -- were you asking about like the term like transient vacation rental, like what that means? Because my understanding was anything under 180 days would be considered transient, right? Sorry, I'm not . . . (inaudible) . . .

Council Vice-Chair Rawlins-Fernandez: Yes . . . (inaudible) . . .

Ms. Atacador: Looking the presentation it said transient accommodation caps.

Ms. Preza: Okay, thanks. Sorry, I just want to add some comment.

Ms. Atacador: Yeah, on Lanai . . . (inaudible) . . . places that are open for rent are not going to tourists. They are going to different workforce housing that we see. I mean, yeah, definitely you can see it and feel it in our neighborhood. So just wondering if we didn't cap it if that would, you know, just to be as transparent with my comments as possible, there's a lot of people are deciding that to rent out the homes that they own and leaving Lanai and renting it out to different workforce housing. So if we didn't cap it if that would allow more people that that option, unfortunately, to want to leave and still rent out their homes.

Council Vice-Chair Rawlins-Fernandez: Okay, so what you're saying as workforce housing is for those who don't live on Lanai to stay at these housing. My dad was a stevedore. He was the lead man for the Molokai port, and he would fly to Lanai every week and he would stay at a B&B there. And I believe it was at a residential zone area and it was permitted to be that way. So if it's in a residential zone area, then there's the --. If Commissioner Preza is accurate in the count, it's 15 and 15. So if you're talking about, you know, like business country town district or B-2, then those have different requirements. So for each, yeah, each zoning area have different.

Ms. Atacador: I've got it. Thank you.

Mr. Gima: Okay, Erin, I think we're -- to make a clear distinction between short-term rentals under 100 days, and long term rentals, which you are talking about, and that had an impact more on just housing in general. Whereas this build is primarily focused on the goal, its use of managing visitors and tourists. Okay, Zane, you had a question for Keani.

Mr. de la Cruz: Yes. I guess this is more of a clarification. When you mentioned that there can be amendments to the caps in the different districts, so does each, does each district defined differently? Like, you know, if we have a hotel district on Lanai, doesn't have its own particular cap. And we have to have an amendment to raise the cap in that one district and that doesn't affect any other hotel district.

Council Vice-Chair Rawlins-Fernandez: Okay. So on Lanai whatever is operating right now would be the cap. If you wanted to increase the cap from what is currently operating, then it

would, it would go through the Commission and the Council to increase the cap. Does that answer your question? Did I miss it? Did I not miss any of your question?

Mr. de la Cruz: In part. I guess my, my main question is, like, are each of these districts are they their own, like, uniquely identified district?

Council Vice-Chair Rawlins-Fernandez: Okay. I think I understand what you're what you're asking. Are you talking about the special districts that Ms. Dancil was talking about? The Manele Bay special district and the --? Are you talking about those?

Mr. de la Cruz: I guess, you know, like --. So is it a County wide -- you know, these are our hotel district and we have this many rooms? That's as many rooms that they can have. Or, like in Kaanapali, its own separate hotel district, with its own separate cap?

Council Vice-Chair Rawlins-Fernandez: Yeah, so if I understand correctly, only Hotel Lanai is in Hotel District, and the number of rooms that are currently operating within the established cap. If you wanted to increase it for Lanai, then we could increase it for Lanai, in the Hotel zone. Manele Bay and those other special districts are not named in this building. So the caps do not apply to those special districts. But if you would like them to apply, it can be a part of your recommendation back to Council. Did that answer your question? Okay.

Mr. Gima: All righty. Any other Commissioners with questions or comments for Keani? Okay, I've got a few. Thank you for joining us tonight, especially since the author of this bill. What's -- if this bill is successful will it -- what will it do specifically to address the presenting problem?

Council Vice-Chair Rawlins-Fernandez: The problem as in over-tourism or I'm --?

Mr. Gima: Well, I'm guessing there is a presenting problem that prompted the development of this proposed bill. And so I'm saying if this bill is successful, how will it address the present problem?

Council Vice-Chair Rawlins-Fernandez: Okay. Mahalo Chair for the question. So the County has -- is, is limited on how it can address over-tourism. We are unable to stop people from coming under the U.S. Constitution. So we cannot restrict travel. It's under the FAA to limit the number of planes that come here. So that's beyond the authority of the County Council. What is under the authority of the County is land use. And so that -- we can limit the amount of lodging. We have made it so that we have built accommodations for an endless amount of people to be able to come. And Hawaii is such a, you know, in such high demand, even during the pandemic, people continue to come even when we ask them not to come. So the thought process behind this legislation is that if we limit lodging that most people will come if they're unable to secure lodging. And this bill seeks to address that in every zone so that it's not pushing people out of only hotels into the residential areas because the residential zone areas already have a cap. Apartments zoned areas that properties that are on the Minatoya list do

not have a cap. So they can continue to be converted from long-term rentals into short-term rentals and be used as vacation rentals.

In B-2 and BCT, in the other zones, those permits vacation rental use. And what we've been seeing on Maui a lot and, and starting to see on Molokai, and I don't know if you folks see it on Lanai, is camper vans, camper cars, different ways of giving tourists a vehicle with a tent to be able to, to stay there. And this bill seeks to prohibit that as well. So in, and in every possible way to control lodging for the endless amount of tourists that come.

Mr. Gima: So you or the Council foresee that there's a causal relationship by limiting the number of units. And if they're all filled up, people aren't going to come. Is that, is that the thinking? Because I think some of the opponents of this would say, no, they're going to come anyway, and they're going to stay at the, stay at the illegal places.

Council Vice-Chair Rawlins-Fernandez: Right, I heard their arguments, and that's why we're establishing caps in every possible zone. And the enforcement of our department has gotten better so that that wouldn't happen. I mean, I personally wouldn't fly somewhere if I didn't have secure lodging. I don't know how many would.

Mr. Gima: Okay. And then when you're developing the language in this bill are short-term rentals and B&Bs subsets of transient accommodations? I mean, are they one in the same or are you are they totally different?

Council Vice-Chair Rawlins-Fernandez: So what I understand in our County Code that transient vacation rentals, TVRs, are the umbrella term. And bed and breakfasts, short-term rentals, hotel units, condos, timeshares, all fall under TVR.

Mr. Gima: So TVR and transient accommodations are one in the same?

Council Vice-Chair Rawlins-Fernandez: I, I'm going to say yes, and hopefully if that is not correct, that Corporation Counsel will later on correct me on that.

Mr. Gima: Okay. Just a couple more. Nah, I'll stop. I'll stop there. Okay, last call from the Commissioners before questions and comments, for Keani. Zane, go ahead.

Mr. de la Cruz: Um. I guess by going back to that question of --. So what it sounds like when I was reading this packet is that we don't, it's not necessarily just about limiting TVRs but diversifying the types of TVRs, like, you know with, I think there's specific mention of B&Bs and something called a small inn. So I was just -- has there been any --? Has, has the County look into why people are choosing not to stay in the hotels? Like, is it driven by price, is it a different style of stay that they're looking for? Has there been any investigation to that?

Council Vice-Chair Rawlins-Fernandez: From what I understand it's, it's all that you cited and I'm sure a more different experience. They don't want to stay with other tourists in a resort

area. It is a higher price, especially if they're traveling with a bigger party size. So having an STR would accommodate a larger family to be able to stay in one area instead of multiple hotel units. So, you know, I think it's all those and I'm sure others, other reasons.

Mr. de la Cruz: And, so also, and like so diversification of rental options might be something that this bill is trying to look into. What, what are those options? Like I understand that TVR is the umbrella term, and we've gone over certain items like hotel, bed and breakfast, and somewhere in here there's a mention of something called a small inn. Are there other forms of TVRs?

Council Vice-Chair Rawlins-Fernandez: Yeah. So as I mentioned to the Chair, there are timeshares. Oh, I see Director with her video on with a lifeline.

Ms. McLean: Chair, if I may jump in. The definition of transient vacation rental in the County Code specifically excludes short-term rental homes and bed and breakfasts.

Mr. de la Cruz: Okay.

Ms. McLean: The short-term rental homes, I think you guys are familiar. They have their own permit process. So does bed and breakfasts. And these are only allowed in single-family dwellings. And what we're talking about in this proposed bill deals largely with the apartment districts. So we're talking about multi-family dwellings, not single-family dwellings. And also the business districts where some business districts do have some kind of multi-family or more conventional hotel type lodging. But not B&Bs or STRHs. Those are in single-family homes and are not affected by this bill. Very, very similar caps have been imposed for STRHs. So the STRH caps were limited down to the existing number of permits, which is parallel to what this bill is trying to do in the other districts and in the Hotel Apartment Business District. B&Bs also have caps, but they've been left. There's still availability there because generally there's more support for B&B. I hope that helps. Thank you, Chair.

Council Vice-Chair Rawlins-Fernandez: And Director, for the Apartment zoned short-term rental, what, what would those be called? I understand STRH is a term of art for residential. So for in the Apartment zoned areas for short-term rentals, is there a specific term we use for those?

Ms. McLean: So in the Apartment District, you can have a single-family home that could get an STRH permit. That kind of thing would not be affected by the bill. What would be affected by the bill are apartments, like your conventional condominium that the zoning today has allowed to do vacation rental use. Those are the ones that would be controlled by this bill.

Mr. Gima: So what's missing in this proposal is a definition section because I just got re-confused. So again, transient accommodations, TVR, are one in the same, but it excludes STRs and B&Bs. Is that an accurate statement?

Ms. McLean: That's almost exactly what the definition in the County Code says.

Mr. Gima: Okay, thank you.

Ms. McLean: I'll go ahead and put that in the chat so everyone can see what the County Code definition is.

Mr. Gima: Thank you. Alrighty. Thanks again, Keani, for you input and for offering to stay on as a resource. Ah, Leilani, any other testifiers?

Ms. Grove: Sorry, Chair, I had one more question. I had my hand up. Would it be possible to ask one more question?

Mr. Gima: By all means go ahead Lisa.

Ms. Grove: Thank you Butch. So I --. Actually I have a question and comment, or two questions. First is, are there --? Does the County have jurisdictional authority to do other things like raise taxes on hotel rooms or things that may also be a disincentive? I'm concerned that demand is demand. And, and we're seeing these people move into the neighborhoods already. Is there --? Are there any other sort of enforcement mechanisms aside from a moratorium that might be able to be deployed here? I was also just curious, and this is not for Keani, but just, is, is there --? Should be hearing from the, the other, the folks who are against this, just make sure that they have the same opportunity to weigh in if there happens to be a countervailing view? And I don't know if that's a process point or if I'm out of line for that, but I just wanted to check with the County.

Mr. Gima: Go ahead Keani.

Council Vice-Chair Rawlins-Fernandez: So your first question was regarding whether we have, whether the County has the authority to increase taxes on hotel unit. So we, the State Legislature in the last year granted authority to all the counties to establish up to three percent transient accommodation tax in addition to the State's transient accommodation tax. And so we have the three percent TAT in place. The, the only other thing that the Council, or the County has authority in taxing is Real Property Tax. So we can increase the rate and the hotels, resorts, transit accommodations would then determine what -- how they would operate in if they would increase the room rates at that point. I, I cannot, I'm not a GM, or a hotel so I don't know if that's how they --. As far as if the real property tax increases, if that would then correspond to an increase in room rates. I cannot answer that question.

Ms. Grove: Thank you.

Mr. Gima: Lisa, what is the second point or question you had?

Ms. Grove: Oh, I was just wondering if that -- I appreciate that we have Keani providing her mana'o to all of this and it's been incredibly helpful and educational. I was just wondering if, if we should be hearing from the countervailing side through this as well in case there is a difference of interpretation, or understanding, or intended or unintended consequences. And I'm asking it as, as, as sort of a process point. I don't even know if we have hotel people on the Zoom, but it was just something that I was wondering about.

Mr. Gima: Yeah, I mean, everybody had opportunity to provide written and, or oral testimony.

Ms. Grove: I was . . . (inaudible) . . . reacting to what Keani had meant, had said, if there was anything that needed to be spoken on the other side. And again, I'm fine, if that's not a process that makes sense.

Mr. Gima: Okay. Thanks, Lisa. Leilani, do we have anyone else before I go to Maui and the District Office?

Ms. Ramoran-Quemado: Thank you, Chair. I see one last add on. First name Cal.

Mr. Gima: Okay, Cal, can you turn on your audio and camera, please?

Mr. Cal Chipchase: Hi Chair. Can you see me?

Mr. Gima: Okay, thank you.

Mr. Chipchase: Thank you. I'm, I'm not in my office. I wasn't actually expecting to testify today, but I'm glad to have the opportunity to. I was just listening to Commissioner Grove's question about whether the industry had had an opportunity to weigh in or had any views on it. And I thought, well, that's a fair question, and I'd be happy to, to, to weigh in. I represent various hotel owners on Maui, three properties in particular and some other hospitality interests. And I did have an opportunity to participate in the TIG, and I was grateful for that opportunity. And we did propose, I was asked to propose one specific solution or to talk about one specific solution. And, and I did, and was able to meet with the TIG about that.

In addition, we had submitted comments to the TIG through the Chair, through Chair Lee, proposing other potential ways in which tourism could be better managed not only on the island but throughout the County. And I was also very fortunate to meet with Councilmember Rawlins-Fernandez in the moratorium discussions and personally extended my invitation and I know some other folks who did to meet with the Council, any member, to talk about the industry and other opportunities to manage tourism in a responsible way. And so we have tried to participate in those, in those ways that have been available, and we continue to be ready, willing and able to meet with anyone and to participate in that process. And as part of that, I'm glad to be with you tonight.

