

DISASTER RECOVERY, INTERNATIONAL AFFAIRS, AND PLANNING COMMITTEE

Council of the County of Maui

MINUTES

February 5, 2025

Online Only via Teams

CONVENE: 1:35 p.m.

PRESENT: Councilmember Tamara Paltin, Chair
Councilmember Nohelani U'u-Hodgins, Vice-Chair
Councilmember Tom Cook, Member
Councilmember Gabe Johnson, Member
Councilmember Tasha Kama, Member
Councilmember Alice L. Lee, Member
Councilmember Keani N.W. Rawlins-Fernandez, Member (in 3:23 p.m.)
Councilmember Shane M. Sinenci, Member
Councilmember Yuki Lei K. Sugimura, Member (in 1:36 p.m.)

STAFF: Jarret Pascual, Legislative Analyst
Keone Hurdle, Legislative Analyst (backup)
Carla Nakata, Legislative Attorney
Yvette Bouthillier, Senior Committee Secretary
Jean Pokipala, Assistant Clerk
Ryan Martins, Council Ambassador

Residency Area Office (RAO):

Mavis Oliveira-Medeiros, Council Aide, East Maui Residency Area Office
Roxanne Morita, Council Aide, Lānaʻi Residency Area Office
Zhanell Lindo, Council Aide, Molokaʻi Residency Area Office
Bill Snipes, Council Aide, South Maui Residency Area Office
Jade Rojas-Letisi, Council Aide, Makawao-Haʻikū-Pāʻia Residency Area Office

County of Maui Office of Recovery:

Christian Balagso, Council Aide, West Maui Residency Area, Office of Recovery at Lahaina Gateway

ADMIN.: Kate Blystone, Director, Department of Planning
Gregory Pfost, Administrative Planning Officer, Department of Planning
Jordan Molina, Director, Department of Public Works
Jordan Hart, Executive Assistant, Office of Recovery, Department of Management
Oliver Vaas, Captain, Department of Fire and Public Safety

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Michael Hopper, Deputy Corporation Counsel, Department of the
Corporation Counsel
Mimi Desjardins, First Deputy Corporation Counsel, Department of the
Corporation Counsel

OTHERS: John Pele, Executive Director, Maui Hotel and Lodging Association
Jeff Ueoka
Tanna Swanson
Alex Folsom
Caitlin Miller, Maui Vacation Rental Association
Kai Nishiki
Tom Croly
Others (25)

CHAIR PALTIN: . . .(*gavel*). . . Will the Disaster Recovery, International Affairs, and Planning Committee come to order. The time is now 1:35. If everyone can please silence their cell phones or other noisemaking devices, that will help our cause. Members, in accordance with the Sunshine Law, if you are not in the Council Chamber, please identify by name who, if anyone, who is in the room, vehicle, or workspace with you today. Minors do not need to be identified. Also, please see the last page of the agenda for information on meeting connectivity. My name is Tamara Paltin, and I'll be your Chair for today's DRIP Committee meeting. With us in the Chamber, we have Committee Vice-Chair Nohelani U'u-Hodgins. Ia ora na and aloha 'auinalā.

VICE-CHAIR U'U-HODGINS: Ia ora na, Chair. Aloha.

CHAIR PALTIN: And we also have Committee Member Tom Cook.

COUNCILMEMBER COOK: Aloha. Good afternoon, Chair. There's nobody in the Kihei office for testimony right now.

CHAIR PALTIN: Thank you. And online, we have Councilmember Gabe Johnson.

COUNCILMEMBER JOHNSON: Aloha, Chair, Councilmembers, community members. There's no testifiers at the Lāna'i District Office. I'm alone on my side of the workspace. Hoku-Chan (*phonetic*) has left the building for her morning nap, and now is going to my house for her afternoon nap. Thank you.

CHAIR PALTIN: Thank you. And back in the Chambers, we have Committee Member Tasha Kama.

COUNCILMEMBER KAMA: Aloha 'auinalā, Chair, and Ia ora na to you.

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CHAIR PALTIN: Thank you. And we also have Committee Member Alice Lee.

COUNCILMEMBER LEE: Good afternoon. Ia ora na.

CHAIR PALTIN: Ia ora na. And I've been informed that Committee Member Keani Rawlins-Fernandez is en route on Mokulele because her other flight got cancelled, so they had to...this is when she had availability to leave Moloka'i. So, she may join us when her flight lands. In the Chamber, we have Committee Member Shane Sinenci.

COUNCILMEMBER SINENCI: Aloha, Chair, and Ia ora na. No testifiers in Hāna today.

CHAIR PALTIN: Thank you. And last but not least, we have Councilmember Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: Aloha, and ia ora na to everybody. Is that how you say it?

CHAIR PALTIN: I...yo I (*phonetic*).

COUNCILMEMBER SUGIMURA: Aye.

**BILL 105 (2024), AMENDING SECTION 19.500.110, MAUI COUNTY
CODE, REGARDING NONCONFORMITIES (DRIP-4)**

CHAIR PALTIN: Okay. This meeting of the Disaster Recovery, International Affairs, and Planning Committee of the Maui County Council is located on the traditional 'āina of Kānaka 'Ōiwi, who never ceded their sovereignty to the United States. We recognize that Her Majesty, Queen Lili'uokalani, yielded the Hawaiian Kingdom to the U.S. in duress under threat of violence to avoid the bloodshed of her people. We further recognize that Hawai'i remains an illegally-occupied nation-state by the U.S., as documented in a 2021 scholarly article for the National Lawyers Guild review by Andrew Reid, Adjunct Professor of Law at the University of Denver, Sturm College of Law. Generations of Kānaka Maoli and their knowledge systems have sustainably cared for Hawai'i, and continue to do so. We are grateful to occupy this space and learn the ways in which we can contribute. As a Committee, we seek to support the varied strategies that indigenous people of Hawai'i are using to protect their land and communities, and commit to dedicating time and resources to working in solidarity. From the Administration, I believe we have Fire Captain Oliver Vaas. From the Planning Department, we have Director Kate Blystone, as well as Administrative Planning Officer, Greg Pfost. I believe we have Director of Public Works, Jordan Molina, and Deputy

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Corporation Counsel Michael Hopper. Our Committee Staff for today, we have Senior Committee Secretary Yvette Bouthillier; Legislative Analysts Jarrett Pascual and Keone Hurdle; Assistant Clerks Jean Pokipala and Lei Dinneen; and Legislative Attorney Carla Nakata. On the agenda today, we have DRIP-4, Bill 105 (2024) Amending Section 19.500.110, Maui County Code, Regarding Nonconformities. We will take testimony after opening remarks or presentations. So, Bill 105 (2024) amends Section 19.500.10 [sic]...110, Maui County Code, Regarding Nonconformities. We will be working off the CD1 version of this bill, which is item number 37 in Granicus. And the proposed CD1 version includes the following amendments: One, it allows the new provisions relating to the repair and reconstruction of nonconforming structures damaged, destroyed, or affected by an emergency or a disaster and reestablishment of nonconforming uses to also apply if the Mayor proclaims a local state of emergency...I'm sorry, you guys. I forgot to mention, we also have Jordan Hart, now from the Office of Recovery under the Department of Management, but he said he doesn't have any opening statements, so...sorry. Sorry for that interruption. Number two, replaces reliance on building code and flood hazard regulations with compliance with Title 16, Maui County Code, as part of the criteria for continuation of nonconforming uses in a structure damaged or destroyed by an emergency or disaster; three, authorizes the Fire Chief, in certain instances, to require the repair or reconstruction of nonconforming structures in residential projects on the Islands of Lānaʻi and Maui to comply with Chapter 16.25 and 16.26C, Maui County Code, or portions of those chapters, as may be necessary to improve public safety; four, authorizes the Fire Chief to make recommendations to the Planning Director to relocate nonconforming uses on Lānaʻi and Maui affected by an emergency or disaster in an equal proportion on the lot or within a structure to improve public safety; five, reduces the time to reconstruct or reestablish a nonconforming structure from five years to four years from the initial date of the Governor's or Mayor's proclamation, whichever occurred first. But for the purposes of this bill, because it hadn't been passed for over a year and a half, it...for this disaster, we're moving it to, like, April 2029. Oh, sorry. That's number six. I got ahead of myself. Extends the time for nonconforming structures and uses that were affected by the August 2023 Maui wildfires to be reconstructed and reestablished until April 1, 2029; seven, limits the authority of the Planning Director to grant a two-year extension of the deadline to complete the repair or reconstruction of the nonconforming structure or reestablish the nonconforming use to properties within a historic district or within the special management area, or both; eight, makes a conforming amendment to Section 19.39.150, Maui County Code; and nine, incorporates technical and nonsubstantive revisions. And also, an Amendment Summary Form, dated January 29, 2025, proposing to amend Bill 105 (2024) by prohibiting a nonconforming transient vacation rental use from resuming in the use, if the use was discontinued for 12 consecutive months or more because the transient vacation rental was within a structure that was damaged or destroyed by an emergency or disaster on Lānaʻi or Maui. The

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Committee may consider whether to recommend passage of Bill 105 (2024) on first reading, with or without revisions. The Committee may also consider the filing of Bill 105 (2024) and other related action. So, for my opening remarks. nonconforming structures are basically buildings, some of which occurred before the Zoning Code even happened. As we know, Lahaina is a historic district, the former capital of the Hawaiian Kingdom, and so a lot of it had been built prior to...well, built during kingdom time, and prior to statehood, prior to Zoning Code and whatnot. So, at the time they...they were built, they were not illegal. And as laws and codes came into place, they became what is called nonconforming. Some people say existing nonconforming or legal nonconforming. If it was illegal to begin with, then it's not considered nonconforming. Nonconforming has to have had its root in legalities. And what we're doing, I think in general, the goal of the County is for nonconforming to go away by attrition. What never happened is an entire town burning down to us here in Maui, so it's not like one unit at a time going away by attrition. It's a whole town. In Kula's case, it's not a whole town, but a number of properties were destroyed. And so, this gives a window to return to the conforming [sic]...nonconforming structure, or nonconforming use, if it's in alignment with the current Building Code, and the Fire Department feels it's safe. On the TVR usage, I...it's a policy issue. And in the reflection, we have a desperate need...we've talked about it all this week about the desperate need for housing. There's no desperate need for visitor accommodations. And so, that's the reason I...I proposed that amendment. There is a window of reestablishment, which is 12 months. But for the reason that the need is for long-term residential housing, and there's a plethora of vacation housing, that's why I proposed that amendment as a policy issue. That being said, I'd welcome any opening comments from...let's start with the Department of Planning, if they have any.

MS. BLYSTONE: Mahalo, Chair. Director Blystone here, and appreciate this opportunity. I will be very brief, and I'd like to turn it over to Greg to carry on. But I appreciate the Committee's opportunity to present this to you, and...and talk story about it, and see if we can get to a place where we can address this very present concern for the rebuild of Lahaina. Like the Chair said, this...so many of the things that made Lahaina special were nonconforming. They're...they're...they were established well before zoning, and we want to be able to allow some of those things to...to come back. So, I'll give it to Greg. He's been leading on this since well before I got here. So, he is your resident expert, and I'll be here to support him, but thank you again for this opportunity to talk about this very important bill.

MR. PFOST: Thank you, Kate. Chair, Members of the Committee. You may recall that we talked about this bill back in October at the HLU Committee meeting, where I'd given a presentation on the...and summarized the Planning Commission's

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comments on this bill. And you may recall, at the end of the meeting, there were a lot of questions from Committee Members related to this bill. And those were summarized in a letter to the Planning Department from the HLU Chair, which then the Planning Department responded with a 15-page response letter that kind of went into all of those answers to those questions. So, I just wanted to remind you that that is in Granicus, in item number 31, which provides hopefully a lot of background and information on answering many of the questions that you had back in October. The Department has reviewed the proposed CD1 version that's before you today, and is in support of that version. I just wanted to indicate that. And beyond that, I'm available for any questions that you may have today. Thank you.

CHAIR PALTIN: Thank you. Director Molina, did you have any opening comments?
(silence)

MR. MOLINA: Hi. Good afternoon.