As part of the Maui Planning Commission's review of this proposed bill, or this resolution that would result in a bill effectively capping units throughout the island, we proposed alternative. And that alternative would delete the proposed cap for the Hotel District, and modify in the Business Resort District. And the reason for proposing those changes is so that we allow visitor growth in visitor growth areas that have been designated historically through the planning documents including the various island plans, and in itself, which themselves have their own natural caps in terms of the areas that are . . . (inaudible) . . . in terms of density, height, setbacks. But these, these are being planned for limitation. It would let the visitor industry grow in those areas because if we don't then all we're going to do is force people out of those planned areas and into the unplanned areas, as we've seen proliferate already throughout the County. People won't stop coming. The question is where do they stay? Where do they eat? Where do they shop? And if we continue to plan the County, as it has been for decades to encourage growth, only those areas --

Ms. Ramoran-Quemado: Three minutes.

Mr. Chipchase: -- that are appropriate for visitor destinations and I think we will be better served. Thank you for . . . (inaudible) . . . to testify.

Mr. Gima: Thank you, Cal. Cal, can you identify your last name?

Mr. Chipchase: It's Chipchase, Chair. Cal Chipchase.

Mr. Gima: Okay, Commissioners, any comments or questions for Cal? Leilani, anybody else wishing to testify?

Ms. Ramoran-Quemado: Thank you, Chair. Lisa Paulson signed up, but she did say that she can either testify and, or be a resource person. So I'm not quite sure if she wants to testify.

Mr. Gima: Okay, Lisa, what's your preference? Hearing none, any, anybody else, Leilani.

Ms. Ramoran-Quemado: Thank you, Chair. That's it. No one else has signed up via BlueJeans, and there's no one in the Planning Conference Room wanting to testify.

Mr. Gima: Okay, Denise, anybody in the Lanai District Council Office wanting to testify?

Ms. Denise Fernandez: Aloha Chair and Members, this is Denise at the District Office, and there is no one waiting to testify.

Mr. Gima: Alrighty. Thank you very much. And so if there is no one else I will close public testimony.

Council Member Gabe Johnson: Chair Gima I'd like to testify.

Mr. Gima: Oh, okay. Go ahead, Council Member Johnson. I didn't see you in the corner. Sorry.

Council Member Johnson: Sorry. I came in a little late. I just want to say I'm in support of this bill. You know, I often, you know, when we had debates about this in the, in the, in our Council, one of the things I want to remind everybody is 2019 should have been the watermark of the amount of tourists we had on the, in our island chains, in our County. Do you remember when you went to Costco in Maui and you barely missed it, you barely made the ferry because the traffic was so bad? The amount of tourists we have in this County, we're not immune to it. They come on, they take the ferry, they take the seats, they come over here. The first thing they grab is, is a real estate guide, and they and they'll start buying up our homes, you know. That's, that's, that's a known quantity. We see that happen all the time.

I want to -- 2019, before COVID came, that is, that should have been setting off bells that we need to regulate this industry, okay? COVID came in 2020. It brought down our numbers. There was no traffic. The beaches were, were, were much nicer, wasn't so crowded. Now -- so this bill is kind of saying, hey, that's the watermark now. Now also, you have to understand we do have -- and I apologize if this has already been discussed -- but we do have the Maui Island Plan which is like there's only supposed to be a certain amount of tourists at any given point on the island, and we have exceeded that by so much.

So I don't think we should look at ourselves as a, as a, as an oasis and immune to that fact because they are coming, they are taking up seats on the planes, they're taking up seats on the boat, and they have purchasing power. So this is a way that we can regulate the industry. That is the job of the Council and it is job of the Planning Commission to look at regulations of our industry. If we were steel mill industry, we'd have to regulate that. But we are, we are tourist based economy. We need to regulate that. And I don't, I don't oppose anyone out here, some, some of the lobbyists, they're doing their job. They have to, you know, lobby for the, for the, for the industry. But I also have to do my job and, you know, I have to lobby for our people, the people who are being priced out of our town. You've seen the price of our homes going up. You've seen the price of everything going up. And it's because we don't have the purchasing power of these folks that are coming here post-COVID as well. They can work from home and buy up our homes over here.

The other thing I want to say is that, you know, some of this might not apply to Lanai, but I will say not yet. It hasn't happened yet, but we could certainly get in an apartment zone and certainly build, you know, build more transient accommodation rentals, transient accommodations in zones because as we know the plans on Lanai change, and they change faster than the winds blow. And I think that is something that this is a preventative measure. Yeah, we might not have some of these things yet, but, but we could do. So I think we shouldn't exempt the Island of Lanai. So that's my testimony. Mahalo. Thank you, Chair.

Mr. Gima: Okay, thank you Gabe. Commissioners, any questions comments for Gabe? Lisa?



Ms. Grove: Oh, thank you Commissioner Johnson. And for, for -- I think it's important that you guys raise this issue and you're sounding the alarm, so I really appreciate that. I was struck by the language in that Maui Hotel and Lodging letter, the last sentence, and it just sort of sticking with me and I wanted to hear your comments on it, which is we keep discussing tourism management, pointing to the growing illegal short-term rentals, which we all know makes us nuts, right? Yet the focus that -- that part was me -- yet the focus always comes back to our legally operating tax generating properties. What was the thinking around that? Because I'm just wondering why we wouldn't want to keep, as I keep saying, keep coming . . . (inaudible) . . . it's sequester as we can in these hotel districts. I'm just really concerned that we're not going to stop the demand and they're going to keep coming. And if we don't have, you know, an opportunity for them to, to stay and the potential growth that makes sense, that's approved by the Planning Commission and everything else. Like why wouldn't we try to bifurcate this and pull them out so that we can keep the tourists in those places?

Councilmember Johnson: So, okay, first off, let's, let's, let's be real. We are a wealthy, a wealthy County because of our property values; they're high. And the people that come here are high end tourists and they have high purchasing power. So who wouldn't want to buy a little bungalow on Lanai? And who wouldn't want to, you know, own another home? Especially when you compare the property tax values of Californians versus here? California property taxes are way higher than ours. So they'll come here and they'll say, oh wow, it's actually a tax break for us to buy homes on the Lanai, in Maui County, right? So, yeah, you can say we can keep them in the hotel districts, right, but understand that the, the hotel demand we have right now, remember the hotel is, they can tell you right now that there's 400 positions in the hotel and we can only fill 300 of them. We need workforce housing. We don't need more folks owning second, third homes. We can't even fill the jobs we have. So if we want to have more hotels in the hotel district, who's going to work for them? We can't even fill the ones we have now. And in addition to that, I'll also add there is a hidden burden behind just having more tourists. It's there. How many times do you hear the sirens going off to go save someone down in Manele, or save somebody who, who got lost on a hike, right? There's a hidden cost to our infrastructure, our health care, all of these. It's adding more population when our infrastructure doesn't keep up with it, and we just go with roads, sewer, water, pools. If you want to go and just a simple amount of who uses the most water, our hotels are top, top level. They use the most water in our counties. So that's -- you're going to add more tourists, that means more water, more infrastructure use, more, more cars on the road, more everything. We have to take care of our people first before we can start creating more, more, more, more tax revenue, you know, more, more jobs when we can't even fill the ones that we got right now.

Ms. Grove: Thank you. I really appreciate what you said. Yeah, I'm not -- I agree with you about the second home proliferation, and I'm very scared about that. And they're sort dividing up with these, the cost, or whatever that place, that organization is called, and I think it's a dangerous precedent for Maui. I guess my question is I also have -- there's someone on island that I'm mentoring who wanted to go into the health care profession who took a 50 percent pay cut to do so from the resort. And if it wasn't for the fact that her sister was still working for

the resort, she wouldn't be able to pursue her, her career in health care because we don't have the infrastructure to provide the jobs. And, and I'm just really nervous because we talk about the empty beaches. But as you know, we've talked about, you and I have talked about this personally. We just have a lot of people who are deeply financially insecure, more so than other places, and it's impacting both mental and physical health. And the concern I have is if we end up --. We have to get rid of this leg of the stool. I just wonder if this is the right way to do it at the right time without this sort of workforce infrastructure that you're talking about, and the wages, and the affordable housing, and all of the other pieces. And I and I'm only asking about the one piece, which is the hotel piece. And I, you know again, my you weren't on the call, but like, what if those little villas seem to be like things people do for that sort of rich tourists to come right? They want something more than a hotel room. If they wanted to build villas that were also like for physicians who were coming to practice medicine on Maui, you know, wouldn't that be a good thing? And please educate me if I'm off base here, but it just feels like I'm a little worried that we're not doing case by case thinking about this. But maybe that's, we're past the time for doing that. And so I'm just wanting what your perspective is.

Councilmember Johnson: I'll just remind you guys that the bill specific. It does not affect Manele Bay District, right? This bill does not affect the special –

Ms. Grove: I'm talking about Maui, and where we all go for our doctors, and the physician shortages. And I don't know. Grand Wailea wants to build a few villas and we're going to rent them out to doctors who are visiting, you know, and rotating through the islands. And because we need more specialists in Maui County. We may need every kind of doctor imaginable. And if those -- if that was an opportunity. Like, I'm just scared of the what if question. And it just feels like a more and, and I worry about stuff like this. That's my job. But a moratoria is like a blunt instrument, and I'm concerned that we may end up with some unintended consequences.

Councilmember Johnson: So my Okinawa grandma said, what if you lived in a woods? So okay. With that being said, so if you look at like specific thing that you're asking for. We had the Maui Lani lots, right? The Maui Lani lots was, was a big pickle for the County. We didn't know what to do with these lot, so we've donated them to the hospital that is actually going to build homes for doctors for the major hospital on Maui. That is actually being done in the --. We're fixing that. We could -- we've donated land for that so that the homes will be built for doctors and nurses and specialists that are working at the hospital. So you're right and we're actually working on trying to make it so that you can have, ah, career specific housing. Right, because we have Federal – I don't want to get in the weeds here – but there are Federal ways to get housing specifically for artists housing specifically for artists and specifically for kupuna. There's, there's certain things you can do for specific groups of underserved people, and a career that's in dire straits, like, our teaching, our teachers, our doctors, our nurses, They're in crisis. And we can look at Federal laws to help us build for those specific examples.

Ms. Grove: And I . . . (inaudible) . . .

Mr. Gima: Wait, let me jump in. Hold on Lisa. Hold on second. Let me jump in right here. We -- how many more questions do you have Lisa? Because I have Sherry and Sally wanting to chime in and --

Ms. Grove: I was just . . . (inaudible) . . .

Mr. Gima: -- and I think we have someone.

Ms. Grove: Yeah, just a quick clarification. I wasn't talking about full-time positions. We have a lot -- we need specialists rotating into Maui County, right. We need the Oncologist and the Cardiologist so that we're not all jumping on planes to go get our health care.

Councilmember Johnson: And I agree with wholeheartedly.

Ms. Grove: . . . (inaudible) . . . is there any concern that you have with this having some impact over that? But we can skip that. I'm fine and I'm done.

Mr. Gima: Yeah, we're seem to be going off on housing type of stuff, and I don't know if that was the intent of this bill. So let me jump to Sherry and then Sally.

Ms. Menze: I just had a couple of questions, too. Once you cap the hotel usage and how much they can build, I don't see how it can't --. The people aren't going to quit coming. They're just going to keep coming and they're just going to be forced into the neighborhoods then for illegal use. I'm in agreement with that. I also agree with the Department on the camper vans. I think that we need to work better on a better approach for the camper vans because how do you actually enforce this? Even though I know camper vans are a big problem on Maui, I'm just not sure if this bill is the way to go with that and to put it in with the hotels. I think it's better to keep the people in the designated hotel areas instead of having an overflow into our communities, and it would just encourage more illegal short term rentals. And with that would also take again with the housing that's already happening. People are coming and buying houses. But I don't see how this bill would stop somebody from getting a real estate agent and buying a house.

Mr. Gima: So Sherry, do you have a question for the testifier?

Ms. Menze: Yeah. Oh yeah. How do you how, how, how, how would you approach this in itself? Because I think that the -- it's not going to stop people from coming to Maui. It's not going to stop people from getting a real estate agent and buying something. And with the testifier had mentioned about housing for residents, I don't see how this bill would equate it to having housing for. How do you see that this bill would help to provide housing for the normal everyday resident?

Council Member Johnson: So first thing first --

Mr. Gima: Let's try and keep housing out of this. You know, specific to the bill. So go ahead Gabe.

Council Member Johnson: Thank you. So I just planned a trip. I'm going to go to a wedding. First thing I did was bought my plane ticket. Second this I did was book my hotel room. You're not going to come here if you don't, if there's, if there's not, if you don't book a room. So if you do book an illegal room, the fines that we have on the books are super strict. I mean, you can ask Michele McLean what those prices are. They're, they're very high. It's a high risk to take if you're going to run an illegal short-term rental in this County, \$20,000. And I think it's \$2,000 a day or something like that. It's really high. That's a big risk to take if you want to --. Now, if you're a tourist and you want to take that chance, that person has to advertise online and that's how we catch on that. We have, we actually have people out there looking. Oh, it's \$10,000 a day. Pardon me. I stand corrected. It's a significant fine if you're running an illegal short term rental.

So there's now there's -- in that example I gave you, when I come here, when I'm traveling, I book a hotel room and I book a flight. Now the County cannot manage our flight gates. That's a Federal thing. The County can manage this, the rooms, okay. So that's why this bill is written that way because we want cap put it. We want to manage our tourists and manage our industry. Again, that's what the bill, that's what is our kuleana is to manage the industry. So the way you do that is you, as a County, we can manage the amount of hotel rooms, manage rent, transient vacation rentals. So that's why we did it this way. And as far as the uhm, the, the camper vans, that was put in there because if you noticed again, people, are going online and they're renting out their vans and they're, and they're not doing it legally. So again, we want to try to manage that as well. Because again, if I'm going to buy, if I'm going to travel, I'm going to get a hotel room and a flight. But if you can't find the hotel room, then that's how we can manage it.

Mr. Gima: Okay. Thanks, Gabe. Sally?

Ms. Kaye: I'm sorry. I don't have a question for Gabe. I just, I was, I thought we were finished with public testimony and I was waiting for that.