CHAIR PALTIN: Good afternoon. (silence)

MR. MOLINA: We did have a comment on the proposed CD1 draft...or two comments, I guess. In the ASF, item number 2, it talks about amendments relating...or that affect the building...Titles 16 and flood ordinances, but I wasn't...I couldn't find where that language was placed to make that effect happen, so I just wanted to get clarification on where exactly that language...reference in that item 2 is...is located. And then for item 3, additional requests...requesting clarifications on kind of the intent...because the language already requires compliance with Title 16, and then it goes on to say the Chief can require compliance with chapters within Title 16. So, a bit confused as far as what is the intent of that language. And that's all we had for today. Thank you.

CHAIR PALTIN: Thank you. I'm not sure if it's my Legislative Analyst or Attorney, but I...I think...thank you for flagging those issues. And when we get into the discussion, perhaps we can point you in the right direction. The one to give the Fire Chief, I think that was to let him to have the final say over setbacks, but we can...we can have that discussion as testimony is finished. But thank you for flagging those concerns on item 2 and 3...or Amendment 2 and 3. Captain Oliver Vaas, any opening comments?

MR. VAAS: No, Chair. No opening comments at this time. But whatever questions you have for me, I'm here to answer.

CHAIR PALTIN: Thank you so much. So, we did reach out to the Police Department. They said they don't have any problems with the bill, so we didn't ask them to come. We reached out to MEMA. MEMA said that he supports the Fire

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Department, and defers to them. Any opening or...oh, before I go to Mr. Hopper for opening comments, I did want to mention that the Department of Management asked to look into if the nonconformity could be...this bill regarding nonconformities could be limited to those affected pre-fire. So, in other words, if someone new purchased it, if we would have to allow them to continue nonconformities. And so, we did bring this up to Corp. Counsel, and they do have some potential legal concerns, so we're not really putting it on the table until they answer us completely. But other than that specific issue, if you can...Deputy Hopper, if you can let us know any opening comments about the CD1 version or the ASF.

MR. HOPPER: Thanks, Chair. The...the...what we were asked to look into were the two ASFs. I would note that item 35 in Granicus is a response that we had written to a question from...I believe it was previous HLU Committee, now PS LU Committee. So, that was regarding the ability...that...that was sort of more regarding the second ASF, but that's for your reference. So, when I address that ASF, I may refer to that a bit. The first ASF, we believe these are policy items for the Council to consider. You're essentially deciding if the additional time frame to reestablish a nonconforming use, or the additional time frame to rebuild a nonconforming structure, is going to be five years, as proposed in the original bill sent to Planning Commission, with the Director's ability to extend; or under the new bill, four years with some limitations on the Director's authority to extend. I think those are policy considerations for the Council because under current law, as stated, a nonconforming use has to be reestablished within 12 consecutive months...otherwise, there's no right to continue. And a nonconforming structure, if it is...if it is destroyed by any means to an extent of more than 50 percent of its replacement cost, meaning a disaster of any kind, meaning--I guess it could potentially mean if the...the...the structure is to the point of where it has to be replaced--it has to come into compliance with the law in place at the time of that reconstruction. This would give properties, as...as was stated earlier, that are affected by a disaster declaration additional time. And I think it's ultimately up to you if you want to a) allow additional time in those cases or keep the existing law, or...and...and decide if you do give additional time, how much and under what conditions. And so, I think that's something that you can discuss and debate. So, in general, the ASF, we believe we don't have legal concerns with, but the...it's...it's ultimately up to you as to what time frames you want to put on there. In the memorandum I provided though, we did note that we would still say that you need to keep the minimum time frame of one year for properties to reestablish their use. I don't think you could go to less than that. I'm not necessarily clear if that's relevant for any properties destroyed in this particular disaster, the...the Lahaina fires--because it's been more than 12 consecutive months at this point--but I...I did want to leave that in there because the Planning Commission did not consider reducing the current law...the time frame to reestablish a use. So, that's with respect to the first ASF, which was sort of the

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general rewrite of the...of the bill. The other question was, whether particular uses and particular transient...transient vacation rental uses could be left...left essentially covered under the current law, meaning that they would still have to be reestablished more...by...within the 12 consecutive month period, and would not be subject, if the Council wished, to the additional time frame provided. And I do believe that that is something that you...you could do because you could decide to apply or not apply a new time frame with respect to...you can grant this...you could pass this amendment or not pass this amendment. And if there is a reason that you find that there are certain uses that you would like to be covered still under the current law, we did not see a legal issue with that because that's what the current law is now. You'd simply be excluding them from an amendment, rather than changing the time frame. Again, I don't think you could say you have less than 12 consecutive months to establish a nonconforming use, but I do not think it would be mandatory for you to provide extra time as you are...as you are considering. So, I think that's ultimately up to Council. Again, that was addressed a bit in a memorandum that I had provided that's under item 35, and I can respond to questions on that...that aspect. But those were the two items I was...were...I was asked to look into for this meeting, and so hopefully that's...that assists the Committee in their discussion.

CHAIR PALTIN: Thank you, Mr. Hopper. You have a clarifying question? Yes, go ahead, Member Lee.

COUNCILMEMBER LEE: Okay. Mr. Hopper, when you talked about 12 months...12 consecutive months, what if the property owner found it impossible to repair or rebuild during the 12 consecutive months, no to...not to his fault at all, let's say.

CHAIR PALTIN: I...I know the answer. That's just what the Code is right now, and that's why we're considering these amendments to the Code...or this bill. So, right now, the Code allows for discontinuation of nonconforming use if it's stopped for 12 consecutive months. This bill addresses that as a policy decision. My ASF says we're not in any shortage of vacation uses, and so, the amendment wouldn't allow that for TVR uses. But it's a policy call, and...and we'll take a vote when the time comes. Does that answer your question?

COUNCILMEMBER LEE: Well, it...it answers your ASF proposal, but I just wondered in real life, Mr. Hopper, if someone was not able to continue whatever use, due to no fault of his own--due to external factors, such as water wasn't available, sewer wasn't available--are...does the Code cover that, or it...does it explicitly cover that situation?

CHAIR PALTIN: No. This bill is what would cover it. Like another nonconforming use is churches. Like that's...we changed the...the zoning for Grace Baptist, but there's many other churches that aren't zoned P-Q, like Jodo Mission, and

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probably Waiola, I'm not too sure. And so, they haven't continued church use for the past 12 consecutive months. So, that's the current Code that we're operating under, and this bill is the answer to that situation.

COUNCILMEMBER LEE: Exempting them.

CHAIR PALTIN: Allowing a four-year window for this disaster from approximately the time that this bill passes because it's already been a year and a half. So, if we made it five years, it's less time. But it's...for this disaster, until April 2029, it gives them that window. If they're in the Historic District or the SMA, I recognize there's more regulatory hurdles, like you may need to go through the CRC, or the Planning Commission. So, in those cases, the amendment allows for a two-year extension by the Director for cause. In areas that aren't in the Historic District or the SMA, it's more so ministerial permits. And there is a time factor, I mean, we don't want to necessarily continue nonconformities forever, so it's a window...four years, two-years extension, when you have additional regulatory hurdles. And, you know, one of...one of my constituents that I'm dealing with, the reason she would like this to go on faster is because insurance has a time frame, which is way less than the four years. So, that's why we made it a window, you know? The previous window was 12 months for uses. The previous for structures is less than 50 percent something, something. So, that's what...this bill is the Administration's attempt to address a situation that we've never had before, a disaster of this magnitude. And we're not re...we're not inventing the wheel because it is based on legislation Santa Rosa adopted after their town burnt down. So, it's, you know, on an attrition basis as things stop becoming nonconforming one at a time. That's one thing, and that's what our Code was meant to deal with. But when a whole town burns down, this is the Administration's proposal, and...and then we've made working revisions along the way.

COUNCILMEMBER LEE: Okay. Thank you.

CHAIR PALTIN: Sure. And so, I think that concludes our opening remarks. We did receive 83 eComments, and all the previous testimony is also recorded in Granicus under Meeting Details, number 24, number 25, number 26, number 27. We do have a recess date for this meeting. We have a hard stop today at 4:30 because it's the monthly community meeting in West Maui. I don't know that we'll have Mr. Hopper on our recess date on the 11th, but...oh, go ahead.

MR. HOPPER: We...we will have coverage. It won't be me. I have Planning Commission that day, but we will have coverage for you that day.

CHAIR PALTIN: But we will have coverage. Okay. So, barring no further clarifying questions, and as to Director Molina's question, I've been informed that we will

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defer to Planning. His questions relate to Planning's suggested revisions. So, after we take testimony, we can sort that out. Okay. Staff, would you...oh, shoot. I'm going to have to read the testimony thing. We do have testifiers?

MR. HURDLE: Yes.

CHAIR PALTIN: Okay. We will now move on to public testimony for DRIP-4. Written testimony is encouraged and can be submitted via the eComment link at mauicounty.us/agendas. Testifiers wanting to provide oral testimony should join the online meeting via Microsoft Teams link printed on today's agenda, or call in to the phone number, which is also on today's agenda. For individuals wishing to testify via Teams, please raise your hand by clicking on your raise-your-hand button near the top right of your screen. For those calling in, please follow the prompts via phone. Staff will add names to the testifier list in the order testifiers sign up or raise their hands. For those on Teams, Staff will lower your hand once your name is added. Staff will then call the name you're logged in under, or the last four digits of your phone number when it is your time to testify. At that time, Staff will also enable your microphone and video. If you wish to testify anonymously, please notify Staff. Otherwise, please state your name for the record at the beginning of your testimony. Oral testimony is limited to three minutes. If you are still testifying beyond that time, I will kindly ask you to complete your testimony. Once you are done testifying, or if you do not wish to testify, you can view the meeting on *Akakū* Channel 53, Facebook Live, or mauicounty.us/agendas. At this time, we will call on testifiers wishing to testify on DRIP-4.

. . .OPEN PUBLIC TESTIMONY. . .

MR. HURDLE: Thank you, Chair. First up to testify, we have Mr. John Pele, followed by Jeff Ueoka. *(silence)*

MR. PELE: Ia ora na, Chair --

CHAIR PALTIN: Ia ora na.

MR. PELE: -- Committee Members. It is a pleasure to be here today...actually, due to a fact that Mokulele canceled my flight. So, how ironic is that? The saga continues. I'm here today...my name is John Pele. I'm here today as the Executive Director for the Maui Hotel and Lodging Association, providing testimony on Bill 105. The Maui Hotel and Lodging Association supports Bill 105 and its effort to stabilize Front Street recovery by providing business owners opportunities--economically, physically, and emotionally--to help heal from the traumatic events of August 8th, 2023. This bill also allows owners to rebuild with sensitivity of the culture and historic significance of the area. It provides an

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opportunity to restore the historic character of Lahaina in a way that respects its heritage by also supporting the economic growth. We believe this balance is key to a sustainable future for our community. And that's it. Thank you.

CHAIR PALTIN: Thank you, Mr. Pele. Any questions for the testifier? Seeing none. Thank you for your testimony. Next up, Mr. Ueoka, approaching the podium.

MR. UEOKA: Good afternoon, Councilmembers. I'll keep it quick. I represent Front Street Recovery (*phonetic*). I'm here on my own though today. Support Bill 105, it's a great step with the nonconformities. Lahaina's old, like Chair mentioned earlier. Not everything aligned, so want to get it back to how it was, or close with exceptions, of course. So, thank you.

CHAIR PALTIN: Just clarifying, exceptions for safety, right?

MR. UEOKA: Yes.

CHAIR PALTIN: Thank you. Anyone else have clarifying questions for the testifier? Seeing none. Thank you for your testimony.

MR. HURDLE: Thank you, Chair. Next up, we have Tanna Swanson to testify, followed by Alex Folsom on Teams.

MS. SWANSON: Aloha, and thank you for this opportunity to be here. It is nice to see some familiar faces, like Alice's, because I actually go by...back decades when we started fighting for legal representation as bed and breakfasts. So, we have a long history here. I know I'm on a time limit, so I'll make this short. My name is Tanna Swanson, and I testified at the October 23rd Committee meeting, which I was confused because I thought I would be testifying before that same Committee today. And it was regarding my home and business located on Ainakea Road in Lahaina, a business that has continuously been in operation since 1985. I have come back to testify again as soon...as since that meeting, my ability to qualify for the additional financing necessary to rebuild is contingent on my business being able to operate. When COVID hit, the State asked us to shut down for a few weeks. And those weeks turned into months, which then went over a year. By taking out an SBA COVID business loan, I was able to keep the house and all of its employees during that time. As a community, we were all in this together. I never felt threatened that I would lose my business because we had exceeded the 12 months' timeline tied to my nonconforming use. And as such, when all the restrictions were finally lifted, business went on as usual for the...except for the additional debt that we had occurred [*sic*]. I guess I took for granted that this would be the same scenario. So, when SBA offered an additional business loan after the fire so we could continue to pay our salaries, so that we could continue paying our mortgage on a...now a property that doesn't exist, I did not hesitate.

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So, now, aside from the mortgage, I have two SBA loans given to a business that may be in jeopardy of not being able to operate. At the time of the fire, my business was not only providing my housing, but what...but it was also providing housing for an additional three single females, all of us between the ages of 50 and 80, some who have been housed by us for over the past 15 years. Currently, all four of us are in FEMA or GEM-assisted housing, which is not guaranteed beyond another 12 months. We are all dependent on the property getting rebuilt and the business continuing so that we can all just go home. I have emailed you each a copy of my business timeline, so that you can see that I have worked with the County from the very beginning to distinguish B&Bs from other types of short-term rentals. . . .*(timer sounds)*. . . We are not off-island owners. We are your neighbors. So, I am only asking one thing, is that you would add to the nonconforming verbiage you guys have to allow...to disallow nonconforming transient vacation rental uses from resuming if they were discontinued for any reason, except those properties that are owner-occupied or resident-owned. And in this way, I hope the intended purpose of the bill can move forward without penalizing any of the actual fire victims that live on the island. Thank you.

CHAIR PALTIN: Members, questions for the testifier? Seeing Member Sugimura, followed by Member Cook.

COUNCILMEMBER SUGIMURA: Thank you very much. So, you have been a bed and breakfast since 1985? Did I get that right?

MS. SWANSON: The business has been there since 1985. I actually bought an existing business, and purchased that in 1988.

COUNCILMEMBER SUGIMURA: Okay. So, you've been doing this for a while. And because of the wildfire, your property is...is it --

MS. SWANSON: Completely gone.

COUNCILMEMBER SUGIMURA: -- completely gone? So, you're in the process of re...you're applying for permits and --

MS. SWANSON: I'm in the process. I actually have plans ready to be submitted. I cannot get the financing now because of this, not being able to continue a way to repay the loans. Like I said, I already have two SBA loans, a mortgage that I'm still paying on, and I need beyond my insurance proceeds the additional money to build at today's cost.

COUNCILMEMBER SUGIMURA: Okay. And can you again say what your exception is that you would like to add? So --

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MS. SWANSON: I would just like to add except those properties that are owner-occupied or resident-owned.

COUNCILMEMBER SUGIMURA: -- except those properties that are --

MS. SWANSON: Owner-occupied --

COUNCILMEMBER SUGIMURA: -- owner-occupied --

MS. SWANSON: -- or resident-owned.

COUNCILMEMBER SUGIMURA: -- or resident-owned.

MS. SWANSON: Hopefully, I put a little synopsis in an email to all of you yesterday, so you would have the history of the Guest House.

COUNCILMEMBER SUGIMURA: Okay. Thank you very much. Thank you.

CHAIR PALTIN: Member Cook.

COUNCILMEMBER COOK: Thank you, Chair. Thank you for your testimony. For clarification, how many guests would you normally have? How long would they stay? Just sort of a little...

MS. SWANSON: They stay anywhere from three to seven days. I normally run about three guest rooms. You know, you can never get the bookings to back up to each other, so occupancy is, you know, 75, 80 percent.

COUNCILMEMBER COOK: But it's three guest rooms?

MS. SWANSON: Three to four guest rooms, depending on if I have staff or whoever living in the house at the same time.

COUNCILMEMBER COOK: And somebody...so, you live there all the time, or there...there's --

MS. SWANSON: Yes. It's my primary residence.

COUNCILMEMBER COOK: Okay. And did you ever have any complaints from any of the neighbors or anything?

MS. SWANSON: None.

COUNCILMEMBER COOK: What was the relationships with the neighborhood before?

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MS. SWANSON: None. That's...that's the crying shame. That's why I've been able to operate for these last 36 years.

COUNCILMEMBER COOK: Thank you for this.

MS. SWANSON: And just so that you know, the structure itself is conforming. It's all permitted. I have plenty of off-street parking. So, it's...it's just the use that I'm targeted on.

COUNCILMEMBER COOK: Thank you very much for your testimony.

MS. SWANSON: Thank you.

MR. HURDLE: Next up to testify, we have Alex Folsom on Microsoft Teams, followed by Caitlin Miller.

MS. FOLSOM: Aloha, and mahalo for the opportunity to provide testimony today. We stand by our written comments, and are available if you have any questions.

CHAIR PALTIN: Members, any questions for the testifier? Member Sugimura?

COUNCILMEMBER SUGIMURA: Thank you. Can you summarize your written comments...your testimony?

MS. FOLSOM: Yeah, absolutely. Yeah, so...yeah. The summary is that...so, we absolutely support the original intent of this bill, designed to offer flexibility and support for rebuilding the structures damaged by the disasters. We do have concerns with the proposed amendment, which would add subsection 19.500.110(G). And the amendment stipulates that nonconforming transient vacation rental uses may not resume if they've been discontinued for 12 months or more due to the damage or destruction from the fire. And so, we just have a couple of concerns, impact on the community support. So, many of our property owners converted their short-term rentals into long-term housing for over 12 months for the displaced residents from the Lahaina fires. And so, this amendment could inadvertently penalize these individuals from preventing them to host short-term when they...you know, this is crucial for...for financial sustainability for them when they were...have been doing this for over the past 12-plus months. Also...the last thing I'll say is just a little bit of lack of clarity on our end. The amendment doesn't specify how it would be enforced, or who exactly it would impact, so we just want to make sure that there is clarity on this...on this point. And the last thing I'll say here is that, you know, after the Lahaina fires occurred, we did partner with the Department of Human Services, and did...facilitated 3,000 individuals impacted by the Maui fire...wildfires to stay in

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local Airbnb listings for almost 100,000 nights, and we're still housing many families today. Thank you.

CHAIR PALTIN: I had a clarifying question. Are you referring to the Amendment Summary Form that says, "were discontinued for 12 consecutive months or more because the transient vacation rental was within a structure that was damaged or destroyed in an emergency or a disaster?" Because it sounded like you were saying that people were living in these structures. So, that this amendment doesn't affect it because those structures that you lent out weren't damaged or destroyed if people were living them.

MS. FOLSOM: I would have to find the exact language. I think there were two portions. So, yes, there was that part. And so, if folks wanted to rebuild--and I...I know we've heard from, in past hearings, of...of individuals who did rely on the income. But the understanding, and the way our team had read the bill is...and maybe that's part of the confusion is...here is, does it affect individuals who were...had their property partially or completely destroyed by the fire and it only affects those, or does it also affect...is it island-wide? So, I think there --

CHAIR PALTIN: Only damaged or destroyed.

MS. FOLSOM: -- was just some confusion of...okay. If...yeah. Okay. So, I think we...we may need to follow up because we just wanted to clarify. I know there was a line to just make sure that that is clear. And for...for the ones that are...are destroyed, you know, we do want just to make sure that if folks previously were relying on the income, that they have the opportunity to. But I want to be very, very clear here though, that we absolutely support the rebuilding process here. We want to make sure that folks are able to get back into homes, and so we do support this bill.

CHAIR PALTIN: Thank you. Any further questions for the testifier? Seeing none. Thank you for your testimony.

MR. HURDLE: Chair, the last person signed up to testify is Caitlin Miller on Microsoft Teams.

MS. MILLER: Aloha, Chair Paltin and Vice-Chair U'u-Hodgins. It's nice to see you both today. My name is Caitlin Miller, and I represent Maui Vacation Rental Association. We appreciate the opportunity to speak on Bill 105 in addition to October. We wanted to express that we wholeheartedly support the bill's intent to accelerate the rebuilding of structures affected by the wildfires so that families and businesses can begin to recover. We are concerned, though, that the amendment diverts attention from this critical mission by introducing complexities that do not directly relate to the bill's primary purpose. The

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amendment, which seeks to address issues surrounding short-term rentals, is problematic for several reasons. First, it lacks clear parameters on which properties or individuals would be affected and how enforcement would be carried out. This vagueness threatens to create confusion, and delay the rebuilding process at a time when swift action is needed in Lahaina. Short-term rental policies should have their own focused legislative conversation. County Council is already undertaking an economic impact study that will provide the necessary insights into the role of short-term rentals in our community. It is important to reserve detailed discussions and decisions on this topic for that dedicated process, rather than bundling them into a bill whose sole intent is to facilitate urgent recovery efforts. In closing, we just would respectfully urge that the Council strike Councilmember Paltin's amendment from Bill 105. By doing so, we can ensure that the bill remains focused on its vital objective, which is supporting the rebuilding of Lahaina and the swift recovery of local families and businesses, while leaving a comprehensive conversation about short-term rentals to the ongoing dedicated legislative efforts. Thanks so much, and I am available for comments or questions.

CHAIR PALTIN: Members, questions for the testifier? I'm seeing Member Sugimura, Member Cook, and then Member Kama.

COUNCILMEMBER SUGIMURA: So, just for clarification, you support the Bill 105, CD1, which is the main bill, and that we should then...you are suggesting voting against the one for TVRs? That's --

MS. MILLER: That's correct.

COUNCILMEMBER SUGIMURA: -- the second amendment. Okay. Thank you.

CHAIR PALTIN: Member Cook.

COUNCILMEMBER COOK: Do you have any numbers as far as how many TVRs were...this would affect?

MS. MILLER: So, Councilmember Cook, that's part of the confusion that I think we're seeking clarity on. To build on what Alex was talking about, there's several different types of TVR use in Lahaina, right? So, you have some that are already on the Minatoya list that would be subject to the other bill that we are having. You have other ones that are not in that, but were either partially burned or in an area where part of the neighborhood couldn't operate because they didn't have water or sewer. And then you have short-term rental permits and the bed and breakfast permits, like what Tanna was talking about earlier. So, just lacking clarity on which properties would actually be impacted within Lahaina. So, there

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are several complexes, in addition to short-term rental permits and bed and breakfast permits. So, you know, just lacking a little bit clarity on that.

COUNCILMEMBER COOK: Okay. Thank you.

MS. MILLER: Thank you.

CHAIR PALTIN: Member Kama?

COUNCILMEMBER KAMA: Thank you, Chair. Ms. Miller, do you have your testimony in writing? Did you submit it to us? Okay.

MS. MILLER: I did. I submitted it via...in October, and then again today. And I'm always available if you want to reach out directly as well. But it is submit...submitted written as well.

COUNCILMEMBER KAMA: Okay. Thank you so much.

CHAIR PALTIN: Thank you.

MS. MILLER: Thank you.

CHAIR PALTIN: Staff?

MR. HURDLE: We also have...Kai Nishiki has indicated she wishes to testify on Microsoft Teams.

MS. NISHIKI: Aloha, Chair, Committee Members. Kai Nishiki testifying on my own behalf. Although I am a registered Aloha 'Āina lobbyist, I want to support the ASF introduced by Councilmember Paltin. We need to be looking at, when we are rebuilding Lahaina, that we are taking into consideration changes that are community-serving. And so, of course, we want to help with rebuilding, but we're also looking at rebuilding with safety in mind. And we should also be looking at what is truly serving our community, and what the needs of this community are. We do not need any more accommodations for tourists. We need accommodations for residents. We need accommodations for our workforce. And so, this amendment supports the...the true needs of our community, and so, absolutely object to any transient vacation rental use being allowed. And so, fully support phasing out. And this is a way of phasing out things that we don't really need in our community. Please take this opportunity and support what the community is saying, which is we have enough tourist accommodations. We need housing...long-term, protected housing for our residents. Mahalo.

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CHAIR PALTIN: Thank you. Members, any questions...clarifying questions for the testifier? Seeing none. Thank you for your testimony.

MR. HURDLE: Chair, we also have Tom Croly on Teams wishing to testify.