Mr. Gima: Okay, um, Leilani said we still have one more testifier. Is that accurate, Leilani?

Ms. Ramoran-Quemado: Yes, Lisa Paulson wants to testify.

Mr. Gima: Okay, Lisa, if you could turn on your camera and audio please?

Ms. Lisa Paulson: Aloha Chair Gima and Commissioners, I apologize, I wasn't on earlier. We're wrapping up our plans for Charity Walk this weekend. I just wanted to kind of reiterate my testimony that this bill does not really do anything about tourism management at all. And we keep talking about the short-term rental enforcement. But if you look at the vacation rental enforcement quarterly report that is produced by our very own Planning Department, April's

report found 2,716 illegal operations, assessed \$147,000 in fines and collected zero in fines. Our enforcement has no teeth and it doesn't work. So what we are asking as an association is we are all in agreement that there needs to be better tourism management and we want to come to the table and help.

However, unless we start really dealing with are illegal, not legal, but illegal short-term vacation rentals, and now the new camping vacation rentals that are coming online, we're going to be in a world of hurt. Because like, like, Councilmember Gabe Johnson, Johnson said, we can't control airlift. But what are we trying to control? We're already heavily regulated and the resort areas, and we contribute a significant amount of revenue in real, real property tax; almost 55 percent. So just wanted to be here. Let you know that I'm reiterating my written testimony and I'm here as a resource. Thank you.

Mr. Gima: Okay, thank you, Lisa. Comments, questions by our Commission? All right, hearing none, I will now --. Okay, Zane?

Mr. de la Cruz: I believe -- excuse me -- I believe this is an appropriate question for Lisa. You know, there's been a lot of talk tonight about keeping visitors in Hotel Districts. We're trying to keep them in Hotel Districts. But considering that, you know, the Hotel Districts aren't at capacity, you know, they're not in the -- or was given earlier, like, the 80 percent is considered like high average for occupancy. And considering that they're currently at 76 percent or below in occupancy, you know, it doesn't seem like the hotel district are saturated with tourists if they're still moving into these other districts. Is it feasible for us to try to keep people in an area they don't want to be in? Because that's what that suggests to me is that people don't or there's a portion of visitors that don't want to stay in Hotel Districts. And so I'm wondering if this, like, how feasible is it trying to keep them there by allowing for an unlimited or --? What does this cap -- will this cap actually prevent people from going to the hotel, hotel or keep people in the Hotel District? I did not iterate that right. Will the cap that's proposed affect people or prevent people from leaving the Hotel District since the Hotel District has occupancy available and is still not being filled?

Ms. Paulson: Thank you for the question. And you know what? It's all speculative and it's a, it's another reason we are against this bill because it's moving too fast. And there has been no significant study on whether the current moratorium that's been in place since January has had the desired effect, and what kind of outcomes that it could produce. A decrease in occupancy in hotel areas, an increase in illegal short-term rentals, and illegal and, you know, an increase in purchase of private properties that would hurt our workforce housing. So, you know, that's a great question, and I think we all have a lot of great questions and we're all saying pretty much the same thing. Why this bill? Why now? We need more time and we need we need significant study before we do a bill like this. I hope that answers your question.

Mr. Gima: You all good Zane?

Mr. de la Cruz: I think that's as close as I'm going to get tonight.

Ms. Takakura: Excuse me, Chair Gima, you're muted. This is Jacky from Planning Department.

Mr. Gima: I'm sorry. I don't see no hand. So I just now officially close public testimony and that we will take a five minute recess. When we come back, Commissioners can ask questions of the Planning Department. So be back in five minutes, which would be 6:46 p.m. Thank you.

*(The Lanai Planning Commission recessed at 6:44 p.m. and reconvened at 6:49 p.m.)*

Mr. Gima: Erin, Sally, Sherry, you guys are back at your screen? Okay, there's Erin. Sally, okay she's on. Sherry? Alright, thank you. We're back on the record.

Okay, so now before the Commissioners comment and have questions for the Planning Department, some procedural stuff real quick. So Jacky, when did the clock start on this bill? We have 120 days.

Ms. Takakura: So Chair Gima, that would be, our deadline would be 120 days after the final public hearing, and so that would be 120 days after, I think last Wednesday was the last public hearing which we had with Molokai Planning Commission.

Mr. Gima: Oh, so we wouldn't start from today? Isn't ours the last public hearing?

Ms. Takakura: Oh, I'm sorry. Yes, I'm getting mixed up with the other one that we had to defer which is not a public hearing; the next item. You're right. It's a 120 days from this one, today.

Mr. Gima: Okay.

Ms. Takakura: And Chair, if I could mention --

Mr. Gima: Go ahead.

Ms. Takakura: Oh, I have that report that was mentioned by the last testifier. I can go over that with you if you want to. But wherever you're ready to talk about that.

Mr. Gima: Which report are you referencing?

Ms. Takakura: The vacation rental enforcement quarterly report. It's this document that's on our web page. It was referred to by the previous testifier.

Mr. Gima: Oh, okay. Now I, now I remember. Procedurally, do we vote on this bill in its entirety, or do we vote individually for those five different components of the bill?

Ms. Takakura: Chair Gima, you can vote, um, as one bill, but you can include comments or, you know, if you want to make revisions. It's going to be up to the Lanai Planning Commission what you would like to recommend.

Mr. Gima: Okay, so you answered the question. So Maui Planning Commission and Molokai Planning Commission have reviewed this bill. Is there anything to share from those Commissions?

Ms. Takakura: Well, Chair Gima, so I'll start with Molokai. They, they supported the bill, and they would like to see no camper vans or RVs for short-term rental use for the island of Molokai. So I'll be relaying that information back to the County Council for them.

For Maui Planning Commission, they took up the matter, but they had to defer. So, they have not made a decision yet. It will be held, decided upon next month. They didn't have all the Advisory Committee comments back yet.

Mr. Gima: Okay. And there was some discussion previously about Project District designation, and then in the bill, Hotel District designation. Are they one in the same, does one supersede the other, or are they totally not related at all?

Ms. Takakura: Chair Gima, they're completely different zoning districts. And so the Project District Chapters 19.70 and 71 are not included at all in this bill, and so they wouldn't be affected at all.

Mr. Gima: Okay, and then lastly, in the Planning Department's packet, I noticed again there is no alternative section where it says preferred action, no action, and sometimes a third action. Is there a reason for that?

Ms. Takakura: It might be an oversight on my part, but let's see. We do have, you know, a few recommendations that I mentioned in the power point, just minor things. But yeah, it's really up to the Lanai Planning Commission, if you want to accept the Department's recommendation for those three things. And if you folks want to add more or not, it's up to you folks.

Mr. Gima: Well, it's my understanding when the Planning Department used to list alternatives, they would say the preferred action, you know, if the bill passes, this is why it's going to be good, and what are the benefits. No action you would state what are the consequences of this bill not passing. And then there is an alternative sometimes offered. So like you said, was that an oversight or is there no alternatives that are being presented to our Commission?

Ms. Takakura: Well, the Department does support the proposed caps because it is consistent with the Countywide Policy Plan and the Community Plans, at least for Maui island and Molokai. There's some debate, you know, I think Lanai does have different issues. But like I mentioned, we just have those three recommendations for revisions.

Mr. Gima: Okay, thank you. At this time, I'll open it up to Commissioners for questions for the Planning Department. Okay, Zane?

Mr. de la Cruz: I guess one of the things that was difficult for me when reading this packet was trying to find maps for like the applicable zones, or the zones that would be affected by this. You know, like looking for the Country Town Business zone. Like, I wasn't able to find a map that had the hotel zoning that apparently Hotel Lanai is on. I guess in the future, if we could have maps of districts that would be affected by these proposals, that would be very helpful to me. Because even like the Lanai City zoning map that was included with this packet, you know, there are parts of the legend that aren't filled. There's probably like five to six different color keys, and we have three color keys in the legend. So it was hard for me to try and figure out where these areas are, if we have them on Lanai. So in the future, if we have, you know, specific types of zones that are going to be affected by proposals, if we could have accurate maps that reflect that.

Ms. Takakura: Thank you, Commissioner. Just to --

Mr. Gima: Anybody else?

Ms. Takakura: -- for Lanai City, it's mainly the BCT, picture on that map, for light-pink, and you had a hotel which I believe is just Hotel Lanai. It was kind of hard for this one because, you know, on the three islands with all of these zoning districts that are affected, it would be pretty busy map. But yeah, we can include that, you know, going, going forward.

Mr. Gima: Erin?

Ms. Atacador: When the bill was being put together, was, I guess, an indirect effect that I'm thinking of limiting, putting a cap on the hotel side of it and resort side of it, if prices will rise if there's limited, if there's more conflict, there's less competition. You know, and coming over from Lanai when we have to stay overnight, we get affected by the prices that are there. So I guess, I guess, for me, my comment is just that if we limit the amount of hotels that are capped, cap it, then the prices will just continue to go up. And that'll make it more difficult for kama'aina and local when we, when we have to travel and stay in the hotels if the price is being driven up because of demand, or limited . . . (inaudible) . . . I should say.

Ms. Takakura: Thank you, Commissioner Erin. I did read a short study from Barcelona and I can ask the Commission Secretary to send it to you all where that's exactly what happened. The prices --. So the hotels did quite well. I'm not at my computer right now, so I'll have to send that to Leilani tomorrow morning when we folks can read that.

Mr. Gima: Okay, Erin, any other comments or questions?

Ms. Atacador: No, thank you, Chair.



Mr. Gima: All right, anyone else questions, comments for Planning Department? Sally?

Ms. Kaye: Yeah, I just kind of like to go over what I think I understand about this. First, of all, the number of hotel units in that district, which does not impact us, won't go down, and I recall the total units in the County was 24,425. So it's not like that's going to go down. The caps for short-term vacation, short-term rental housing and B&B has been set for us. We're done with that. Under the able leadership of former Chair Preza we undertook almost a year's worth of conversation around this topic. So I'm, I'm aware of the concerns that Commissioner Grove and others have brought up, but this bill is not going to solve that. If the hotel industry wants to produce low cost accommodations there is a mechanism according to Council Member Keani Rawlins-Fernandez to up that cap. To just hope that they might do it at some time in the future has no relevance to this bill. I think that I have too much respect for the Planning Department and County Council and the hard work they've put into it. And we have had assurances that the hotel industry had input. And I think we should support the bill as it is written with the three changes that were outlined by the Planning Department.

Mr. Gima: Okay, thank you, Sally. Any other comments, questions for the Planning Department? Lisa?

Ms. Grove: Yeah. And I obviously have a ton of respect for the Planning Department as well. The one question I had was did the Planning Department recommend initially the support for the temporary cap? The two year?

Ms. Takakura: Thank you Commissioner Grove. Yes, based on the wording of the Maui Island Plan and the Countywide Policy Plan, the moratorium for the island of Maui was consistent with those long-term documents.

Ms. Grove: And then why wouldn't --? And so we have it in place, I just don't understand why we wouldn't want to research and understand the impacts that we're only seven months into a two year cap and to see what the implications are? And again, I may be overthinking the what ifs part, but that's just sort of how my brain works.

Ms. Takakura: Well, Commissioner Grove, this is a Council initiated bill and I'm going to defer to my, my boss right there, Director McLean.

Ms. McLean: Jacky, you were on the right track. This bill came to us, and so it is our responsibility to take it through the Commissions. If Council Vice-Chair Keani is still on the call she might be able to further explain why they wanted to move ahead. But I know I've heard the reasons it didn't pass being that the moratorium was for a maximum of two years or until tourism management ordinances were adopted. And so the idea wasn't to just let the moratorium run out and then try to figure out what to do from there. They wanted to propose legislation before the moratorium expired. But other testifiers have raised the question of whether we should get more data based on the effects of the moratorium before going

forward. And I really can't answer that question since the Council put the bill forward. I don't know if our Council Vice-Chair Keani wants to comment further.

Ms. Grove: Thank you. And then just for clarification, even if we were to hypothetically say no to this, there's still the cap is in place for another 15 months or some 14 months or something, right?

Ms. McLean: The moratorium would continue for, for the full two years. Yes.

Ms. Grove: Yeah. Thank you.

Council Vice-Chair Rawlins-Fernandez: Chair?

Mr. Gima: Go ahead Keani.

Council Vice-Chair Rawlins-Fernandez: Mahalo. I know that the Director responded to that question with certainty, but the moratorium does have language in it that would enable the Council to end it at any time as well. So there is no certainty that it would continue for a full two years depending on the Council make up after the November election.

Ms. Grove: Thank you. Appreciate that.

Mr. Gima: Chelsea?

Ms. Trevino: Okay, I just want to make sure that I'm understanding correctly. So right now, this proposed revision is -- we're talking about capping the number of units to the number that is already existing, correct? And I'm assuming that means like if there's 20,000 hotel rooms, that's what we have now and that's what is being capped at. If I'm understanding that correctly. Because some of the concerns seem to be like, oh, if we cap it, then what's going to happen? But if I'm understanding correctly that what we have is already existing and that's going to be the cap. I think we heard earlier that only 76 percent is the hotel capacity right now. So I don't see how this cap is going to be super negative because we're already experiencing what people are going to do if they don't use the hotel. Because if my understanding is correct, right now, we're only at 76 percent capacity for hotel guests now anyways. So -- and I think as Gabe said earlier, the numbers of travelers now is just, what, as much, if not higher than it was in 2019. So I think that's if I'm understanding correctly what this cap is saying that I don't -- a lot of the what ifs or the, the worries is, like, well, we're there already as far as what people will do if they can't get a hotel because there's still 20 percent of hotel rooms available and people are booking them. So I just want to make sure I'm understanding correct what -- if that makes sense. Please just make sure that that's what I'm, I'm getting at.

Ms. Takakura: So Chair Gima may I respond?

Mr. Gima: Yes.