MR. CROLY: Aloha, Committee. Tom Croly, testifying on my own behalf. I submitted testimony both online and directly to each Councilmember, and I hope that you had the opportunity to read it. Specific to my testimony, I included a table that was...that was produced by the Planning Department that laid out the nonconforming uses that they have a record of across the island. They identified 16 of those, 3 of which would be affected by this bill. And one of them you just heard from was Tanna Swanson, who has operated her bed and breakfast since...since she bought the property in 1989 [sic], and has been in operation since 1985. And I just want to quickly say, giving her the opportunity to apply for a bed and breakfast permit in the future does not solve her problem. No one will lend her money based on a premise that maybe I'll get a permit in the future. She has to have this instilled in the property in order for her to get a loan in order for her to rebuild her property. So, that's her issue. Another one that's on the list is the Kula Sandalwoods Inn and Lodge. And it sustained damage from...from this, and they're having to repair, and they haven't been able to reoccupy the six cottages that they have up there. So, again, I...this is a Native Hawaiian family that owns this property. I would hate to see them lose the ability to continue to operate the Kula Sandalwood Lodge under their nonconforming. There is one other property, and only one other property, that I was able to find in Lahaina that would be affected by this, and it's 375 Front Street. It's an oceanfront luxury home. And I don't know anything about it, other than the fact that if it's on this list, it means they were making this...this use prior to 1989. Now, there were a lot of other short-term rental uses that previously took place in Lahaina--in the business district, in the historic district--like...like the...the Frontier...oh, I'm forgetting the name now, but the...the hotel that was right there on the...by the harbor. Those --

UNIDENTIFIED SPEAKER: Pioneer Inn.

COUNCILMEMBER SUGIMURA: Pioneer Inn.

UNIDENTIFIED SPEAKER: Pioneer Inn.

MR. CROLY: -- thank you. Pioneer, thank you. Those would not be, or should not be affected by this because when you look up the code that they're under, they're not nonconforming uses. Those are allowed to...those uses are allowed to take place. There's also some properties in D-2 zoning that again, are not nonconforming uses, and they should not be affected by this bill. Nor should Puamana, or the...the apartment complex there, the Spinnaker, or the properties

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that are in Hotel zoning. None of them should be affected by this bill. But everyone's nervous because they're not sure if someone's going to come to them later and say, oh . . . *(timer sounds)*. . . sorry, you've lost your ability to do that. So, in...in short, I don't think that the...the part of this Code that...or...or the...this proposal that says that the TVRs cannot continue makes any sense. Because it really is only excluding, from what I can see, three properties, and two of which I would go out on and try to support in any way that I prob...possibly could. The third one, I don't know them. I don't care. Whatever, you know? But...but for you to put this in there, I think it...it throws a question mark in for all these other properties that are clearly defined in Code as being allowed. And I also hope that you all had the chance to read the response that the Chair got from the Planning Director, the 26 pages, because it answered a lot of questions, including this one. So, I...I...before you vote on this, I hope that everyone has had...had the chance to fully digest that...that information. Thank you for the opportunity to testify. And again, I do support this measure. Please pass this measure, but leave out the no TVR thing because it's...it's...it's just going to hurt a few people, and it's going to hurt them badly. Thank you, Chair.

CHAIR PALTIN: Thank you. Members, clarifying questions for the testifier? Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. And mahalo, Mr. Croly, for your testimony this afternoon. Just for clarification, so these TVR owners, they possibly could rebuild, but...but not as nonconforming, but for some of these the loans need to have them be nonconforming?

MR. CROLY: Okay. Let me...let me clarify. Based on my research, based on...on what the County has...has published as far as what nonconforming TVR uses exist in the entire County, only three are in this area, okay? One of them is Tanna Swanson, the bed and breakfast. Now, in her particular case, for her to rebuild her property, she needs to get a loan. No one's going to loan her money if she doesn't have the...the...the instilled right to start up her bed and breakfast again. They're going to say, where are you going to make your money to pay back this loan? And she says, well, the bed and breakfast. Well, you don't have that instilled right. Well, I'm going to try to apply for a permit in the future. Well, that's not going to help her, okay? They're not going to give her a loan. She's not going to be able to rebuild her house, and...and she's done. So...so, that's one. The second nonconforming use is the...are the folks up at the Kula Sandalwood Lodge. I don't know what their financial position is, but they would lose the ability, period. They would not be able to restart their business because more than 12 months went by without them using all six units as...as short-term rentals. So, that's...I'm concerned for...for those guys. Now, for all these other TVR, you know, properties that are in Lahaina that were destroyed, they can be rebuilt, and they can restart their...their operations with or without this bill. This

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bill has nothing to do with them whatsoever because it's clearly in Code that says, if you're in the B-2 Zoning district, and you started your vacation rental use prior to a certain date in...in 2022, then you're allowed to make that use. And it specifically says you're allowed to reconstruct, meaning if you're...if your thing gets knocked down, or if you decide to just knock it down yourself, you can rebuild it and still maintain that use. So, there should be no question at all about the...the ability for the Pioneer Inn and the...I think it's called the Plantation B&B, and a few others that are there in...in downtown Lahaina, that they would not be affected by this bill. But throwing in this...this part about except TVR use could draw that into question. So, that's why I'm saying don't include that, please.

COUNCILMEMBER SINENCI: Okay. Thank you. Thank you, Chair.

MR. CROLY: Thank you.

CHAIR PALTIN: Thank you. I...I did have a clarifying question. You mentioned the Sandalwood Lodge in Kula, that they had six cottages that were damaged. Do you know what type of damage it was?

MR. CROLY: I...I truly don't. I know that some of them were left undamaged.

COUNCILMEMBER SUGIMURA: . . .*(inaudible)*. . .

MR. CROLY: I...I spoke to the owner, and she said that because of their neighbors putting water on them, they were able to save some of them. But some of them were damaged beyond, you know, use, and are...and are in the reconstruction process. So, I...I know that some of them, they may have had some rental in...in the meantime, but not all of them were damaged to the point of not being able to be used.

CHAIR PALTIN: So, some of them were used within the consecutive 12 months after the fire?

MR. CROLY: That is what I understand. I understand that they housed some workers or...or some people who were displaced for a period of time during that...during that 12 months. So, that might be hope for them. But I got to be specific because the Code says...talks about the structure. So, are they going to say, well, you can use that structure because you housed somebody in it, but you can't use this structure because you didn't? I...I don't know. You know, I...I would hate for there to be...for them to lose the ability to use all...all of what they had before.

CHAIR PALTIN: Thank you.

MR. CROLY: Yeah.

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CHAIR PALTIN: Seeing no further questions, Staff, is there any more testifiers?

MR. HURDLE: Chair, that's all the individuals signed up to testify. We can do last call. If there's anyone in the audience or on Teams who would like to testify, please come up to the mic and begin your testimony, or use the raise-your-hand function on Teams and Staff will unmute you. I'll provide a brief countdown. Three, two, one. Seeing none. Chair, no one has indicated that they wish to testify.

CHAIR PALTIN: Thank you. Members, any objections with closing public testimony and accepting all written testimony into the record?

COUNCILMEMBERS: No objections.

. . .CLOSE PUBLIC TESTIMONY . . .

CHAIR PALTIN: Okay. At this time, if I could start off with Planning responding to Director Molina's concerns on item 2 and 3. From what we understand, that they relate to Planning Department's suggested revisions. So, if there's no objections, can we start there?

MS. NAKATA: Excuse me, Chair.

CHAIR PALTIN: Oh, yeah.

MS. NAKATA: Apologies for the interruption, but on the agenda where the proposed CD1 version is described under paragraph 2, I believe Director Molina's concern is just a result of a typo in the description. So, replaces reliance on Building Code and flood hazard regulations with compliance with Title 16, Maui County Code. So, in...in the bill, the phrase is found at...let's see...apologies. The phrase is found at (C)(1)(a), I believe.

CHAIR PALTIN: That's on page 2?

MS. NAKATA: Yes. So, in...on page 2, (C)(1)(a), we're replacing the phrase "permitted by the Building Code and flood hazard regulations" with the phrase "in compliance with Title 16." And so, I think Director was correct to point out that it didn't make sense as listed on the agenda, but I believe it's just a...a typographical error there. This was a revision requested by Planning, but I think it was just inadvertently mischaracterized on the agenda.

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CHAIR PALTIN: Okay. And then does that also...when we're calling out specifically Chapter 16.25 and 16.26C, does that address that? Because it seems that they have to be in compliance with all of Title 16. So, that was one of his other questions.

MS. NAKATA: Yes. I think for paragraph 3, that is a question that's appropriate for Planning. The revision was incorporated from the presentation they gave before the HLU Committee to address the Fire Department concerns. And Staff didn't pick up on the fact that, you know, Title 16 overall compliance is more comprehensive. So, perhaps we could ask Mr. Pfof for clarification.

CHAIR PALTIN: Sounds like a plan. Mr. Pfof, you got any clarification for us?

MR. PFOF: Yes, thank you for the question. I...after our...or within the last...with...shortly after the HLU meeting, the Department met with...or right before the HLU meeting, the Department met with both Planning and Fire to address the fire-related concerns related with this proposed bill. And so, subsequently, we...we added a lot within this bill in regarding making sure that both structures and uses would be in compliant with Title 16 when they're either rebuilt, or reused, or reestablished. The specific reference in the...the third item--and it actually goes to section (C)(1)(d)(ii)--is that...and indicates the repair/reconstruction is permitted in compliance with Title 16, except that for residential projects, the Fire Chief may require compliance with Chapter 16.25 and 16.26C, or portions of those Chapters as may be necessary to improve the public safety. We added those specific session...sections referencing 16.25 and 16.26C to indicate that the Fire Department has the ability to go beyond the residential Building Code into the regular commercial Building Code to upgrade, or require further requirements for residential structures that are built very close to the property line. So, we wanted to point out those specific references. It is redundant in...in a sense because they are all within Title 16, but I think having the references there is important to give property owners an understanding that, hey, if you're building your structure close to the property line, you may have to upgrade your structures and the type of construction in conformance to the regular Building Code in addition to the residential Building Code.

CHAIR PALTIN: Thank you, Mr. Pfof. Director Molina, does that address the concerns that you raised in your opening comments?

MR. MOLINA: Thank you, Chair. I...I don't think that's the best word choice to describe what was just explained by the Planning Department, but if them and Fire understand it, then I'll...I'll be okay. Thank you.

CHAIR PALTIN: Main thing, you're okay, Director. Okay. So...yes, Member Lee.

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COUNCILMEMBER LEE: Yeah, Chair. I was thinking the same thing. The average person couldn't understand what you said. So, you know, we have to be careful of these things, you know, word them and...where the common person can understand. Thank you.

CHAIR PALTIN: Thank you. Member Cook.

COUNCILMEMBER COOK: Thank you, Chair. Mr. Pfof, is that basically...that description would enable a design professional to be able to identify what that means?

MR. PFOF: Yes, should be. A design professional should understand that section of the Code.

COUNCILMEMBER COOK: So, the...I mean, a layperson might not, but someone who's doing the plans would be able to refer to that and comply.

MR. PFOF: That is correct. And...and if I may, also to address that...address that question and the concern, I think when...when folks do come in and they have a nonconformity, they will have to be reviewed by the Planning Department to confirm their nonconformity. At that time, we would let them know, hey, yes, okay, you're nonconforming. You can build closer to the property line, but you may have to upgrade your structure, and you need to speak to the Fire Department and the Building Department in regards to that. So, it might...there...there's some conversations that I think will occur in addition to this language here.

COUNCILMEMBER COOK: So, Chair, may I ask either Mr. Hart or Mr. Pfof, is that like fire rating for the walls, and sprinklers, or that type of thing? I mean, just for the...so people understand what these two potential commercial requirements are, as opposed to what normally wouldn't be required in a residential. Could you clarify that, please?

CHAIR PALTIN: Sure. Go ahead, Mr. Hart.

MR. HART: Chair, thank you. It would be at the discretion of the Fire Prevention Bureau, but it could include measures like sprinkling or...or fire-rated walls. Thank you.

COUNCILMEMBER COOK: Thank you, Chair.

CHAIR PALTIN: Okay. So, now that we've addressed Director Molina's concerns in not great wording, we can move on. And I just want to say this. It's...it's kind of complex bill because we don't know...we won't know all the nonconformities that

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we're be...we're proposing to allow before we pass the bill. But I guess, you know, the main points are, this bill doesn't allow a furtherance of nonconformities that didn't occur prior to the fire, so we're not giving away stuff that never was there. And it's constrained by the Building Code and the Fire Code, and there were...there was a question of if the compliance with Title 16 increases the nonconformity, there may be, in some instances it could be worked around, but we won't know the full scope...scope of that either. But for the most part, if...if it can be addressed without increasing the nonconformity, it could go forward; but if it can't be addressed, then...then this bill doesn't help that situation. So, that being said, I'll preface our questions by saying whatever question you have, don't be shamed because it is a very complex bill, and we will try to walk you through it. Any desire to start on any end? Okay, we'll start in the middle and go like this...we'll go like that. Okay. Member Cook, go ahead. Three minutes, please.

COUNCILMEMBER COOK: Is this for both residential and commercial? I mean does this address Front Street as commercial properties, as well as the residential properties within the Lahaina area?

CHAIR PALTIN: It addresses Countywide, except for Moloka'i because Moloka'i opted out. For this disaster, the declaration was for Lahaina and Kula properties affected. So, the way that CD1 is built, the window for...is until April 2029, with a two-year extension in the Historic and SMA District, that can be issued by the Planning Director for cause. So, for this specific disaster, the overall window is until 2029 April, which is about four years, we assume, from when this bill passes, not five years from the disaster. It...it could be five and a half years, about, from the disaster. But for future disasters, this bill will be in place, and so they'll know they have four years from the disaster. And...and what we're kind of seeing in Lahaina, to some extent is, folks above the highway are moving through the process faster generally because they don't have the additional regulatory hurdles of the shoreline, or SMA, or Historic District, where you have to go before a discretionary body, rather than just ministerial permits. The two discretionary bodies are for the Historic District, you have to go before the CRC, Cultural Resources Commission. And depending on how the State bill works out, as it stands right now for the SMA, you would have to go before the Planning Commission. So, does that answer your question?

COUNCILMEMBER COOK: Yeah. That, plus...but in general, it's Front Street and residential both. I mean, this isn't...this isn't bifurcating the commercial and the residential. So, it's anybody who's going to rebuild in Lahaina in general, this is giving a framework to accept the nonconformity with certain caveats.

CHAIR PALTIN: Yeah. Yeah. And...and to be clear, they have to prove that their nonconformity existed prior to the fire. If they just had a simply illegal structure

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that was never legal, this bill isn't the bill that applies to them, and...and it includes the entire burn zone.

COUNCILMEMBER COOK: Thank you, Chair.

CHAIR PALTIN: Sure. Okay. Member...Committee Vice-Chair U'u-Hodgins.

VICE-CHAIR U'U-HODGINS: Thank you. I'll pick up what you...where you just left off regarding proof. So, what kind of proof is...are we looking for when people are requesting to build back their existing nonconforming structure and/or uses?

CHAIR PALTIN: Mr. Pfof?

MR. PFOF: Yes, thank you for the question. That's going to be the difficult part, honestly, especially for those structures built prior to 1960, when we had a Zoning Code and we started issuing building permits.

VICE-CHAIR U'U-HODGINS: Yeah.

MR. PFOF: Proof, what we would like to see are building permits, of course, but you may find that maybe there's not a building permit. We may have records from real property tax that identify, you know, what they have in assessing properties and so forth. We may have photographs, or aerial photographs, and things like that. What's written into the bill is that that proof has to be reviewed by the Director, so it's going to be...it's going to be a little nuanced, and maybe a little bit difficult, but that's about the best that we could write in.

VICE-CHAIR U'U-HODGINS: Okay. That was as transparent as like muddy water, and I appreciate that. What do we do in the Historic District areas, and then how are we going to have SHPD as...for the...the structures? How...how are we going to deal with that. For instance, my home was built during the Kingdom-ish times, territorial times. It's a late-1800s home. I couldn't find redwood to rebuild my house the way like SHPD would prefer that I do, so how do you...how would we give advice to somebody who would need to build back with Historic District design guidelines in this scenario?

CHAIR PALTIN: I think that's a Planning question.

VICE-CHAIR U'U-HODGINS: Um-hum.

MR. PFOF: It's a good question. In regards to...specifically related to nonconformities, the existing Code actually allows the rebuilding of historic structures --

VICE-CHAIR U'U-HODGINS: Um-hum.

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MR. PFOST: -- without this...without this bill. So, that's an important caveat I wanted to make sure that everybody understands. It actually allows them to...including also not even just historic structures, but also multi-family structures --

VICE-CHAIR U'U-HODGINS: Okay.

MR. PFOST: -- because it's...it's important to rebuild those structures. The...usually, and...and...I'm not sure. I'll try to answer the best that I can. In rebuilding historic structures, you're...if it is historic and deemed historic, you're trying to build in compliance with the Secretary of Interior standards. And sometimes, you're right, you don't have the proper materials, or can't find the materials to build. Sometimes, there's optional materials, I know --

VICE-CHAIR U'U-HODGINS: Um-hum.

MR. PFOST: -- in tune with historic structures that you can use and still maintain the historic integrity of the structure, but...I don't know if I can provide any more of an answer than...than that. I mean...

VICE-CHAIR U'U-HODGINS: I just read the Pā'ia Design Guidelines, and it goes as specific as like windows, and what kind of baby windows we would prefer to see, which are kind of hard to come by nowadays. . . .*(timer sounds)*. . . So, I'm just wondering how we're going to navigate this entire thing. I do have more questions, but I do appreciate your answer. Did you have anything you wanted to...

CHAIR PALTIN: Mr. Hart, did you...

VICE-CHAIR U'U-HODGINS: Mr. Hart, or...

CHAIR PALTIN: Did you want to add anything to her question?

MR. HART: Thank you, Chair. So, there is the ability to be in compliance with the Secretary of Interior standards for infill construction in our--I can't remember the subsection right now--but anyway, that was just defined recently by the Planning Department. And so, that will play into the re...the construction or reconstruction of nonhistoric structures. When you're talking about the reconstruction of a...of like a certified historic structure, I'm not sure how much deviation from material types there are, but there can be new structures that are not historic that can be adjacent to and in the district that are compliant with the Secretary of Interior standards. And essentially, that's...that's designs that are consistent with, but don't detract from, historic features. And so, there's various architectural styles in the district, like a plantation style, and all the other

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styles. They have variations of...of being consistent with the Secretary of Interior standards, and so I think that that will allow the flexibility to...for people to use contemporary materials and reasonable design criteria without needing to try to reconstruct a fully...you know, the architectural style book for Lahaina has these...these diagrams of buildings that are, you know, essentially historic structures. You don't...that wouldn't be necessary under our existing 19.52 Section that allows for Secretary of Interior standard compliance construction.

VICE-CHAIR U'U-HODGINS: . . .*(laughing)*. . .

CHAIR PALTIN: And to be clear, historic structure is not necessarily addressed with this bill, it's more so nonconforming structures. So, that's a little bit of a separate issue that's not addressed in this bill, but good to know.

VICE-CHAIR U'U-HODGINS: . . .*(inaudible)*. . . Sorry, I forgot. Some of the older structures are nonconforming because they don't meet building...current Building Code standards. So, the use might not have been nonconforming, but you...the...the way the structure was built is technically nonconforming with today's Chapter...or Title 16.

CHAIR PALTIN: Yeah. And I think Lahaina Restoration Foundation has eight structures that they're trying to shore and build, and then there's that Spring House one. So, since the structure is still partially standing, it...it can go forward like that, right?

MS. BLYSTONE: Thank you for your question, and I'll try to kind of answer both of those things a little bit. We're, as I've said a thousand times, in uncharted territory here. So, some of the things that we're addressing right now, we haven't had to address before. And I can say that when CRC has reviewed things, they've been a little bit more flexible with those materials, and so I'll...I'll say that. And...and as far as the standing structures--I don't know if, Greg, you want to address any of that but, you know, this is...this nonconforming bill is really to look at those things and how they're...they're inconsistent with our Zoning Code, and...and allow those things to persist.

CHAIR PALTIN: Thank you. Okay. Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. In Hāna, we had a brief conversation about the Senate bill that just passed about SMA exemptions. So, my question is, does that have any bearing to this one?

CHAIR PALTIN: I would say it's not passed until the...like, May...May, when --

COUNCILMEMBER SINENCI: Right.

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CHAIR PALTIN: -- and when the Governor signs it, or vetoes, or whatever. I mean, it...it does look like it's getting traction. I think it may affect like possibly the two-year extension in the SMA, but I'm okay with giving a two-year extension in the SMA, be...even if that bill were to completely pass the State. Because, you know, the folks in the SMA have been on like a rollercoaster ride, I imagine, with like the new rules, and then the challenge. And for this situation, I think a two-year extension for cause is warranted because we're...we're building the plane as we're flying it. But, you know, in the future, we may feel differently, and it could be removed, but this was a recommendation from two of the planning commissions, I think. And I just tweaked it a little bit because of what we're seeing in the rebuild. People above the highway are...are just dealing with ministerial permits, and in the Historic and the SMA, there is the possibility of discretionary permits. And so, I think a two-year extension, whether the State passes that legislation or not would, you know, ease...ease the situation as a whole.

COUNCILMEMBER SINENCI: Thank you. Thank you for that.

CHAIR PALTIN: And...and if...if it's not working out, we can...somebody can change it at a future date. Any further questions? Okay. Then I'll circle around to Member Kama.

COUNCILMEMBER KAMA: Thank you, Chair. I'm just imagining myself sitting in a plane that's not completely built, but we're almost ready to take off. That's how I feel like we're doing with this bill. Anyway...so, I want to talk about the units that were there prior to our Codes, and now ordinances. So, have you given thought to...as you go through this process of trying to figure out how to help these families rebuild, and then having nothing to show what they had before, what that timeline would look like? Because I sense this is...I sense urgency, right? And I'm sure that these families are saying, what does it take for me to show you what I had before the Codes and ordinances came into play, and what does that timeline look like for these families?

CHAIR PALTIN: Planning?

MR. PFOST: Yes, thank you for the question. I...I think an important aspect of this bill...what the Planning Department intends to do, if this bill is passed, is to really publicize this bill and get the word out, both in any meetings that we're having in the Lahaina area; making sure that 4LEAF, our consultant who's doing reviews of building permits, understands this, as well as our staff; releasing any press releases, or any other publications or fliers that can help people understand this bill. We really want to get the word out so that folks can understand if they do have a nonconformity, or do not comply, they can come to us really quickly, and talk about it, and show us whatever they have. We...we put in there the caveat

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that the Planning Director has the ability to look at whatever proof is submitted because we wanted to kind of leave it open a bit. Because we realize those properties that are prior to 1960 will be difficult to confirm whether they were illegally done or legally done, and so it's going to take a little bit of time. So, we want to get those folks in early so that we can work with them. If they don't end up doing that, and they submit their plans for permit, they will be caught at that time because they'll be not compliant with the Code. So, then our...our staff will be knowledgeable about this Code and help them through the process then. So, the intent is to get folks through as quick as possible as we can.

COUNCILMEMBER KAMA: Do you have a sense of how many units you might be talking about?

MR. PFOST: No, I don't. We...we...within the...the letter response that I provided, which was in Granicus 31, there was a question that was related to that on how many nonconformities do we think that are out there? And we're...we're not sure. We just don't have the ability to go out and look at every property and assess those. But I did give...there was a table in there that identified the differences between residential, for example, and the Code provisions that were in 1960 compared to the Code provisions that are right now. And when you look at that table, you can actually see where there might be some nonconformities related to setback areas, or even height limits. And so, those are the ones that we are...we're kind of anticipating from residential. We . . . *(timer sounds)* . . . anticipate the same with commercial as well, that there'll be some differences. We just don't have it...a clear answer on how many nonconformities. So, that's the importance of trying to get the word out, of making sure that folks understand this, and so that we can...we can hopefully address this at the beginning.

COUNCILMEMBER KAMA: I heard the bell, and...okay, I'll wait for the next round. Thank you. Yeah, I wanted to ask if...if there...so, what you folks are going to be doing in moving forward with this bill, do you have a sense of what that cost might be in terms of getting the word out, and trying to get people lined up, and all the work that needs to get done? And...you know, and tea leaf *[sic]*, if they're going to be...you're going...they're going to be supporting you folks. What is look like?

MS. BLYSTONE: Yeah, I...I think...are...you're talking about...thank you for that question. And just to clarify, you talking about the cost to...to do like the broadcasting of like --

COUNCILMEMBER KAMA: Yes.

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MS. BLYSTONE: -- in all of FYI. So, I...I don't think it will be that heavy of a cost. I think that it's more just going where people are. And where people are, are, like the meeting that we're going to be in tonight with the Lahaina community.

COUNCILMEMBER KAMA: Um-hum.

MS. BLYSTONE: And that's broadcast far and wide, right? So, that's one of the ways. We'll update our own websites. We'll work with social media, which is free, right, to...to do that. Just to address a little bit, the last question, as well in...in this response, just--one of the things that we don't know is how people want to change in their rebuild. So, even if we identify that this project previously was nonconforming, they may not want to rebuild it exactly the same way. So, that's why it's hard to answer that question.