Ms. Takakura: Okay, so Commissioner Chelsea, you're correct. For hotel and apartment, and like I mentioned, I believe your apartment properties on Lanai don't do any vacation rental because they don't meet the criteria. But so for Hotel District, the cap is at whatever is existing. So if there's 12 units, it's going to be 12 units. For the other zoning districts, if there's a use like, say, it's in B-2 or BCT those would be continuous non-conforming so they can continue. The only ones that could possibly be affected is if they have a special permit that expires, and that's going to be a probably a very small number. I don't know how many. We haven't done the research on that, but it would be a very small number of properties that might have a special permit that allows them to conduct this transient vacation rental use. So -- and I'm not sure if there are any on Lanai. There's like the bigger properties in B-2, but Lanai doesn't have any B-2. There might be some others on Maui, but I'm not sure. But I would think that that's going to be a very small number those that have special permits that would expire. Hope that answers your question, Commissioner Chelsea.

Ms. Trevino: Yeah. So can somebody confirm for me earlier, I think it was stated that like our hotel occupancy is around 76 percent right now. Is that about what it was said?

Ms. Takakura: Commissioner Chelsea, I believe that was in Lisa Paulson's letter, her testimony, her written testimony in the Maui Hotel Lodging Association. You know, for permitted uses, we don't keep track because it's a permitted use. So, you know, just like I, you know, I wouldn't know the number of houses in residential because you can build it without a permit, you know, so we don't, we don't keep track of stuff like that. So if it's out right permitted, I know they're good to go.

Ms. Trevino: Okay, so I guess just to make sure everyone understands what I'm trying to make clear is if the numbers that they're capping out right now are the numbers we're at right now, and just in, just looking at the hotel part, if we're saying hotels are only 76 percent occupancy, I personally don't see how the cap is going to be super detrimental because we're already experiencing what we're experiencing now and we're not even at the cap, if that makes sense.

Ms. Takakura: Commissioner Chelsea, that is correct. Yes.

Mr. Gima: Okay, anything else, Chelsea?

Ms. Trevino: That's all. I just wanted to make sure I understood that.

Mr. Gima: Okay, thank you. Other Commissioners, questions for the Planning Department comments? Zane?

Mr. de la Cruz: Just a clarifying question I want to ask directly. Do we have a Hotel District on Lanai?

Ms. Takakura: So Commissioner de la Cruz, I, I would be able to tell you that in one minute if I was at my desk. So, um, maybe the Director can look it up because I think she's still at her desk. But the digital zoning map would show, you know. It would probably be Hotel Lanai, if at all. But, um --

Ms. Preza: I'm going to jump in. Sorry, Jacky, to interrupt but I have that digital map up right now, so I'm going to put a link in the chat. It's on page two. I believe Hotel Lanai is in that kind of, according to the legend, that's the Hotel District, that zone. And then there's A-1 Apartment where you can see like Iwiole and the Courts are all designated as that. And then for Business Country Town or Country Town Business District, that's the pink in the middle all around Dole Park. So for Lanai, at least, that's what would be affected by this bill in front of us. Yes, please correct me if I'm wrong, anyone, but that's my understanding.

Ms. Takakura: Thank you, Commissioner Preza. Thank you very much.

Mr. Gima: So Shelly, where did you get that map? Because the power point one does not have that legend for all the different colors.

Ms. Takakura: Commissioner Preza . . . (inaudible) . . .

Mr. Gima: You're muted.

Ms. Preza: Oh, sorry, I just looked up the County zoning map and this is on the Maui County website.

Mr. Gima: Okay, thanks. So that's -- does that answer your question, Zane?

Mr. de la Cruz: I'm hoping it will. I'm having trouble loading the page at the moment.

Ms. Kaye: If I, if I can jump in, Chair, if, I looked up that map as well, and yes, those are part of our community, but none of the uses that this would control are currently in those districts, with the exception potentially of Hotel Lanai, and so it wouldn't matter. There are no -- there are none of those uses, no TVRs in the Apartment, so it, it doesn't really, this bill wouldn't impact them for us.

Ms. Preza: I wonder, though, you know, for number two on the resolution to remove transient accommodations as a permitted use that could potentially impact, like what are -- the only one that were affected by is the Business Country Town District, right? So, I mean, that would affect that area, like, if in the future someone was going to try to put like some sort of affordable accommodation or something that would no longer be a permitted use. And then it would --

Ms. Kaye: I'm sorry, I thought that that was covered by the fact that the BCT allows 20 bedrooms. It would have to get Lanai Planning Commission approval for that. I thought I heard somebody from Planning Department say that.

Ms. Preza: I'm not sure. I'm seeing, and the Planning Department can correct me if I'm wrong, I'm seeing the 20 bedrooms in, as relating the B-2 Community Business District, which we don't have on Lanai.

Ms. Kaye: Sorry, I thought it was BCT.

Ms. Takakura: May I interrupt, Chair Gima? Sorry, this is Jacky from Planning. So yeah, B-2, there's no B-2 on Lanai. For BCT, which does exist in Lanai City, and that's Chapter 19.15, the proposal is to completely remove transient vacation rentals as a permitted use. Right now, it's outright allowed for one to 12 bedrooms in BCT, and the proposal is to completely remove that use, in 19.15, is the chapter.

Ms. Preza: Thanks, Jacky, for clarifying. I think if we're just in --. Chair, are we still in the process of providing comments for discussion right now?

Mr. Gima: Yes.

Ms. Preza: Okay. So I think, I'm sorry, just to chime in. I believe that I understand the intent of the bill and I think it makes sense in terms of, you know, wanting to control tourism, right? Because I think we all can see that over tourism has been a problem. I agree with Lisa about the data, the lack of data about setting a cap, which right now seems a little arbitrary, like because maybe the cap should be lower. And I understand that maybe in the future that that cap could be lowered, but then there would have to be a whole other like amendment or like a bill of some sort to amend. So I think I agree with Lisa in that, I wonder if, like --. I see with Chelsea saying too about that we're at 76 percent occupancy. How is this cap going to hurt? But I also feel like just capping it at where it is right now without any specific data to say like, this is what is sustainable, because maybe that that number should be lower, right? So but we just don't know and I don't know if we've heard anything. I think we've heard a lot of sentiments about over tourism and how hopefully this will be a way to control it. And I hope it. Well, you know, but speaking specifically for Lanai, and I'm not sure if this is something that we should adopt specifically with, you know, transient accommodations in the BCT or in the Hotel District on what which Hotel Lanai is the only little parcel that is designated Hotel on Lanai. I feel like should we leave that for any potential in the future for more affordable options like we've all been discussing, you know, and that's in the community plan to have a more diverse array of accommodation opportunities. I'm just not sure. I guess I feel like if we support this and then don't, and then don't exclude Lanai, are we like creating a situation in which we are limiting future options for those kinds of more affordable accommodations? That's a question for discussion. I'm not sure.

Mr. Gima: Jacky, you want to respond to that and then we'll go to Zane?

Ms. Takakura: So Chair Gima, you know, if the Lanai Planning Commission wanted to, you know, they could always exempt themselves or I'm just throwing this out there, maybe if you

want to allow it with Commission approval, so that it's not outright allowed. But would have to be allowed by the, you know, it would have to come to the Lanai Planning Commission. And that's just a thought. Because yeah, it might have different consequences for the island of Lanai as compared to the island of Maui, but just putting that out there, for BCT.

Mr. Gima: Okay. Thank you. Zane?

Ms. Takakura: Excuse Chair Gima, I see Corporation Counsel on my screen.

Mr. Keola Whittaker: Hi Chair. May I step in for just one second?

Mr. Gima: Okay. Go ahead Keola.

Mr. Whittaker: Thank you. Just to introduce myself. My name is Keola Whittaker. I'm a Deputy Corporation Counsel here replacing Richelle this evening. Personal things to attend to. I should have said this earlier, but just wanted to note, for the record, that if you work for Pulama Lanai or any entity that may benefit or be hurt by this legislation, you can still vote and deliberate if you don't, if you're not directly involved in any project that would be affected by this legislation. However, if you are directly involved, we advise you not to vote or, or participate in deliberations since that could be an ethical conflict. If you do work for one of these entities and don't have a direct impact, you know, you can state that for the record that you, you know, will not be directly financially benefiting or hurt by this legislation and can vote impartially. Just wanted to note that for the record. Thank you, Chair.

Mr. Gima: Thanks Keola. So, Pulama Lanai employees, any comments or questions about what Corp Counsel provided us tonight?

Ms. Atacador: No questions, but I am the Hotel Lanai manager, so maybe I should excuse myself.

Mr. Gima: Okay. Thanks, Erin. Let's see, any other questions, comments for Planning Department? Zane?

Mr. de la Cruz: I guess, to start off with, I guess out of transparency, I do work for Pulama, but I work in the Conservation Department, so I don't believe any of this affects --. Yeah. Well, my question is so areas like a BCT where the proposal is to completely eliminate TVRs, could those complete dis-allowances be amended in the same way that the caps for like the Hotel Districts can be amended?

Ms. Takakura: Chair Gima, if I may answer that? Certainly, it could, the Lanai Planning Commission could recommend, yeah, to say that the existing is allowed, yeah, similar to what is said, said, in 19.14, which is the Hotel Chapter. The number of rooms or units allowed for transient vacation rental use may not increase beyond those allowed for such use as of

January 7th, 2022, and then no expansion. I don't personally know if you folks do have a transient vacation rentals in BCT, but I suppose we could research that.

Ms. Kaye: I'm sorry, Jacky, I have a question. If a transient vacation rental is defined as anything rented under 180 days that would include a hotel room? And the Hotel Lanai is a hotel, and so, yeah, there are, there are 11 existing rooms up there now and this would not impact that. But what you're suggesting is an alternative is to say if there would be an increase that it would require Planning Commission approval? Was that your suggestion?

Ms. Takakura: Commissioner Kaye, at first, when we were talking about BCT, which is now in Chapter 19.15, I had mentioned that the proposal is to remove the use completely for transient vacation rentals because it's currently allowed one to 12 bedrooms outright allowed. So I just threw out there that maybe you want to allow it, but I must have Maui, uh, Lanai Planning Commission approval.

And then my understanding -- maybe I misunderstood Commissioner de la Cruz. He was asking about using language from Hotel District for BCT, the wording. You know, the number of rooms or units allowed may not increase so that you would have similar language in BCT that caps it at whatever's existing for BCT. Just like how the proposal is to cap Hotel District. Is that what you were asking Commissioner de la Cruz? Maybe I misunderstood you.

Mr. de la Cruz: No, I wasn't suggesting a change in language.

Ms. Takakura: Okay.

Mr. de la Cruz: I was asking if there is a --. So earlier it was discussed that the caps for the different districts that are allowed use like hotels that they can later be amended. So what areas like the BCT that are completely disallowed use of TVRs could that also later be amended to allow use?

Ms. Takakura: Commissioner de la Cruz, the answer is yes. It would be a similar process to this where we would, we or the County Council or somebody would propose a bill for ordinance to revise that Chapter in the Code, whatever Chapter it may be. And then we have public hearings and we take the recommendations from the Commissions to the Maui County Council to change the Code. That would be the process.

Mr. de la Cruz: Thank you.

Mr. Gima: All right. Other questions, comments for the Planning Department? So Commissioners, do you feel like you have the information, most of the information needed to make a decision tonight? If not, I mean, we have the option to defer if you need more specific information because we do have the time since to clock only starts tonight for the 120 days.

Ms. Takakura: Commission, um, Chair Gima, this is Jacky again from the Planning Department. Is anyone interested in hearing about enforcement?

Ms. Kaye: Yes, I am. Thank you, Jacky.

Ms. Takakura: Chair Gima, would that be okay? It will only take a minute.

Mr. Gima: Yes. Yes, go ahead.

Ms. Takakura: Okay, so I'm not sure how to do this, but --. I'm -- so from our homepage we do have a quarterly report that we post. It's called Vacation Rental Enforcement Quarterly Report, and I'm going to try to screen share. But it's, it's just a one page document from our home page. And let's see, can you see that one page?

*(Due to technical difficulties with the BlueJeans application, portions of the recording was inaudible. In addition, due to the technical difficulties, Commissioner Sherry Menze was not able to establish connection from approximately 7:25 p.m. to 8:16 p.m.)*

Council Member Johnson: Butch, I see your camera on and Lisa's camera on. I don't know if you guys can hear me.

Ms. Grove: We can.

Council Member Johnson: That's the only cameras I see on.

Mr. Gima: Yeah. I see Lisa. Okay, Michele coming back on.

Ms. McLean: Yeah, I think people just dropped off their own and they're coming back on. It might have been a problem with Leilani's account. So I think she jumped out, and came back, and it, that solved everything. Sorry about that. Thanks for being patient.

Mr. Gima: Okay.

Ms. Takakura: Excuse Chair Gima. This is Jacky from Planning. Can you hear me?

Mr. Gima: Yeah, go ahead.

Ms. Takakura: Okay. I'm sorry, I don't know what happened, but my main point was that 2,000 ads doesn't equal 2,000 illegals. That just means there's 2,000 ads that we need to research. And in the quarter, in the last quarter, you know, that 37 request for services where we --

Ms. McLean: Hold on, Jacky. Jacky, hold on one second. I want to make sure that we're still recording.



Mr. Gima: Yeah, we're recording, but we don't have all the Commissioners back on yet. We only have Nikki, Lisa and myself. I texted Sally and Shelly about logging back on. Let me text Erin also.

Ms. McLean: Yeah, it looks like they're on, but let's wait until we can see everybody. You know, Jacky is enthusiastic to defend our enforcement efforts. We'll give them another few more minutes for all the Commissioners to come back on.

Mr. Gima: Okay, I see Shelly. I do not have Sherry Menze's phone number so I can't text her.

Mr. Gima: Okay, I texted Zane. Alright, there's Erin. One, two, three, four, five. So Keola what's the protocols on resuming?