COUNCILMEMBER KAMA: Okay. Thank you. Thank you, Chair, for your indulgence.

CHAIR PALTIN: And...yeah. And to add to that, I don't think we need to tell the whole world. It's the people that want to rebuild. And they're going to come to us because they want to rebuild. I think the important thing, to get the word out through our press release is Bill 105 passed, and the subsequent timelines, like, you know, four years until April 2029 for this disaster, or the two-year extension. Just get that word out. And the people that need to rebuild, want to rebuild, they'll be coming to us. It's not the entire County or the State because it doesn't pertain to everyone. Member Sugimura, your opportunity?

COUNCILMEMBER SUGIMURA: Yeah. Thank you. So, in connection to what Member Kama has just said, that people who want to rebuild and will be impacted, I think there's a misunderstanding of this bill. Because people in the community think you can build whatever you want. So, so glad to hear your answer to Director Molina...because you cannot, right? And I...I wish that what...whatever communication you put out there, you make it clear. Because what I was afraid of, I'm hearing from people out there who are not in the wildfire area necessarily. Our insurance is going up because of the wildfire and the impact--like LA and, you know, across the nation--but in...on our island, Kula, and West Maui. And so, the commerc..., the insurance companies are getting nervous. And I just thought, oh, if everybody gets to build back to exactly what it was, we're building back unsafe again, right? So, your answer, please...please do communicate that. Because people who are sitting there waiting for their building permits to get approved, they may think--because I thought--that they can do whatever they want, you know, just so that it can be done fast. That's the impression I got from out there. So, please clarify that in any way that, you know, you can. I think may...maybe that's Jordan Hart because you're...like the Office of Recovery. I'm not too sure how you, you know, both (*phonetic*). But...because I am concerned about insurance for everybody, not only for the wildfire-impacted areas. I would

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like to...I see...I want to say Tannis [sic]. I see her sitting here, Tannis [sic] Swanson, sitting here waiting and anxiously wondering how her bed and breakfast is going to be impacted by the ASF, specifically for the TVRs. And her recommendation is to include in there, except as those properties that are owner-occupied or resident-owned. So, can...can Planning or Mr. Hart make a statement about that, if...if that could be added, or is that needed, or do we just vote no on that?

CHAIR PALTIN: Member Sugimura, maybe the question would be, does TVR definition affect B&Bs? Would that be a better question? *(echoing)*

COUNCILMEMBER SUGIMURA: Go ahead.

MR. PFOST: So, yeah. And TVRs are not B&Bs, so...and...and specifically in our definition within the Code, transient vacation rentals exclude B&Bs and short-term residential housing. So, I believe that this section would not apply to Ms. Swanson? --

COUNCILMEMBER SUGIMURA: Swanson.

MR. PFOST: -- Swanson's property, although Ms. Swanson does have some particular issues, especially if she discontinued the use of her B&B . . . *(timer sounds)* . . . for longer than 12 months. Just...and so, if she discontinued the B&B for longer than 12 months, then it is...it's no longer non...considered nonconforming, it just...it's...it doesn't exist. That's a little bit of a different nuance with Ms. Swanson's particular property.

COUNCILMEMBER SUGIMURA: So, I'm not understanding where her property is. If she couldn't get to it, or if there's no water or waste water, then she would be impacted because of the wildfire. And can you make a statement about that?

MR. PFOST: If...if...if it is...I'm sorry. If...if it's correct that she discontinued use because of the wildfire, then this bill would help Ms. Swanson's situation. What we would ask Ms. Swanson to do, if she wanted to reconfirm the use after she builds the structure, is we would want her to show that she had continued use up until the wildfire. If she did not have continued use up until the wildfire--in other words, not longer than a 12-month period--then she would have a...a...an issue because it wasn't technically a nonconforming use before the wildfire. Do you understand what I'm saying?

COUNCILMEMBER SUGIMURA: Um-hum. Um-hum.

MS. BLYSTONE: Yeah. So, that's kind of the...the issue. So, I...I really didn't hear Ms. Swanson's...whether or not she discontinued before the wildfire, or was a

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result of the wildfire, but that makes the difference in what the...how this bill applies to Ms. Swanson.

COUNCILMEMBER SUGIMURA: She's sitting in the audience, so...she's thumbs up.

CHAIR PALTIN: I will allow it with no objection from the Members.

COUNCILMEMBER SUGIMURA: No objections.

COUNCILMEMBERS: No objections.

MS. SWANSON: I have continuously run that business up until the fire. And my TA taxes--and I have tons of documentation. Reservations, refunds had to be made, all this is documented. My issue is, when I was grandfathered in--and I forget, I think it was 2007, I was grandfathered in--the County letter, because they did not have B&Bs prior to 19--whatever year that was, they grandfathered me in as a short-term rental. They didn't grandfather me in where it specifically says I am a bed and breakfast because they said that they did not have that back in the day, like, prior to 19...well, in...back in 1985. In those days, there wasn't a bed and breakfast, so...so they couldn't grandfather me in as a bed and breakfast. My issue is--and that's why, even though I operated in as a B&B for years, I...when I was grandfathered in, it's listed as I am a short-term rental use.

CHAIR PALTIN: And I think Mr. Pfof said TVR...can you repeat what you said, Mr. Pfof? Sorry.

MR. PFOF: Sure, thank you. The...the definition of transient vacation rentals specifically excludes bed and breakfasts and short-term rental housing. So, the TVR amendment does not apply. Does that make sense?

UNIDENTIFIED SPEAKER: No.

COUNCILMEMBER SUGIMURA: Does it help her? So, she can continue operating, right?

MR. PFOF: Provided that --

COUNCILMEMBER SUGIMURA: She's...she's legal...I mean, she's grandfathered, or...sorry.

CHAIR PALTIN: Go ahead, Mr. Hopper.

MR. HOPPER: I just want to caution, unless Department--I'm not sure if they have--unless the Department has actually reviewed the particular case and...and

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reviewed this, I...I...I don't want there to be a misunderstanding of...of any facts that are out there that...that we don't know about. I...I don't necessarily want that to be a confirmation without actually reviewing a particular situation. So, I'm not saying it's not a good idea to know what's out there and what's going to happen, but with what's going back and forth, it sounds like there's some information that's not necessarily known for certain here. And so, I...I just wanted to leave that as a...as a caveat to any sort of general discussion on this. If we need that information, I think the Department...you know, it would be important to get that information if that's going to be part of the legislation because it sounds like there's some...sounds like there's a fair amount of fact-specific background here that I...I don't know if...necessarily before the Committee. So, just that as a...as a general issue, this may happen with a lot of...this may happen with a lot of other properties too, but it's kind of difficult to do this --

COUNCILMEMBER SUGIMURA: On the fly.

MR. HOPPER: -- without the specificity that you have, just as a note.

COUNCILMEMBER SUGIMURA: Okay. Thank you. So, maybe she needs to make an appointment to talk to you specifically. Thank you very much, Ms. Swanson.

CHAIR PALTIN: And then from the first iteration when we received the bill from the Planning Commission, it always did state that it still needed to go...comply with the Building Code and the Fire Code. And so, it...it definitely is not that you can build whatever you want. You still...the nonconfo...if it was a legal nonconformity prior to the fire, which the--by definition, nonconformity means it was legal at one time--that could return, as long as you don't increase the nonconformity, and you comply with the Building Code and the Fire Code. Director Molina did say that in some cases, conformity with the Building Code could increase the nonconformity, and it seems as though the Public Works and Planning Department will need to address those cases individually if, you know, something can be worked out. But we don't know all of those instances where compliance with the building code would result in greater nonconformity. So, just wanted to clarify that. Understandable, kind of? Okay. Chair Lee?

COUNCILMEMBER LEE: Thank you. Question for Planning. This idea of 12 months of continuous use or noncontinuous use. Is that in the Code already, and how is that used?

CHAIR PALTIN: Go ahead, Mr. Pfof. And Member Kama, if you want to turn off Member Sugimura's mic, that would be helpful. Thank you.

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MR. PFOST: Yes. Thank you for the question. That is currently in the existing Code, that you have to have continued use of 12 months. If you do not have continued use of 12 months, you cannot re-establish your nonconforming use.

COUNCILMEMBER LEE: Okay. So, however, as you said, because of the fire, if it's a pre-fire issue, then that doesn't apply.

MR. PFOST: That's correct. Because we're...with...with the fire, we...obviously is...is a different issue, so that's why we're extending that time frame because of the fire.

COUNCILMEMBER LEE: So, how is that different for TVRs?

MR. PFOST: If...it is not different if you had a nonconforming TVR use, and it stopped because of the fire, that nonconforming TVR use can continue under Bill 105.

COUNCILMEMBER LEE: Okay. Okay. So, you're not talking about Chair Paltin's amendment. That would change their...your amendment would change what he just said?

CHAIR PALTIN: It only applies to nonconforming TVRs, which he said do...do not include B&Bs or STRHs.

COUNCILMEMBER LEE: Okay. So, not...so, these units, let's say these TVRs, were...were operating as TVRs prior to the fire, and they were considered existing nonconforming. So, that means they can rebuild and continue the use.

MR. PFOST: Under Bill 105, yes. But...

COUNCILMEMBER LEE: But not under something else?

CHAIR PALTIN: With...unless the amendment passes, then they cannot continue the nonconforming TVRs, which, you know, it doesn't...like what Mr. Croly testified is correct. A-1, A-2 properties have...they were operating before date, so they're not considered nonconforming. I believe B-1, B-2, B-3 have a operating before date, so those aren't considered nonconforming.

COUNCILMEMBER LEE: Okay. So, we're going to go over which units would be impacted?

CHAIR PALTIN: I...if Mr. Croly is correct, it sounds like one unit on Front Street that he doesn't care about, but there could be more.

COUNCILMEMBER LEE: So, there's only...I know he said three.

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CHAIR PALTIN: Two of which were...considered B&B, which Mr. Pfof said are . . .*(timer sounds)*. . . excluded from the definition of TVR.

COUNCILMEMBER LEE: Okay. So. we're only talking about one possible property being impacted.

CHAIR PALTIN: That we know of.

COUNCILMEMBER LEE: Okay. Thank you.

MR. HART: Chair?

CHAIR PALTIN: Oh, Mr. Hart.

MR. HART: Chair, I think that Counsel's comments were pretty...pretty on point. My general understanding was that that amendment to the definition was made after the vehicles of B&B permits and short-term rental home permits were hammered out, and so, I'm not necessarily sure that it's the equivalent of...of like the casual reference to the operation as being a B&B, as opposed to B&B and short-term rental homes as they're described in the various Zoning Code...Zoning sections.

CHAIR PALTIN: That was my understanding, but I was going with what they said because they're in charge of that. So, maybe Mr. Hopper can be the tie-breaker between Mr. Pfof and Mr. Hart?

MR. HOPPER: Yeah. I'm not in a position right now. I...I would want to know, again, more about the particular property and the history. There was a lot that was said today. I haven't read any of it.

CHAIR PALTIN: Oh.

MR. HOPPER: I haven't --

CHAIR PALTIN: Oh, we're not talking about the particular property, but that TVR, as a definition, excludes B&B and STRH.

MR. HOPPER: Well, I mean the definition, transient vacation rentals, for use in the Code says...means occupancy of a dwelling or lodging unit by transients for any period of less than 180 days, excluding bed and breakfast homes and short-term rental homes. So...okay. Well, let's...I can't necessarily do this tie-breaker, and I think at the moment--and let's have this clarified with a discussion. Because again, this is a...it's very important, and if there's discussion for Mr. Hart and...and the Department, let's get that position clarified and clear. I'm not in a position right now to resolve...resolve that at...at this moment.

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CHAIR PALTIN: Okay. Staff, can we send it in writing that maybe on the 11th, someone would be available to clarify that definition of TVR. I was...before I was kind of corrected, I was under the impression that...like how Jordan Hart was saying that, you know, B...TVR excludes B&B and STRH that are permitted. But it would be good to get that clarified at some point. Okay.

MR. HOPPER: Again...sorry.

CHAIR PALTIN: Yes. Go ahead, Mr. Hopper.

MR. HOPPER: Again, when you're writing the exception, you can also provide additional clarity.

CHAIR PALTIN: Oh, okay.

MR. HOPPER: If you don't...if you don't want it to apply in certain cases, you could also put that into the amendment. So, maybe we could look at it going forward that way rather than looking at the multiple definitions, if...if that's feasible.

CHAIR PALTIN: Okay. Thank you for that suggestion. Member Johnson, your opportunity.

COUNCILMEMBER JOHNSON: Okay. Thank you, Chair. I have a lot of questions, great discussion. I want to thank everybody's worked on this bill, and thank the introducer of the bill. We have to help our folks build back. So, I'm concerned about the...I went into the response that the Planning Department had, the 15 pages. Thank you for that amount of work. That must have taken...one concern I had is, you used churches as an example, the Lahaina Hongwanji, that they may require a special use permits to build back; is that correct? And I...that's...I wonder how much that costs the church. So, first, can we get that cleared up?

CHAIR PALTIN: Mr. Pfof.

MR. PFOF: Yes. Thank you. Thank you for the question. Yes, churches in that particular zone, I'll have to go back and look at my letter, do require a special use permit in the existing Code in order to operate.

COUNCILMEMBER JOHNSON: Okay.

MR. PFOF: So, they...if they do not have a special use permit, then they would be nonconforming to that requirement.

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COUNCILMEMBER JOHNSON: So, with this bill, they still would require a special use permit?

MR. PFOST: No. With this bill, they would allow to be continued without getting a special use permit.

COUNCILMEMBER JOHNSON: Great. That...you know, just the fact of what a...a church would have to pay for a special use permit was really my concern. I...do you guys know off the top of your head at how much it costs for a special use permit?

MR. PFOST: I'm sorry. I don't have that off the top of my head.

COUNCILMEMBER JOHNSON: Okay. That's fine. I'm on limited time. That's fine. I want to speak to the Fire Department. I know they were on the call, and I really appreciate them speaking on the bill. And one of the things that they mentioned in...in the letters, again, from the Planning Department was that the Fire Department may require additional things in nonconforming owners on the build back. So, I'm curious of...here's my fear. My fear is that the Fire Department may say, hey, this is...in order for you to build back, we have a say in how you build back nonconforming. And maybe some of those might be extremely cost...costly, and the...the owner just won't be able to build. Like, I often have heard that from folks with the...you know, the Upcountry water meter lists, it costs them so much money to even get it. So, that, I...maybe the...the Fire Department can speak on that. Can you give us some examples of what you would require a home...a...a landowner or a building owner that would...you would require to build or add on?

CHAIR PALTIN: Captain Vaas?

MR. VAAS: Yeah. Sorry. I'm just trying to get to my mike and my camera here.

COUNCILMEMBER JOHNSON: . . .*(inaudible)*. . .

MR. VAAS: So, our...our biggest concern is, of course, the setbacks and the density that's created. And so, we look at Lahaina, and we look at the density. When we build back, as we all agree, that we want things to be safer. . . .*(timer sounds)*. . . You know, we're not going to get it to the optimum safety, but wherever space is warranted between properties and buildings by the current zoning, we'd like to maintain that to today's standards. Now, when these nonconformities are in those spaces, that's when we'd like to have the opportunity to review those. So, in answering your question a little more directly--because this is a bigger conversation--but it says in this bill that we can make recommendations. So, if somebody wants to build right next to the property line and, you know, if they

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put it back in the same footprint, and they build it exactly the way...then there's also some SMA things that are allowed and stuff, now Fire's going to say, can you move it six feet? And they're going to say, well, if we move it, we don't meet the SMA requirements of being in the same footprint. So, we would like to have that discussion to say, hey, if they're willing to move it six feet over, are you willing to grant them that same rebuilding with all of the other nonconformities and bypassing the SMA? So, we're not trying to hold anything up. So, when you say expense that we may incur, we are always going to be looking for spacing. It doesn't matter if you build the whole thing out of cement walls, we're looking for space. Space is a huge, huge concern for us. So, yes, they're going to have to comply to Fire Code anyways. They're going to have to comply with Building Code anyways. But in the cases where we see density that's unnecessary, we're going to ask that we maintain that space. And I think those will be conversations in case-by-case basis, and that's my only concern with this bill is that we don't want to make a blanket statement that everybody can put things back the way they want. But in these discussions we've been having, I think these are all going to be looked at closely, and there may not be as many cases as we're predicting here. We just got to be careful that this bill allows us the ability to make comments and suggestions, and work with these people, which I believe it includes. So, I...to build back and meet Building Code might be expensive for them, but that has nothing to do with this bill because they have to meet Fire Code anyways. Addressing the nonconformity in most cases would be just as long as they're not impacting access, or the potential for access to be improved where needed, and if they're not getting too close to other buildings, then we don't have a huge concern with the other nonconformities.

COUNCILMEMBER JOHNSON: Thank you. Is it Captain Vaas?

MR. VAAS: Yes.

COUNCILMEMBER JOHNSON: Thank you, Captain. Appreciate that. Thank you, Chair.

CHAIR PALTIN: Thank you. And, you know, I don't know if you remember the Grace Baptist situation. We did a full Change in Zoning and Community Plan Amendment because they didn't want to rebuild their structure in the same footprint. They wanted to be able to build the church of their dreams. So, there may be some cases like that. But if they wanted to build back in their footprint or whatever, then this bill would help them. Because I believe, you know, churches, the correct zoning would be like P/Q-P. And most of the ones in Lahaina are like R-1 through R-3.

COUNCILMEMBER JOHNSON: Okay.

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CHAIR PALTIN: So, that's the church situation. If they want to rebuild it exactly what it was, then this bill will help them, provided --

COUNCILMEMBER JOHNSON: Um-hum.

CHAIR PALTIN: -- they can meet the Building Code and the Fire Code. Mr. Hart, did you have any comments you wanted to make regarding Member Johnson's last question?

MR. HART: No. I'm just glad that everybody could come together, and we could put together a bill that can be supported.

CHAIR PALTIN: Okay.

MR. HART: Thank you.

CHAIR PALTIN: Member Rawlins-Fernandez, are you landed and on, or is...is there a Member Rawlins-Fernandez online?

COUNCILMEMBER COOK: . . .*(inaudible)*. . .

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha, Chair. Yeah...sorry. I am in the parking lot coming up the County building. I'm not alone. It's a public space. I can wait until I get up there. Were you going to take a recess?

CHAIR PALTIN: Oh, I didn't do a recess yet. You guys want a recess? Okay, we'll come back at 3:35, in ten minutes. Does that sound good to everyone? Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Great.

CHAIR PALTIN: This meeting will be in recess until 3:35 p.m. . . .*(gavel)*. . .

RECESS:	3:24 p.m.
RECONVENE:	3:40 p.m.

CHAIR PALTIN: . . .*(gavel)*. . . Will the Disaster, Resilient *[sic]*...Disaster Recovery, International Affairs, and Planning Committee meeting of February 5th return to order. The time is now 3:40, and we would like to welcome Member Rawlins-Fernandez to our in-person Chambers location at this time. Ia ora na.

COUNCILMEMBER RAWLINS-FERNANDEZ: Ia ora na. Happy to be here. Glad we made it on time.

CHAIR PALTIN: And we're at your opportunity to ask questions.

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COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair, for the opportunity to ask questions. I was listening in on the conversation, and it sounds like perhaps...I don't have any additional questions, but it...it sounds like there is questions about TVR, STRH, and B&Bs. And so, if the intention is to try to carve out a space for owner-occupied residents that have the activity of vacation rental, then perhaps we can be more specific in that way.

CHAIR PALTIN: Is that something you would like to pursue?

COUNCILMEMBER RAWLINS-FERNANDEZ: It sounds like others might want to pursue that. . . .*(laughing)*. . .

CHAIR PALTIN: Okay. All right. We'll let whoever wants to pursue it, pursue that. And you had no questions at this time. So, we'll...we'll go into round two. I want everybody to feel comfortable that all their questions are answered before moving forward. So, Member Cook, your second opportunity.

COUNCILMEMBER COOK: Thank you, Chair. I would like to suggest that we acknowledge the owner-occupied existing use before. I've...from the very beginning of the B&B and the TVR issue so many years ago, I always thought that a B&B was a separate, less invasive thing...so, in general. But hearing the testimony from the Lahaina resident strikes me as being appropriate to acknowledge that use, and not have it be prohibited through our policy is my suggestion and request, Chair.

CHAIR PALTIN: Okay. So, we have a recess date until Tuesday. My request would be whoever would like to support that, draft an amendment to the ASF, and come with it ready on Tuesday, if possible.

COUNCILMEMBER COOK: Thank you.

CHAIR PALTIN: I'm not going to assign it to you...you guys. You're all adults, so jan ken po, or something. Okay. Does that complete your questions for this round?

COUNCILMEMBER COOK: That did, Chair. Thank you very much.

CHAIR PALTIN: Okay. So, decide amongst yourself who's going to come with their homework ready on Tuesday. Member U'u-Hodgins.

VICE-CHAIR U'U-HODGINS: Thank you. This question, I guess, is maybe for Public Works or Planning. I don't know who can answer, and it doesn't matter as long as I get an answer. But how are we all--you folks--made aware when a nonconforming permit comes through for a building permit application, let's say?

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Especially in the very beginning when somebody files, it will...are they being charged, you know, fire commercial fees in the very beginning if they're going to be assessed kind of commercially? And then how do we know? Are you guys going to say, hey, this is nonconforming, and then get Fire involved at that time, or how is this going to work during the building permit process?

MR. PFOST: Thank you for the question. Well, hopefully, with the advance notice we get, we can speak to people up front and...and kind of clarify these issues before they even actually submit, or before they even start drawing plans. That's kind of the intent so that we can get people aware that if they are doing nonconformities, to making sure one, they can show proof that...that...and if they have to do additional...any additional building standards to maintain that nonconformity in compliance with Title 16, they're aware of those before they actually kind of move into the process of actually submitting. But if they do submit, then what will happen is, they'll submit the application, and then our plans reviewers will see that, well, you're not consistent with the mandated setback, for example. Now you're nonconforming to the setback. You're submitting something, and then that will begin the discussion of well, that's what our existing structure was, and we'd like to maintain that existing structure. We want to maintain that existing nonconformity. Then we would go down a path of like, well, okay. First you need to prove to us that you're nonconforming, and then we need to talk to Building and Fire to make sure what...what you're proposing to do complies with Title 16. So, it's that kind of processing that I would envision would be occurring. So, it's a little bit extended because you're in nonconformity. We have to...one, we have to see proof to make sure it is nonconforming. And then if it is, then we actually have to probably consult with Public Works and Fire on exactly if there's any additional improvements that need to be made.

VICE-CHAIR U'U-HODGINS: So, we're going to assume that the homeowner is going to come to us before they file, knowing that they have a nonconforming structure or use?

MR. PFOST: I'm hoping that will happen. But if it doesn't, then we will...when they submit their plans initially for plan check, right, then we will catch it at that time, and then we will have that discussion.

VICE-CHAIR U'U-HODGINS: Okay. Well, I hope you guys have plenty staff because that sounds like a very big discussion. Because I would assume most people maybe don't realize that they're nonconforming, especially in a town with all these old homes. I guess now...thank you for that, by the way. I have a question for Fire. In these cases where we have --

CHAIR PALTIN: Oh, can you stop her clock real quick?

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VICE-CHAIR U‘U-HODGINS: Oh.

CHAIR PALTIN: I just wanted to follow up on her question about the...I...I imagine the homeowner wouldn't know, but probably the design professional would know...like who's drawing their plans and like that. To follow up on her question, can we have like a...a box checked...like a checkbox when they're submitting their thing? Because their design professional should know if the structure would be nonconforming, and maybe a checkbox at the top that says, I'd like to take advantage of Bill 105, check? And then so, right from that time, it'll be routed a certain way instead of like looking at it...hey, this doesn't conform. Oh, Bill 105 would let me kind of build back nonconformities. So, that's...would that be a...a way once this bill were to pass second reading, any form submittal would have a, I'm going to take advantage of Bill 105 box, so that it gets routed correctly? And then there will be some folks that don't know, maybe, and then those will get caught through that way. So, that's just throwing it out there.

MS. BLYSTONE: Mahalo, Chair. We'll talk with our partners over at DPW and see how they want to handle this because we are just a reviewing agency at that point. So...so, DPW would have to kind of amend the MAPPS submittal form, and we'd want to talk with them. I don't know if Director Molina wants to speak to that at all.

CHAIR PALTIN: Oh, okay. This is not taking from Member U‘u-Hodgins's time because I'm busting in on her.