Mr. Whittaker: So as long as we can get a quorum back and on camera we can continue.

Mr. Gima: Okay, thank you. We got one, two, three, four, five, okay six, so Sally came on. Okay, so we're back to having quorum.

Ms. Grove: . . . (inaudible) . . . recuse yourself?

Mr. Gima: Say again?

Ms. Grove: Does five count because Erin, didn't she recuse?

Mr. Gima: Yeah, five counts. Okay, back to you Jacky.

Ms. Takakura: Thank you, Chair Gima. Just my point about the enforcement and according to our quarterly report which is on our home page, our Planning page, there were over 2,700 ads that required further research, but that does not equate 2,700 illegals. So I just wanted to correct that on the record because the actual number of request for services that we did investigate were more in the range of 37 for the quarter. So it was about 10 or 11 warnings, and maybe 14 violations. So, one of the testifiers had said there's, you know, over 2,000 illegals, but that's not correct. There may be over 2,700 ads, but those aren't illegals. Thank you.

Mr. Gima: Okay, so that was in response to Lisa Paulson's testimony. Okay, thanks Jacky. Okay, other comments, questions for the Planning Department? So Sally has made her position known. You know I think if we follow the recommendations of the Planning Department as amended, we would be taking a conservative approach, much like what Hulopoe Beach Park Council is trying to do with limiting non-resident access to Hulopoe Beach Park. With the Council they're trying to be pro-active, precautionary, instead of waiting for crisis or a big crowd to happen. And since following Zane's questions about if there's a mechanism to modify this bill should it pass, the Planning Department said, yes, there is a mechanism to do that.

That being said, how does the rest of the Commission feel about the Planning Department's recommendation as amended?

Ms. Preza: I guess I have a question about --. I'm, I'm more in favor, if we're going to support it, I'm more in favor of excluding Lanai from those two specific items that will affect us. Um, because I guess I'm just wondering, you know, according to the Community Plan all these things about potentially diversifying accommodation options, I guess if we cap the existing use as, in the Hotel District, which that's only Hotel Lanai with 11 rooms, and then we remove transient accommodations as an option in the BCT. And I think like a change code, like, you know, a bill to amend even though there's a mechanism like that's a long process. I guess what did the Commissioners imagine are those alternative accommodation options? I mean, I guess, where would they go, you know, if we're talking about affordable. Yes, Zane, sorry.

Mr. de la Cruz: I guess, I would flip that question on you. Like what do expect -- so if both of those areas are solely controlled by Pulama, right, like they're the landowners. What would be the alternative, like, if this bill, if we were to exclude ourselves, what would we be allowing them to do? Like, do they have plans to put up transient vacation rental in the BCT, or do they plan on extending or improving Hotel Lanai? What, what's the benefit of us not shying on the conservative end?

Ms. Preza: Well, I guess I'm just wondering, like --. And I'm sorry, can anyone confirm is Pulama the landowner of everything in this zoning? And aside from that, it's more of a question of like, say, say they were going to open, like someone was going to open up like a 12, or like a six bedroom -- I don't know -- whatever, a \$100 a night whatever, so Lanai people can come home during graduation. Like, would we have to go --. Like I think I'm going back to Lisa's thing about the what if, you know? I understand what you're saying, Zane, but I feel like, basically if that were to happen, where it's like, oh, we're doing this thing so that Lanai people can come home and see their family during graduation whatever, but there would have to be an entire, like, change to the code in order to allow it. Do you know what I mean? And I feel like that is, like a long process too.

Ms. Kaye: Where do you envision such a thing being built now?

Ms. Preza: Sorry, I didn't catch what you were saying, Sally.

Ms. Kaye: Where do you envision such a thing being built now?

Ms. Preza: I don't know. I'm just, I'm just thinking like there's a lot that we don't know. There are like open parcels where in the business town district where maybe something like that could go. And I'm not saying that that is going to happen. But is it precluding us from the option is what I'm asking.

Mr. Gima: Sally, then Zane. Okay, Zane?

Mr. de la Cruz: Um, I guess one concern -- concern is not the right word but for my understanding of looking at that map, isn't, if not all, is it the gross majority of our BCT is Historical District? Like are we even allowed to make alterations to those buildings to allow for TVRs?

Ms. Preza: I'm not sure. I think that would be a question for maybe Planning Department?

Mr. Gima: Yeah, Planning Department.

Ms. Preza: But sorry. Also and aside from just like altering the building, there is, there is like empty land as well. I don't know, we can't speculate about what's going to be built or not. But it's just a discussion about so right now is allowable is 15 trans -- so 15 STRH short-term rental homes and 15 B&Bs in the residential area. And those are, I guess, what I would imagine is like alternative accommodations on Lanai. Like, more affordable than someone trying to come back and stay at a hotel, for example. Like families returning home and they don't have a place to stay so my question is more just like theoretically is that enough you think as an alternative transient accommodation in the residential area or do we want to leave room for in the BCT and something that is designated hotel to have alternative accommodations in the future? I don't know.

Mr. de la Cruz: I think theoretically --

Mr. Gima: So currently --. Go ahead Zane.

Mr. de la Cruz: I, I think theoretically that's a good argument, but I just don't see that being a practical one on Lanai. Like -- and if, and if there was some impetus to build, you know, more affordable STR in the Business District, or Country Town Business District or the Hotel District, like, I don't, I don't see the problem with going through the established mechanism.

Mr. Gima: So think, um, something to remember is Sally earlier asked Pulama if they had any plans to develop, build any cheaper places in, in, you know, BCT or um, because that was, that was a part of their letter. And they, they either said no or did not respond to that. Um, and I think more importantly for the BCT and all the land that Pulama owns historically they haven't really jumped at letting non-Pulama entities develop, you know, on their land. So, um, I think, I think that's two important factors to consider when, when we look at what the Planning Department, you know, is recommending. I, I agree with you, Zane. But the reality is, you know, that's not going to happen anytime soon. Lisa?

Ms. Grove: Just a recap. I find solace in the fact that there are, there is a moratorium in place. And I think that it was thoughtful to put a couple of years in it and see if we can collect some information on what the impacts are. I'm concerned about that 15.2 or whatever, in fact, the numbers are accurate that 10,000 increase, or the 16.5 increase in tourism, and only a two-point whatever increase in, in hotels. I'm not as worried about Lanai as I am about a

proliferation of illegal rentals. And as great as the planning and enforcement folks are, I just am concerned it's going to swamp the system. And then it makes homeownership out of reach for people on Maui who were trying to get in it or like nefarious activity house and people are sort of trying to find other ways around it. If we didn't have the moratorium in place now I would have a different view of this. And I do think that we may come back and say these caps are too high. Or we learn something about, you know, that, that the intention of the two years was wise, and I don't understand why we would backtrack on that now.

Mr. Gima: Okay, thanks Lisa. Um, Keani, can you give us a quick run down of who comprises the TIG?

Council Vice-Chair Rawlins-Fernandez: Mahalo Chair for the question. So the, the TIG has been dissolved at this point, but the four Council Members that served on the Tourism, Management and Economic Development TIG were myself as the Chair, Alice Lee as the Vice-Chair, and Council Member Tamara Paltin and Shane Sinenci as TIG members. So two of the places that are, you know, affected.

Mr. Gima: So there, there are no other, um, um, segments of the County that participated in the TIG? Or is the TIG limited to only Council Members?

Council Vice-Chair Rawlins-Fernandez: Okay, so the -- those that have a vote, the -- and I guess Mr. Whittaker can help me with the legal language. But basically the permissible meeting would be a TIG of more than --. Can I have Mr. Whittaker explain the TIG for me? I don't want make a mistake?

Mr. Whittaker: Sure. I think I can help. So this group is called an investigative group because they are conducting an investigation, and they conducted multiple meetings. There was more than just those four Council Members who were involved with those meetings. So perhaps Council Member, I think what the question is getting to is maybe who in the tourism industry was involved, and maybe what kind of community members were involved in this meeting? Because I did attend one and I know that they were involved in offering suggestions and ideas. So think that's what they're getting to. The voting of the TIG were the Council Members, but there were a lot more people involved in their investigation.

Council Vice-Chair Rawlins-Fernandez: Chair, does that answer your question?

Mr. Gima: Yes.

Council Vice-Chair Rawlins-Fernandez: And the TIG report with all the people who were invited and participated to provide comments on the proposed, the proposal by the TIG members, and were also welcome to, you know, provide other ideas. And then the report was then sent back to the committee that formed the TIG and that was the Budget, Finance, and Economic Development Council Committee. And then from there the bills were introduced via the Council and then it went to the appropriate subject matter committee.

Mr. Whittaker: I'm sorry. Council Member, I think what the question, what he's getting to is, and maybe you can answer this because I don't know all of the names. Maybe just give some examples of, um, some tourist industry folks that were involved because I know there were some that were.

Council Vice-Chair Rawlins-Fernandez: Mahalo Mr. Whittaker. Um, I can, I can copy, I can pull up the report and put it into the chat. So like Mr. Chipchase stated earlier in his testimony, he participated in providing feedback on the proposals. We invited Maui Visitors Bureau, HTA. Mr. Kalani Ka'anaana participated and gave us, like, great feedback from the Hawaii Tourism Authority. We had -- we invited the Realtors Association of Maui. We invited all, like, several of the different departments, the County Departments, of course, Planning. Finance to understand how, you know, some of the proposals may affect the County's revenues. We invited economists, car rental industry folks, different general managers from the different hotels were, were invited and did participate. And then we also had the, the company that does the . . . (inaudible) . . . system for Wainapanapa. They, they presented and participated in the TIG. So those are just some. And then, um, union, the unions were also invited; ILWU.

Mr. Gima: So who represented Molokai and Lanai besides you?

Council Vice-Chair Rawlins-Fernandez: As a participant in the, in the investigation or like in the group, in the TIG?

*(Commissioner Nikki Alboro excused from the meeting from 7:51 p.m. to 8:16 p.m.)*

Mr. Gima: Yes. Yes and in developing the proposal and the bill. Well, why don't you get back to us on that one. Nikki has to leave but I want to make, I want to make sure that we have quorum if she leaves. So we've got Shelly, Zane, Chelsea, Sally and myself. Erin says she has to recuse and I don't know if Sherry's back on, but we still have, we still have five. So, yeah, if you have to go, Nikki, go ahead. We still have quorum.

Ms. Alboro: Okay, thanks. It's going to be 30 minutes. I can log on at home, when I get home. Sorry, if you're still on.

Mr. Gima: Okay, thanks Nikki. Sally, you were going to say?

Ms. Kaye: Yeah, I was just going to ask, doesn't Council Member Johnson participate in this?

Council Member Johnson: No I wasn't

Ms. Kaye: Did you review it?

Council Member Johnson: Yeah, I reviewed and I voted on the bill. Yeah, I was in full support of it.

Ms. Kaye: Right.

Council Member Johnson: And as far as the TIG goes, I read the report and everything.

Ms. Kaye: Well, that's what I meant. You, so, you as our representative was part of this process, right?

Council Member Johnson: Right. Okay process is a tricky word. I wasn't there for, in the TIG, the investigatory group, right? There was a member of four. We only had four slots, and those were the ones who were there.

Mr. Gima: Okay, we're coming up on eight o'clock. Um, comments about the Planning Department's recommendation as amended.

Ms. Trevino: I'm so sorry to -- I don't want to make anything take longer, but I don't know if there was an amendment that was suggested when I was, when I wasn't hearing anything and then I came out and came in because there was the middle of talking. I don't know what the amendment is.

Mr. Gima: The Planning Department made those recommendations to amend the initial, um, bill. And I think it was in the power point.

Ms. Trevino: Oh, so nothing additional?

Mr. Kaye: Butch, excuse me. It was not in the power point. It was part of our packet. It was in the power point tonight.

Mr. Gima: Correct.

Ms. Kaye: Because . . . (inaudible) . . . One of, one of the amendments was to add the, the word legally to 19.20.020 G.2. And to add the best of the department, the department knowledge when posted to G.4., which is the list of known properties. And then the third --

Ms. Grove: Yeah, her question was when she was off the call, was there something new that we all discussed as a potential new amendment, and the answer is no.

Ms. Trevino: No.

Ms. Kaye: Actually I think Chelsea was wondering about the ones that were recommended by the Planning Department, right?

Mr. Gima: Yes. They recommended three, right? And you read two, two of them, Sally?

Ms. Kaye: Right. I was going to read the third one, which was to eliminate the parking, consideration of the parking tonight because everyone decided that they needed to work on it more.

Mr. Gima: So does that help Chelsea?

Ms. Trevino: Yeah.

Mr. Gima: Okay, any other comments about, or questions about the Planning Department recommendations as amended? Okay, hearing none, I will entertain a motion to accept the Department's recommendations as amended.

Ms. Kaye: I so move.

Ms. Trevino: I second.

Mr. Gima: Who provided the second?

Ms. Trevino: Chelsea.

Mr. Gima: Okay, it's been moved by Commissioner Kaye, seconded by Commissioner Trevino that we approve the -- accept the recommendations by the Planning Department as amended. Okay, any discussion?

Ms. Preza: I had a question. So if we are moving to support this bill, Jacky did provide an option. Because I'm still like not totally --. Because I understand the intent of it, and I agree with the intent of it. But I'm -- like based on, you know, comments that Lisa's provided and you know my comments about, yeah, the what ifs of the future of other accommodations on Lanai, Jacky earlier suggest or I don't know. Sorry, I'm not sure if it was Jacky, but someone suggested earlier about if we're going to exclude Lanai, we could also ask that any new expansion or adjustment of, um, number one and two, could come before the Lanai Planning Commission. I would be more in favor of that as opposed to having to go through an entire change, like, an entirely new bill to present, like, to change this, you know what I mean. So I offer that for discussion.

Ms. Kaye: I would be happy to amend it, Shelly, if -- my original motion -- if you would be more specific about what it is you're asking.

Ms. Preza: So right now -- because I'm looking at what, what's affecting Lanai right now. We're not talking about camper vans. We're talking about capping the number of transient accommodations to existing levels, right, in the Apartment and Hotel Districts. And then we're talking about removing transient accommodations as permitted use. And the only thing that affects Lanai is BCT, right? And so my question is do we say, like, do we add an amendment to those things saying that transient accommodations -- for number two, for example --

transient accommodations may be a permitted use upon future approval of the Lanai Planning Commission or, like, transient -- the same thing for number one. Is that something we want to add so that there is future input by whoever is on the planning commission from our community in the future?

Ms. Kaye: In what district?

Ms. Preza: In the Hotel District. So numbers one and two in this memorandum that was submitted to us. So Hotel and BCT because it sounds like Apartment is not, it doesn't exist right now, right, for Lanai? I mean it does, the district exists, the zoning, but --

Ms. Kaye: Okay, I'm confused. The Hotel District, if you're excluding Koele and Manele, then the Hotel District is just Hotel Lanai in the BCT, correct? That's it.

Ms. Preza: So Hotel Lanai is the only, or that parcel is only the thing zoned Hotel on the island because Koele and Manele are their own project district.

Ms. Kaye: Right. Right. So, so that's what you're suggesting, right?

Ms. Preza: Or I'm posing it as a question for everyone. Because I understand what Zane was saying, like, in the future there's a mechanism to change this. But I just think that mechanism seems like it's a very long, long road of, like, having to have a bill and do this, you know, like these kind of thing that we're doing tonight. So I'm just --. My thing goes back to the what if Lisa proposed is, like, do we preclude ourselves from these different options in the future. Do you know what I mean?

Mr. Gima: So Shelly, Sally there's a motion on the floor and Sally is open to having it amended. So, in order to do that, you would have to make a specific motion for us to vote on as to whether we want to amend the main motion.

Ms. Preza: Okay. I might ask Corp Counsel assist with the wording because I feel like I don't -- I feel like -- or Michele because I don't want to -- I feel like I've expressed the sentiments that I'm trying to get across but I don't want to say wrong with the, yeah.

Ms. McLean: So I believe what we would do and, you know, we can get specific, but we can also just go with your recommendation that you --. If the motion is that you support the adoption of the bill with the three revisions that we recommended as well as amending the bill do that additional or new units in the Hotel and BCT Districts on Lanai could be allowed with approval of the Lanai Planning Commission. And so that change would be made to Section 3 of the bill, and also Section 4 of the bill.

Ms. Preza: Thank you, Michele. You said that way better I could have so I appreciate it.



Ms. McLean: And actually right now just to clarify that in BCT the units that are allowed up to one to 12 bedrooms, currently that could only be allowed with approval of the Lanai Planning Commission. So you don't have use going now. And so what you'd be doing is to keeping the status quo for Lanai for BCT, which is fine. So those would be the two additional changes that would come.

Ms. Preza: Thank you. That's what I'm proposing is what exactly Michele said.

Mr. Gima: Okay, Commissioners, any questions about or comments about Shelly's potential amendment to the main motion? Okay, um, would you help Shelly then? I'm assuming Shelly you want to amend the main motion?

Ms. Preza: Right. So would I put another motion? I mean, there's a motion on the table, right, or on the floor, so what would the process be for --?

Mr. Gima: Right.

Ms. McLean: Yeah, either, either Sally could amend her motion to also add two additions changes which is for new units in the Hotel District and for units in the BCT on Lanai, those uses would have to be approved by the Lanai Planning Commission. So Sally could move that as a friendly amendment and then Chelsea would have to --

Ms. Kaye: I'll do that.

Ms. McLean: Chelsea would have to go along with that as the seconder of the motion?

Ms. Kaye: I offer that as a friendly amendment to my main motion.

Mr. Gima: Okay.

Ms. McLean: Is that, is that acceptable to the person who seconded the original motion?

Ms. Trevino: Can we discuss it a little bit more or no?

Mr. Gima: Yes you can.

Ms. Trevino: I guess my concern is you don't know who's going to be on the Commission, the Planning Commission. And some of these assumptions for this not having a cap is that it's going to be affordable. That's an assumption. Um, so I'm just --. I'm really not about like Hotel Lanai getting any bigger. And I'm really not about having rooms around the center of town and so that's -- and, and -- so that's just of where I'm leery. Um, and yeah, we're saying they can come to the Planning Commission, but who's going to be serving on the Planning Commission at that time, right? We don't know.

Ms. Preza: I mean we wouldn't know who's going to be sitting on it in the future. But I would hope that, like --. I mean, it's a public forum for everyone to contribute their thoughts and testimony, you know. So I would like to think that it's still Lanai people, like all of us are on it, you know. I mean, we can't be for sure who's going to be on it, but I would like to think that they even if we're . . . (inaudible) . . . have Lanai's best interest in mind and that even if we're off and that we have opinions about any potential future changes that, you know, we would come as testifiers and share that as well, so I'm not sure.

Ms. Kaye: So if I understand it . . . (inaudible) . . .

Mr. Gima: Okay, Chelsea?

Ms. Kaye: Sorry, Chair, if I don't get a second for my amended, then we revert to the original motion, yes?

Mr. Gima: Correct. If you don't get a second for the friendly motion -- I mean, Chelsea, you're not compelled to do that -- yeah, then the main motion will stay intact and we would be a motion to amend from Shelly. Is that right Corp Counsel?

Mr. Whittaker: Yeah, we have the main motion, and it sound like it may not be accepted as a, as a friendly amendment. So then we would need to move to amend, second on the amendment, and then a vote on the amendment.

Ms. Trevino: Okay. So then I might as -- I'll accept the amendment then because it's still going to come back around in a full circle. So, I second, to friendly amend.

Mr. Gima: Alright. So the main motion has been amended to a friendly amend and to Commissioner Kaye and Commissioner Trevino. Okay, any discussion about the friendly amendment to the main motion? Alright, hearing none, all in favor please raise your hands.

Mr. Whittaker: I'm sorry, Chair, are you taking a vote on the whole motion or just the amendment?

Ms. McLean: Because it was a friendly amendment, I don't think they need to vote on the amendment.

Mr. Whittaker: I agree. I wanted to make it clear that you're voting on the motion, the whole motion.

Ms. McLean: The whole thing as amended.

Mr. Whittaker: As amended. Okay.

Mr. Gima: Okay, everyone on the same page? Yeah, that was -- that's what I was hoping for that we're voting on the main motion with the friendly amendment. So again, all in favor, please raise your hand. I've got one, two, three, four. Okay --

Mr. Whittaker: I'm so sorry, Chair, because it wasn't unanimous, we need to do a roll call vote for the record.

Mr. Gima: Okay. Um, Zane?

Ms. McLean: I can --. You've got it Chair? Okay.

Mr. Gima: Zane, what's your vote?

Mr. de la Cruz: Nay. I respond in the negative. I'm not sure how to articulate that.

Mr. Gima: Okay. Shelly?

Ms. Preza: Oh, sorry. Um, you know, what I, I'll say yes.

Mr. Gima: Chelsea?

Ms. Trevino: Yes.

Mr. Gima: Lisa?

Ms. Grove: No, with reservations.

Mr. Gima: Sally?

Ms. Kaye: Yes.

Mr. Gima: And I vote yes. So -- and then we have on recusal. So Corp Counsel did we need five for the motion to pass?

Mr. Whittaker: Yes. You need five votes in favor for it to pass.

Mr. Gima: Okay. So the motion does not pass. We have four, four year, two noes, one recusal.

***It was moved by Ms. Sally Kaye, seconded by Ms. Chelsea Trevino, then***

***VOTED: To recommend approval of the Planning Department's recommendations, with their three amendments, and with the***

***friendly amendment, as discussed, to the Maui County Council. –  
FAILED.***

(Assenting: R. Gima, S. Kaye, S. Preza, C. Trevino)  
(Dissenting: Z. de la Cruz, E. Grove)  
(Excused: N. Alboro, S. Menze)  
(Recused: E. Atacador)

Mr. Whittaker: So what you may want to do --. Perhaps it was that, maybe it was Shelly's amendment that people voted no on, so, you know, if somebody wants to propose a new motion, which was the original motion. You could take a vote on that, if you think you might get the five ayes. Does that make sense?

Mr. Gima: Yes. Yes. Comments from the Commissioners?

Ms. Kaye: I will reinstate my original motion to adopt the Planning Department's recommendation with the three amendments that they offered.

Mr. Gima: Okay, is there a second?

Mr. de la Cruz: I will second.

Mr. Gima: Okay. It's been moved by Commissioner Kaye, seconded by Commissioner de la Cruz that we approve the Planning Department's recommendations as amended. Any discussion? Okay, hearing none, we'll do a roll call vote again. Sally?

Ms. Kaye: Aye.

Mr. Gima: Ah, Lisa?

Ms. Grove: No, with reservation.

Mr. Gima: Okay. Chelsea?

Ms. Trevino: Yes.

Mr. Gima: Shelly?

Ms. Preza: No.

Mr. Gima: Zane?

Mr. de la Cruz: Aye.

Mr. Gima: And I vote, aye. And then we have one recusal. So it's one, two, three, four. Motion doesn't pass again.

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

**VOTED: To recommend approval of the Planning Department's recommendations, with their three amendments, to the Maui County Council. -- FAILED.**

(Assenting: Z. de la Cruz, R. Gima, S. Kaye, C. Trevino)  
(Dissenting: E. Grove, S. Preza)  
(Excused: N. Alboro, S. Menze)  
(Recused: E. Atacador)

*(The Commission tabled the agenda item, then revisited and voted on the agenda item later in the meeting.)*

Mr. Whittaker: So you may just want to defer the item to the next meeting and reconsider with more commissioners present.

Mr. Gima: Okay.

Ms. McLean: Chair, I believe, was um, was Commissioner Alboro going to join again when she got home?

Mr. Gima: That was her plan. She said it would probably take about half an hour because she gets back on.

Ms. McLean: So we may be able to table this and, and take a vote later in the meeting since you've already gone through so much discussion, if she rejoins.

## **C. UNFINISHED BUSINESS**

- 1. BILLS FOR ORDINANCE AMENDING CHAPTERS 2.28, 2.88, 19.48, 19.52, AND 20.08, MAUI COUNTY CODE, RELATING TO THE MAUI COUNTY CULTURAL RESOURCES COMMISSION AND MAUI COUNTY CULTURAL OVERLAY DISTRICTS; AND CHAPTER 19.50, MAUI COUNTY CODE, ESTABLISHING A HANA CULTURAL OVERLAY DISTRICT** *(Item was discussed and deferred at the Lanai Planning Commission's July 20, 2022 meeting.)*

**Ms. Michele Chouteau McLean, AICP, Planning Director, transmitting Resolution No. 22-79, FD1, referring to the Maui, Molokai and Lanai Planning Commissions two proposed bill to amend Maui County Code:**

- A. To combine the provisions of the historic districts with new cultural overlay districts and change how such districts are established; expand the advisory capacities of the Hana, South Maui and Paia-Haiku Advisory Committees to include the Maui County Cultural Resources Commission (CRC); change how CRC members are appointed; require the planning director to appoint the principal archaeologist to serve as a resource to the CRC; and establish criteria for grading or grubbing permits in the cultural overlay district.**
- B. To establish a Hana Cultural Overlay District for all land situated within the Hana Moku. (J. Takakura)**

**The entire text of the proposed bills for ordinance is available at <https://www.mauicounty.gov/DocumentCenter/View/132847/Resolution-22-79-relating-to-proposed-bills-for-cultural-overlay-districts>**

Mr. Gima: Okay. What about the rest of the Commissioners? Any preference? Okay, hearing none, then we'll move on to the next agenda item which is unfinished business, bills for ordinance amending Chapter 2.28, 2.88, 19.48, 19.52, and 20.08, Maui County Code, relating to the Maui County Cultural Resources Commission, in the Maui County Cultural Overlay District, and Chapter 19.50, Maui County Code, establishing a Hana Cultural Overlay District. Michele McLean, Planning Director, transmitting Reso 22-79 FD1 referring to the Maui, Molokai, and Lanai Planning Commissions two proposed bill to amend Maui County Code. Number one, to combine the provisions of the historic district with new cultural overlay districts and change how such districts are established; expand the advisory committees' capacities of the Hana, South Maui and Paia-Haiku Advisory Committees to include the Maui County Cultural Resources Commissions, CRC; change how CRC members are appointed; require the Planning Director to appoint the principal archaeologist to serve as a resource to the CRC; and establish criteria for grading or grubbing permits in the cultural overlay district. Two, to establish a Hana Cultural -- excuse me -- Overlay District for all land situated in the Hana Moku.

So Jacky, will you provide a summary of this item, and why it was deferred from our July meeting before we take public testimony?

Ms. Takakura: Chair Gima, so, in the handout, it's kind of a big handout. There's three things. One is a memorandum from the Department which kind of summarizes the bill, and the Department's concerns and recommendations. The second part of the bill, or the packet, is the bill from the County Council. And then the last part of the packet is what the Department had originally been working on with Council Member Sinenci's office and the County's archaeologist. So there's three parts of the memorandum.

But the general summary of the bill -- and I do have a short power point here if you're interested -- is to, um, create these new cultural overlay districts. And, um, the bill from the County Council proposes to combine them with Historic Districts, um, to expand the advisory capacities of some of the advisory committees on Maui so that they would also advise the Cultural Resources Commission. It has some changes on how the CRC is set up, appointed. And it has a criteria for grading or grubbing permits. And it also includes a Hana Cultural Overlay District as an example.

The reason it was deferred last time because, um, I think it was getting kind of past 8:30 p.m., and I think we loss quorum so we had to table it for that time. I believe we did open up public hearing just to take testimony, but then we deferred to this meeting.

So Chair Gima, if you want, I can share my screen if you are ready for me to do that. I'll follow your instructions.

Mr. Gima: Yes, by all means, but before that, procedurally do we need to do a public hearing again since we took it the last time?

Ms. Takakura: Chair Gima, we had opened and closed the public hearing. We had opened for testimony at that time, so we don't need to, um, this is not considered a public hearing again because we did open and close at that time, at the last meeting.

Ms. McLean: Yeah, even though this isn't a formal public hearing, it is still an agenda item, and we do need to take testimony.

Mr. Gima: Okay, before you do your power point, can talk a little about --. There were questions about why we had two sets of recommendations, right. We had one that the Planning Department provided us, and there was this draft, discussion draft. And because we don't have minutes, I cannot look up why or what, what we decided. I know we had a testifier that provided lengthy testimony explaining that, but could you summarize that for us again please?

Ms. Takakura: Yes, thank you, Chair Gima. So I do want to acknowledge Gina who is with Council Member Sinenci's office who has been with this bill since the beginning, and she has a great deal of information on how it was established. And then our cultural resources planner, Annalise Kehler, who's also on the call, who's a great resource on all this information. Um, let's see, I have a whole pile of notes from the different commissions so --.

So the purpose -- this is just from my notes from July 20<sup>th</sup>. The purpose was to fill in the gaps because, you know, there is some federal laws and there are some state laws. But, um, you know, we believe that more oversight is needed. And so having a County Cultural Overlay would help fill in those gaps. And it would provide a local review. And this Cultural Overlay, it would be a really good information for property owners so that they know -- you know, before they start anything, they know what to look out for. They know what additional protections

they might need to do. And this came at the suggestion of Dr. Lebo from the State Historic Preservation District. It would really help them because it would supplement their work.

The plan as Dr. Six had explained to -- it might have been to another Commission -- but it would be following something that, I guess, the military uses where you have a low, medium, and high level of sensitivity and things that might be high sensitivity would go before the, could go before the Cultural Resources Commission. But, you know, it's really to give property owners a heads up that, hey, you know, take these precautions or do this research before you start anything not when you're already digging and building and have invested money into things.

One of the things that Gina had also mentioned is that this -- we're thankful to the administration -- that funding has been provided for the creation of a cultural map and that would be island wide, instead by community plan area so, you know, we wouldn't have to do just the Hana Moku. That might be one we want to start with, but, you know, we could actually focus an entire island and not just community plan.

Let's see. Yeah, the other thing that I had mentioned that Gina had recommended that, you know, that things with a higher sensitivity go before the Cultural Resources Commission. And that is my notes from July 20<sup>th</sup>.

Mr. Gima: So, so the Planning Department's recommendation that was provided to us in our July meeting is consistent with the discussion draft points?

Ms. Takakura: Yes. That's correct Chair Gima.

Mr. Gima: Okay. Alright.

Ms. Takakura: I just want to throw in there that the only difference is, you know, the, the initial discussion draft didn't consider some of these changes that are proposed to the make up of the Cultural Resources Commission. And when consulted with the Cultural Resources Commission, you know, they basically supported the Department's bill and, you know, don't feel that any of those changes are necessary. So that's that. The Department is recommending your review and hopefully approval of the discussion draft.

Mr. Gima: Okay, go ahead and share your screen.

Ms. Takakura: Let me try. Share screen. Stop sharing. Do you see a Blue, the BlueJeans? Okay, wrong one. Stop sharing. Now, no? BlueJeans still? Okay. Yeah, I'm really sorry. I'm not sure how this works on --. I'm going to --.

Mr. Gima: Well, Jacky, we all have the power point packet.

Ms. Takakura: Yeah, maybe we just --. Screen two. Yeah, I don't know how to get to that.



Mr. Gima: Commissioners can refer to her slides that came in our packet.

Ms. Takakura: So just for some background information and if you've taken the Native Hawaiian Law course, this will be a review. You know, there are Federal and State Laws that provide some protection for burial and archaeological sites. The County does not have its own regulations. And we know that there are some places that have cultural and archaeological remains. It could be disturbed by development. So by having this cultural overlay it would alert developers, property owners, and neighbors that special consideration may be needed to protect cultural assets. So this bill, as I mentioned, would help fill in the gaps by including a local review. Because I mentioned, you know, there are some Federal laws, and then there's HRS Chapter 6E. Yeah, so this would supplement, not replace any of those.

So the next page, the one that's called background, I think it's page three. As I mentioned, you know, we believe that the existing regulations have proven to be inadequate so County level protections would be really helpful. If you could look at the discussion draft attached to the memo report, and that, that shows the original intent of the bill which was to create an overlay that's in addition to zoning and it does not change the zoning. So what that means is if a parcel is zoned Residential, or Ag, or Rural, it's still Residential, or Ag, or Rural. This is just an overlay, not in addition to zoning.

Some of the parts of the bill in our discussion draft include a nomination process for, you know, what areas would be considered, you know, culturally sensitive. And a designation process by the County Council, GIS maps which as I mentioned are going to be funded and there's positions, so that's great news. We can do the, you know, islands. And then procedures for updates and appeals. And then, of course, you know, we don't want to forget about grading permits because that's important.

So now I'm on slide four of the proposed bill, and this is just a summary of what the bill was that came from the County Council. If you look at this one versus the discussion draft, you can see that the two are pretty different. The proposed bill puts the cultural overlay in with the historic districts, and it changes how the districts are established. It expands the advisory capacities of the Hana, South Maui, and Paia-Haiku Advisory Committees, to make them advisory to the CRC. It would change how the CRC members are appointed, and it would require the Planning Director to appoint the archaeologist even though the archaeologist does not work for the Department of Planning. She works for the Managing Director. It would establish criteria for grading and grubbing permits. And then there's that additional bill that establishes that Hana Cultural Overlay District for Hana Moku. But as Gina had explained, I think it was to Maui and Molokai, that one is an example. The plan now would be to do, you know, an entire island at a time.

So some of our concerns were that, you know, this bill with these proposals to change the Cultural Resources Commission, you know, came out without consulting with the CRC. They should be consulted. And, you know, when we did consult with them, they didn't feel the

changes were necessary. The assignment of staff, like I mentioned, the archaeologist really can't be -- doesn't work for the Department of Planning so that would be kind of awkward.

There's some terminology that is not familiar to us in land use. Although, I guess, these are common terms, like, equal indicators. That's a common term in archaeology. So we've, you know, would have to learn some new terms for us land use planners.

As I mentioned about zoning districts, we want to make sure it's really clear that, a zoning district versus an overlay are two different things, and that we wouldn't lose the zoning district of a parcel. So that this overlay is just, you know, a different, something different. Just, you know, kind of like we have flood zones or special management area.

The process and procedures are different in the proposed bill. We prefer ours. There's a lack of guidelines and restrictions. The grading and grubbing, you know, it really belongs in Title 20 because that's the Chapter that Department of Public Works refers to. They don't really refer to Title 19. That's Planning. And then finally, if, if an overlay was going to be created for a particular zoning district like Hana Moku which was suggested, you know, we should figure out the process first and what's going to be included and what's not included before we, you know, declare an overlay.

So the Lanai Planning Commission can review the bill, we can discuss it further. I do know that our Cultural Resources Planner is here, and also Gina is here. They're, they're great resources on this information. Maybe Lanai Planning Commission want to propose some comments or amendments.

Initially the bill that came from the County Council said they don't want an amended bill back. But, actually, in further discussion, they're, they're fine with accepting an amended bill. So if the Lanai Planning Commission does have amendments, you know, we welcome them. Or the Planning Commission can recommend denial or vote to defer. So, um, hopefully you were able to following along with your PDF of the power point. I'm sorry. I'm just not able to use this computer in the conference room. But that's all I have and we can refer to any page on the slide show that you might, you know, have questions on or anything. And that's all I have. Thank you.

And let me, I would, again, Annalise and Gina are . . . (inaudible) . . .

Mr. Gima: Okay. Thank you, Jacky. Commissioners, any questions, comments?

Ms. Kaye: I think we have to take public testimony. Did I not hear that correctly?

Mr. Gima: Yes. Yeah. Jacky, in the Planning Department's packet, in terms of our options, three of them are listed in the packet. In your power point there are four recommendations.

Ms. Takakura: So Chair, at the time we wrote this memo we were under the impression that the County Council does not wish to receive revised or new legislation. So on page five of the

memo report we had, you know, had these comments, these four bullet items to be recommended. But in further discussions with Gina, Council Member Sinenci's office, we learned that it would be okay to have a revised bill which actually is exactly what we're saying from that discussion draft. So that's what we are recommending. Yeah, you could actually -- I see that on page six I only have three because at the time I didn't know we could propose a bill with revisions. Sorry about that. There was some confusion on this one.

Mr. Gima: So the Planning Department is recommending approval of the proposed bill to the County Council? Is that accurate?

Ms. Takakura: The Planning Department is recommending approval of the discussion draft version.

Mr. Gima: Oh.

Ms. Takakura: We have some serious concerns about the bill that came from the County Council.

Mr. Gima: Okay. Thanks for that clarification. Commission members, any questions for Jacky following her presentation? Okay, Lisa?

Ms. Grove: So is it -- I just want to clear that all of the parties that have been working on this including Sinenci's office are in agreement with the recommendation that you're making? The proposed changes and so on so forth. I think that's what you said, I just wanted confirm.

Ms. Takakura: Thank you Commissioner Grove. If the Chair wouldn't mind calling on Gina. She's such a great resource on this topic. I think she would shed a lot of light on this.

Mr. Gima: Um, yeah, hold on.

Ms. Takakura: Generally speaking.

Mr. Gima: So the Planning Department's recommendation to approve the discussion draft is consistent with Council Member Sinenci's committee. That's what you're asking, right, Lisa?

Ms. Grove: That all parties have come together and have agreed on the, the proposed draft.

Mr. Gima: Okay.

Ms. Takakura: Yes.

Mr. Gima: Okay. So since, since you answered in the affirmative, then, um, maybe we don't need any further clarifications. Okay, any other comments, questions, about the Planning Department's recommendation to approve the discussion draft to the Maui County Council?

Or, do you want to, do you have any comments or amendments to the discussion draft that goes to the County Council?

Ms. Takakura: Excuse me Chair Gima? I just want to say one thing. May I? Jacky.

Mr. Gima: Sure.

Ms. Takakura: So in the discussion draft, page three and five, where we refer to the various agencies, such as the burial councils, we need to add Molokai Burial Council. And that's on page three and five. That Burial Council is separate from the Maui and Lanai one. That's all.

Mr. Gima: Okay. So that would be an amendment to --. Page five. Okay, Molokai. Alright, what's your pleasure Commissioners?

Mr. Whittaker: Chair, before you call for a vote, Michele McLean was correct that although you held your public hearing, this is an agenda item. So just -- I don't think there's anybody here to testify, but we should call for public testimony before engaging in deliberation.

Mr. Gima: Thanks for the reminder both from you and Lisa. Okay, so Leilani, do we have anybody wishing to testify on this agenda item.

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

Mr. Gima: Okay. Denise, anybody at the Lanai office wanting to testify?

Ms. Fernandez: There are no testifiers at the Lanai Office.

Mr. Gima: Okay. Thank you, Denise. At this time, I'll close public testimony. Hearing no discussion on this item --

Ms. Kaye: I'm sorry. I'm sorry.

Mr. Gima: Who's --?

Ms. Kaye: That's me.

Mr. Gima: Oh, Sally?

Ms. Kaye: Sorry Chair. Yes, I'm sorry. I have some typographical changes. I would be happy to e-mail them to the Planning Department. But the one that really sticks out at me is on page five, under section two, there's add ethnographic and scientific data Janet to work on which probably --. I mean we can't approve this with that, with that in there. We can't recommend approving it with that in there. And the others are really stylistic. I don't want to take up

people's time. It's like my job to find typos and I'd be to just do it. I mean, you can take it as a citizen. It doesn't have to come the Commission, but I do have a few typos recommendations.

Ms. McLean: Thank you, Sally. Chair, we can, if the Commission is going to make a motion to recommend approval of the bill, then that motion can include deleting that last phrase from section two. And thank you so much for pointing that out. I swear we didn't put that in that just to test you to see that you read the whole bill. Um, so you would want to take that out. Then, we always have the authority to make non-substantive grammatical changes. So if you want to send those along, we'd be happy to incorporate them too. That doesn't need to be a part of your motion.

Ms. Kaye: Thank you.

Mr. Gima: Okay, thanks Sally. Before we move to that, Zane and Sally, your video is off. So in order to vote, you need to be on video.

Mr. de la Cruz: I may need to log off again because it's not showing.

Ms. McLean: I can see their video.

Mr. Gima: . . . (inaudible) . . . off.

Ms. Grove: Am I off for everyone because I'm here.

Mr. Gima: I don't know why your video is on . . . (inaudible) . . .

Mr. de la Cruz: I can see you.

Ms. Atacador: I can see you too.

Mr. Gima: Okay, there we go. Okay, at this time, I will entertain a motion to recommend approval of the discussion draft as amended to the Maui County Council.

Ms. Grove: So moved.

Ms. Kaye: Second.

Mr. Gima: Okay. It's been moved by Commissioner Grove, seconded by Commissioner Kaye that we recommend approval of the discussion draft as amended to the Maui County Council. Any further discussion? Okay, hearing none, all in favor please raise your hands. Okay, all opposed? Raise your hand. Any abstentions, raise your hand. Okay, motion passes unanimously. Thank you.

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

**VOTED:**        ***To recommend approval of the discussion draft, as amended, to the Maui County Council.***

(Assenting:     *N. Alboro, E. Atacador, Z. de la Cruz, E. Grove, R. Gima, S. Kaye, S. Menze, S. Preza, C. Trevino*)

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

**1. A BILL FOR ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE, RELATING TO TRANSIENT ACCOMMODATION CAPS**

Mr. Gima: Um, okay, procedurally, Corp Counsel, um, what, what is the -- Michele what are you guys recommending regarding the first agenda item?

Ms. McLean: Keola, if you want to jump in first. I don't think it matters. We say the same thing, I think.

Mr. Whittaker: Sure. So I believe it was Commissioner Alboro who wasn't here for the vote, so you may want to re-do the motion and get her input. I think there were two sort of different options, each that received four votes, so maybe get her thoughts after making a motion on it and perhaps we can to five votes on a motion.

Ms. McLean: . . . (inaudible) . . .

Ms. Grove: . . . (inaudible) . . . Commissioner Menze on the first round of voting?

Ms. McLean: I was just going to add that. I think Commissioner Menze had been locked out.

Ms. Menze: Yeah, I was locked out.

Mr. Whittaker: Okay, so both. So I would recommend re-doing the motion and seeing if we can get to a majority.

Mr. Gima: So, do we have to, um, make available to Nikki and Sherry both motions or just the main motion?

Mr. Whittaker: What I'd recommend is doing the main motion, and perhaps Shelly can explain the amendment that she made, and there can be a discussion about that...and then go from there. And you could make the main motion, have Shelly make her amendment and see if you can get a vote on the amendment. And if that vote fails, then go back to the main motion and take a vote on that. So there's multiple ways to do this. . . . (inaudible) . . .

Ms. McLean: Chair, if I can assist a little bit. Just to refresh the Commissioners who were

there, and for the Commissioners who missed, there was an initial motion to recommend approval of the bill incorporating the Department's three recommended changes. And that motion only had four votes in favor so it did not pass. And then a vote was also taken on an amended version that in the Hotel and BCT Districts, additional TVR units could be allowed with approval of the Lanai Planning Commission. And so the choice presumably is between those two options. Um, and just so you're aware that if a motion is made you know what the full discussion was.

Ms. Grove: And is it --

Mr. Gima: Thanks Michele.

Ms. Grove: Since you told, said that it was four votes for the first one, should you tell them how many votes were for the amended one as well?

Ms. McLean: Thank you. Yes, it was the same vote count. Four votes in favor, so not enough votes for an action to be taken.

Mr. Gima: Thanks Michele. Sherry and Nikki, do you have any questions about that process that you guys were not a part of?

Ms. Menze: No.

Mr. Gima: Okay. So at this time, I will entertain a motion to recommend approval of the proposed bill with the three Planning Department recommendations to the Maui County Council.

Ms. Kaye: Moved.

Ms. Trevino: Second.

Mr. Gima: Okay, it's been moved by Commissioner Kaye, seconded by Commissioner Trevino that we recommend approval of the proposed bill with the Planning Department's three recommendations to the Maui County Council. Any further discussion?

Ms. Preza: I have a question, actually, for Lisa because I know we're coming back to this vote. But, you know, the last two times you voted no with reservation, so I just wanted to hear what the reservations were that you had before we do voting.

Ms. Grove: That, that nothing happens to the moratorium over the two years, and that we really get an opportunity to study it, and that our tourism over management crisis is taken seriously. Um, and I don't want to do anything to make it seem like I don't think that's a problem. I find because I mentioned comfort and the fact that we've got these, you know, the

rest of the two years and I want to collect data. And, so I hope that the data being collected. I hope we will be able to do the analysis and that something happens as a result of this.

Ms. Alboro: I have a question too if I could, based off what Lisa just said. I know it was stated earlier that, yes, the two year moratorium is in effect. However, in November with the election that they have power to shorten that two years. Is that correct?

Ms. McLean: Chair, if I may?

Ms. Alboro: The new Council or you know the new –

Ms. McLean: Right. So, so the elections are in November, but new Council Members don't take office until January. Um, and what Council Vice-Chair Keani was saying is that language of the moratorium bill established it for a two year period or until tourism management ordinance are enacted. But, the Council, as she pointed out, can also release the moratorium at any time by, by another ordinance. And so --

Ms. Trevino: Or extend it. Correct?

Ms. McLean: Huh? Yeah, in theory could also extend it. That is true. There need to be legal justification for that because I know there were legal concerns about you can't have an open-ended moratorium. It had to be for a time period. So the concern is just what the make-up of the new Council might be and if they might be inclined to go in a different direction.

Mr. Gima: Shelly, did that answer your question?

Ms. Preza: Yes, thank you.

Mr. Gima: Okay. Um, okay, any further discussion on the motion that's on the table? Okay, hearing none, all in favor raise your hands? One, two, three, four, five for me. Okay, all opposed, raise your hand.

Mr. Whittaker: So sorry to do this to you Chair, we do need to do a roll call vote since it's not unanimous.

Mr. Gima: Alrighty. Okay, Lisa?

Ms. Grove: No.

Mr. Gima: Ah, Zane?

Mr. de la Cruz: Aye.

Mr. Gima: Chelsea?



Ms. Trevino: Yes.

Mr. Gima: Sally?

Ms. Kaye: Aye.

Mr. Gima: Sherry?

Ms. Menze: Aye.

Mr. Gima: Nikki?

Ms. Alboro: No.

Mr. Gima: Shelly?

Ms. Preza: No.

Mr. Gima: And, I vote aye. Okay, any abstentions? No abstentions. I'm sorry, Erin? Oh, no, you have to recuse on this. That's right. I'm sorry. Okay, so the motion passes five to three with on recusal.

***It was moved by Ms. Sally Kaye, seconded by Ms. Chelsea Trevino, then***

***VOTED: To recommend approval of the Planning Department's recommendations, with their three amendments, to the Maui County Council.***

*(Assenting: Z. de la Cruz, R. Gima, S. Kaye, S. Menze, C. Trevino)  
(Dissenting: N. Alboro, E. Grove, S. Preza)  
(Recuse: E. Atacador)*

Mr. Gima: Wow. Okay, thank you everybody on that one. Ah, moving on in the agenda. Let's see here. Okay, Director's Report, open applications.

#### **D. DIRECTOR'S REPORT**

##### **1. Open Lanai Applications Report as distributed by the Planning Department with the August 17, 2022 agenda.**

Ms. McLean: Chair, there were two questions from last time. If the Commission is interested in those follow-ups.

Mr. Gima: Yes.

Ms. McLean: One was about the Lanai Youth Center, and the open application was for the landscape and parking plan approval. Um, so there was a building permit and during building permit we checked parking, and then parking lots have landscaping requirements. So that's what that application was for.

And then the other was the, uh, the fleet yard repair and maintenance project. That was in for the Country Town Business Design Guideline review. And that is for the repair and maintenance of existing buildings which would replace damaged exterior siding, windows and doors to match the existing. There's no demolition, no addition, or new construction. Just repair and maintenance of sidings, window frames, doors, and trim.

Mr. Gima: Okay, Commissioners, any other questions on the open projects? On the back side of the approved projects there is a request for comment on new short-term rental application eligibility. Do you know what property that is?

Ms. McLean: I do not. On the far left column you'll see it says R, F, C. That's a request for comment, so it's not an application at this time. It looks like it was an inquiry. Let me see if I can find that really quickly.

Mr. Gima: So the applicant is requesting comments from the Planning Department?

Ms. McLean: That's correct.

Mr. Gima: Okay, thank you.

Ms. McLean: Oh my gosh. This isn't for the island of Lanai. This is for a lanai at the Puamana Project in West Maui.

Mr. Gima: We can scratch that off.

Ms. McLean: We can scratch that off.

**2. Planning Department's proposal to hold special/additional meetings on September 7, 2022 and October 5, 2022.**

Mr. Gima: Okay. Okay, last call on questions for the open projects list. Alrighty, next planning --. Okay, Planning Department's proposal to hold special additional meetings on September 7<sup>th</sup> and October 5<sup>th</sup>.

Ms. McLean: Chair, I think Jacky dropped off the call, but as you can tell from this agenda, you know, you guys worked really hard, we really appreciate all your time going this late.

We're getting a lot of transmittals from the Council that we're trying to keep up with. Plus, we still have the Koele application that we didn't include tonight because your agenda already so full. And we call poll members in terms of availability, but we're thinking that we might need to have one or two extra meetings just to keep up with everything on your agenda so you don't, you know --. Unless you want to keep going super late, we can do that too. But, we just wanted to get your input on that, that suggestion.

Mr. Gima: Commissioners, I don't know how many of you have responded to Leilani, but are you guys available September 7<sup>th</sup>, October 5<sup>th</sup>? Sally?

Ms. Kaye: Yeah, I responded.

Mr. Gima: Okay. Anybody else?

Ms. McLean: Chair, I don't know that we need an answer tonight. Just for those who haven't responded please let Leilani know so we can let you know right away whether to block that on your calendar. So we just wanted you know the reasons why; we're just getting really backlogged and we want to keep up with everything, you know, you want to keep up with everything too.

### **3. Chair Gima's proposed workshop items.**

Mr. Gima: Okay, thank you. I guess even the late hour again I will table my workshop items till next month. Okay, so agenda items --. You know, we possibly will be meeting on September 7<sup>th</sup>, so, and on September 21<sup>st</sup>, so what are potential agenda items for those two dates?

### **4. Agenda Items for the September 21, 2022.**

Ms. McLean: So far we have --. Actually, Mr. Yoshida would be the expert to talk about this. We do have the Koele item and we have your workshop items, Chair. Clayton, are you aware of other applications pending or other public hearings for bills?

Ms. Ramoran-Quemado: Thanks Michele. This is Leilani. For the September 21<sup>st</sup>, I believe, there's a public hearing. It's to amend the Maui County Code, relating to, um, converting apartment buildings from transient vacation rental use to long-term residential use. And you're correct, Michele, there's the Koele and I think there's still the Film bill also.

Ms. Takakura: This is Jacky. I'm still here. Yeah, we have a lot of bills that we need to get through and they have deadlines per the Charter. As Leilani mentioned we have the Department District one, and then the Film Bill, and then there's more still coming from County Council that I haven't even schedule for public hearings for. Just, even if we could have just

one additional meeting it would help to keep up with all of this. And I apologize for all of this. Thank you so much for going through the two items tonight. We really appreciate it.

Mr. Gima: Okay, Council Members, I mean, Commissioners, do you have anything that you want to put on the agenda for either the September 7<sup>th</sup> or the September 21<sup>st</sup> meeting? Sally?

Ms. Kaye: Yeah, and then I'm going to check and you guys can handle the rest. I have to get up early for work. I wanted to have the Planning Department, and I'm assuming this has to be an agenda item, but, um, there was a complaint filed about a Special Management Area violation, and a letter was sent from the Department of Planning saying that, you know, Pulama might have been in violation. And, point was that my in-box went ballistic saying this is an SMA potential violation. You guys grant this, what is this about? And I didn't know. And, and back and forth with the Planning Department, I figured out, and they helped me understand that this was a Special Management Area Minor Permit that they granted and that was the basis for the complaint, and the letter that went out about the violation. Point being, if that -- and for years, I have always complained when the Planning Department makes a decision, it, it should be us, right? We fought for that for years. And in this case, it's a Minor, it's the Planning Department, but we're not told. So I wanted to just have the Planning Department address how do we fix that? Do we need to change the rules? Do we need to change the flow of information so that more formally when you guys grant a Minor application that the Commission isn't informed about it, when you grant it, we know about it? That's what I'd like to have on the agenda at some point in time.

Mr. Gima: Okay, thanks Sally. Um, anybody else? What I'd like to place on the agenda and we had talked somewhat about this at the last meeting is, um, in-person planning commission meetings. And there were mixed reviews on it. But since then someone has brought to my attention the possibly of having a hybrid meeting, meaning Lanai Planning Commissioners meet together and then have the Planning Department BlueJeans into the meeting. So I'd like that on the agenda, either on the 7<sup>th</sup> or the 21<sup>st</sup> for consideration. I've checked with Council Member Johnson's office and because they moved into the new facility they have the space to do it, and they have the, um, they have the technology to have a big screen for the Planning Department to BlueJeans in. So that's what I'd like on the agenda also. Anybody else?

Ms. Kaye: I'm still here.

Mr. Gima: Okay, Sally.

Ms. Kaye: I have had a number of people express dismay that the minutes are no longer available from last meeting before this meeting. And I know years ago you got a draft, we read it through, we approved it, it became official and at some point it became something that was just automatically done. But the minutes from last meeting are never available in time for the next meeting which always brings up what you brought up today, Chair, which is wait, what did we do last time? And the Planning Department is stuck with having to recap because we don't have minutes to read. So I'm just wondering if there's -- if we could have a discussion

on how to fix that so that we have a more timely record we could read from what we did because we defer, we tend to be deferring a lot and we don't have a record to read. So, I'd like to have that discussed as well.

**E. NEXT REGULAR MEETING DATE: September 21, 2022**

**F. ADJOURNMENT**

Mr. Gima: Okay, thanks Sal. Any other request for the Commissioners? Alright. Hearing none, if there are no objections, meeting is adjourned. Thank you everybody for staying up so late, and for especially Nikki coming back on into the meeting.

There being no further discussion brought forward to the Commission, the meeting ended at 8:58 p.m.

Respectfully submitted by,

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

**RECORD OF ATTENDANCE**

**PRESENT:**

Nicole Alboro (Excused from 7:51 p.m. to 8:16 p.m.)  
Erin Atacador  
Zane de la Cruz  
Reynold Gima, Chair  
Elisabeth Grove  
Sally Kaye, Vice-Chair  
Shery Menze (Excused from 7:25 p.m. to 8:16 p.m.)  
Shelly Preza  
Chelsea Trevino

**OTHERS:**

Michele McLean, AICP, Director, Planning Department  
Jacky Takakura, Deputy Director, Planning Department  
Clayton Yoshida, Planner, Current Planning Division  
Denise Fernandez, Executive Assistant, County Council, Lanai District Office  
Keola Whittaker, Deputy, Department of Corporation Counsel