VICE-CHAIR U‘U-HODGINS: . . .*(inaudible)*. . .

CHAIR PALTIN: From...Director Molina? Okay. Director Molina. In terms of submittal for folks that know that they're nonconforming, and they want to take advantage of Bill 105, did you have any ideas as how to...how they should submit their paperworks [sic], a way that they could provide acknowledgment that they're...they are aware they're existing nonconforming, and they would like to take advantage of this Bill 105 once it passes? Question for Director Molina, if you're still on.

MR. PASCUAL: Chair, he's still on the call, but he's muted and we're not seeing any response from him.

CHAIR PALTIN: Okay. For now, I guess, can you take note of that in writing, and...and we'll follow up of...of his preference in the submittal, if...if the applicant is aware that they'd like to take care...take advantage of Bill 105 because their previous structure was existing nonconforming? Okay. You can resume her time, and you can continue on on your line of questioning.

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VICE-CHAIR U‘U-HODGINS: Thank you. But now that you brought that up, before I ask Fire their question...for Planning, are you guys going to have a specialized team to deal with this bill, or how is this going to...is it going to be you folks? Who's going to...what I'm...what I'm hoping to prevent is that different plan reviewers might give different answers if it's quite subjective.

MR. PFOST: I...I think the...we haven't actually gone to that specific, honestly, I think, to that level of detail and exactly who or what. I know we have 4LEAF that's actually doing plan check, as well as . . . *(timer sounds)*. . . our plan reviewers. And the importance would be to make sure that they're all knowledgeable about this, and making sure once...if this does...bill does pass, that they're knowledgeable about it, and we'll come up a plan with how it's going to efficiently run. We just haven't done that yet, so...

VICE-CHAIR U‘U-HODGINS: Okay. I'll save my Fire question for next round. Thanks, Chair.

CHAIR PALTIN: Okay. Member Sinenci, follow-up questions?

COUNCILMEMBER SINENCI: Most of my questions have been answered, Chair. Just a clarification for you. So, for this meeting, you're going to defer to...or recess to Tuesday?

CHAIR PALTIN: Yeah.

COUNCILMEMBER SINENCI: At --

CHAIR PALTIN: Yeah.

COUNCILMEMBER SINENCI: -- at 9:00.

CHAIR PALTIN: Yeah. My main concern, I don't want to have to recommit...get to first reading and recommit, oh, I didn't think of this question, and it gives our Corp. Counsel and our ASF drafter time to do it correctly. So, not...I'm trying to rush, but not rush to make mistakes.

COUNCILMEMBER SINENCI: So, we'll consider the vote next week?

CHAIR PALTIN: Tuesday.

COUNCILMEMBER SINENCI: Next week Tuesday. And I did want to appreciate all of the work that's been putting...been put into this bill, so that we can begin to rebuild and...and of course, Chair, I did want to recognize your remarks about

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the amendment. I understand, you know, for the Lahaina community, that housing...we had that discussion early this morning...in this morning's meeting about the importance of housing. So, I appreciate also the...the testifiers that came in that want to promote housing for our residents. And...and unfortunately, Ms. Swanson...and hopefully we can work with her, but I just wanted to recognize that, Chair. Thank you. Look --

CHAIR PALTIN: Thank you.

COUNCILMEMBER SINENCI: -- look forward to your bill on Friday.

CHAIR PALTIN: Thank you. So, circling around to Member Kama.

COUNCILMEMBER KAMA: Thank you, Chair. So, you anticipate next week Tuesday, end of day, to have the bill at least pass out first reading? Is that your intent?

CHAIR PALTIN: I hope so. I mean, it may not have to be a full-day meeting if...if we get enough questions answered here. But definitely, if you think of any questions between now and next week Tuesday, or if anybody approaches you, please do come with questions ready.

COUNCILMEMBER KAMA: Yeah. Okay. So, this is probably for Planning. So, as...as you anticipate the amount of work like...I was just thinking about what Member U'u-Hodgins was speaking about, that the volumes of people that will probably want to come to you, we don't know what that number is, right? But we can assume a lot of them will come to you, and whether or not you have the capacity to handle all of that, and what...and like Chair Paltin says, hurry up, but no need rush. You know what I mean. But it's hurry up, but no need rush, right?

CHAIR PALTIN: But don't make mistakes...hurry up, but don't make mistakes.

COUNCILMEMBER KAMA: That too. So, here we are. We're all in this plane together, that we're building it as we're flying it, right?

UNIDENTIFIED SPEAKER: . . .*(inaudible)*. . .

COUNCILMEMBER KAMA: . . .*(laughing)*. . . Okay. Okay. But...but basically, that's what I...I...I feel like we're all...we're all in, right? But we're all in it together. We're all going live or die together because of this. But...so, do you anticipate like that when you folks go through this process that you all going to be thinking hurry up, but no rush...but hurry up, but no rush --

CHAIR PALTIN: Hurry up, but no make mistakes.

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COUNCILMEMBER KAMA: -- but no mistakes too?

MS. BLYSTONE: Mahalo for your question, Councilmember Kama. I think it's...I want to put it on the record that building a plane while flying it is my least favorite metaphor on the planet.

COUNCILMEMBER KAMA: . . .*(laughing)*. . . I know.

MS. BLYSTONE: But I will say, you know, we have a very dedicated and diligent staff. And I think everyone has been a little panicked since this happened, that...I think everyone thought everyone is going to come in all at once. And we haven't really seen that. There's been trickles through, and I...I don't think that's because of the nonconforming necessarily. But they're...we're...we're able to manage the load, and we have the ability to be flexible too, with potentially bringing on more resources if we...if we get a point where it's like whoa, this is way too overwhelming. But I do appreciate your...your...acknowledging that. Because in addition to Lahaina, we have the rest of the County that we're still processing, and...and they haven't stopped. They still have their needs as well. But for now, it's manageable. I think, as it gets less manageable, then we'll be able to adjust using some of the other resources we have outside of the Department. We still have difficulty hiring people, and that's one of my bigger concerns.

COUNCILMEMBER KAMA: Okay, so...

MS. BLYSTONE: But that Division is...is...is doing well.

COUNCILMEMBER KAMA: So, you know, when the fire first happened, people were talking about, we're not going to probably . . .*(timer sounds)*. . . ever get to build back until ten years down the road. Do you...do you foresee this process as not taking that long, but taking less?

MS. BLYSTONE: Mahalo for that question. Yeah. I...I think we're seeing things happening much faster than we anticipated. From what I've heard, the...we are...we issued building permits three months faster than any other jurisdiction prior to us. I think L.A. might beat us. They do seem to be moving very, very, very quickly over there. But I will say that, you know, the team that has been brought in...between 4LEAF, between us, DSA, everyone who's been working on building permits, we've been moving faster. I don't think ten years is your average. It's going to be...there will be some projects that are more complex and it could take longer, but the majority of projects, especially the residents--and that's our biggest concern, is getting people home--will not...should not take that long. And we're seeing buildings coming up already. I don't know what that number is. Perhaps Director Molina knows, but I...I do not know what the total number of completed structures is, or issued permits at this moment.

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CHAIR PALTIN: Member Kama, every day I drive through Lahaina, more and more structures are coming up on the mauka side of the highway at least, and some of those structures have lights on at night. I think there's four completed, with people moved in as of like January, and we're now in February, so maybe we'll get a update at tonight's community meeting. But I think they've issued over 200 permits, and so, that's over 200 folks that are building. The first town I think, or...Lake County burnt down like maybe nine years ago. Still yet today, I...I think they're like 20 percent. So, the...the gains in knowledge, and everything that's happened over the nine years, we're reaping the benefits of.

COUNCILMEMBER KAMA: Thank you, Chair. Thank you --

CHAIR PALTIN: Member Sugimura?

COUNCILMEMBER KAMA: -- Director Blystone.

COUNCILMEMBER SUGIMURA: Good meeting. And I guess I want to understand, really, the Office of Recovery with...which is Mr. Hart--have greatest respect for him when he was here--and now that he's there, and how do we...or can we still call everybody, and who does what, I guess, is...curious?

CHAIR PALTIN: Mr. Hart does what?

MR. HART: Thank you, Chair. So, what I am assisting Office of Recovery with is legislative matters. And then, you know, as we get out of the legislative sessions for --

COUNCILMEMBER SUGIMURA: Oh.

MR. HART: -- the State, and as we get some of these things through, it'll go on to other...other things more project-related. But I'm always available. And ZAED is where I used to be, which is the division that would be administering the bulk of this, what we're talking about now. And I'm...I'm always available to them --

COUNCILMEMBER SUGIMURA: Oh, okay.

MR. HART: -- and stay in contact.

COUNCILMEMBER SUGIMURA: In other words, we can still call you.

MR. HART: . . .*(laughing)*. . . Yes.

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COUNCILMEMBER SUGIMURA: . . .*(laughing)*. . . Thank you. And can...before we go on...because that's--I look forward to the next meeting--can you give us the Granicus numbers again? I put out...I put out all of my stuff, and I just want to make sure that I get the right doc...work from the right documents.

CHAIR PALTIN: Oh, sure. And...and for everyone's information as well, Mr. Hopper is still with us, he's just online. So, the...the version that we're working off of on Granicus is number 37 and number 38. And I don't if...if this is the correct time, but our Committee Staff came up with an amendment to Member *[sic]* Molina's number 3, where he didn't like the wording. I don't think he loves the wording, but it's marginally better. I can read it off to you folks. So, this will be on page 3, if...at the top of the CD1 version, which is number 37 on Granicus. The (ii) would read, the repair or construction is permitted in compliance with Title 16. For residential projects, the Fire Chief may exceed the requirements of the Residential Code by requiring compliance with Chapter 16.25 and 16.26C, or portions of those chapters as may be necessary to improve public safety. When we approached Director Molina about this wording, he thought it should go in the Fire Code, but that's not what we have before us today, so this is doing the best we can with what we got.

COUNCILMEMBER SUGIMURA: Sounds better.

VICE-CHAIR U'U-HODGINS: . . .*(inaudible)*. . .

CHAIR PALTIN: The...what?

VICE-CHAIR U'U-HODGINS: . . .*(inaudible)*. . .

CHAIR PALTIN: It's on page 3, yeah, and 16.25 and 16.26C.

VICE-CHAIR U'U-HODGINS: Okay. I'm sorry. I'm looking at our Code online so I can see specifically what that means.

CHAIR PALTIN: 16.25 and 16.26 --

VICE-CHAIR U'U-HODGINS: Yep.

CHAIR PALTIN: -- C.

VICE-CHAIR U'U-HODGINS: 16.25...okay. Thank you.

CHAIR PALTIN: You're welcome. Okay, so that's just...I guess we'll have that in a cleaned-up maybe CD2 version on Tuesday as well, is the proposed language.

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It's not up to Director Molina's standards, but it's closer than what was, because we don't have the Fire Code before us to amend. Okay. Member Sugimura --

COUNCILMEMBER SUGIMURA: I'm done.

CHAIR PALTIN: -- are you finished?

COUNCILMEMBER SUGIMURA: I'm done.

CHAIR PALTIN: Okay. Member Lee.

COUNCILMEMBER LEE: Okay. Thank you. So, Planning, is it possible for you to give us a list of the people who are actually going to be impacted? So, I...it...it appears Mr. Croly identified three. Do you think there are more?

MR. PFOST: If Mr. Croly, what he identified was the three transient vacation rental that were...I...I don't know. And...and...because...I'm not sure if there is more. And those are the kind of in the record...Mr. Croly identified was actually in record that we have on our Planning Department website. Under our...under our Minatoya list, there's a second list of properties that are not in the Apartment District that are nonconforming, and there are three in that Lahaina area, as well as the one that he mentioned in Kula. I don't know if there's other nonconforming uses in TVR. I don't think that there are many because most of the zoning districts within the Lahaina area actually allow for transient vacation rental, providing you meet certain requirements, and so those wouldn't be nonconforming to rebuild in there. So, as far as...I agree with Mr. Croly that as far as I know, there are three, but I don't know if there's going to be significantly more than that.

COUNCILMEMBER LEE: Okay. So, Mr. Cook, could you add those three to your exemption list? Yeah? Thank you very much. So, is there...Planning, can you tell us is...any suggested other changes for when we come back Tuesday?

MR. PFOST: Yes, we can, but I...I think we were fine with actually the CD1 version as currently written. I...I didn't get a chance to look at the second version that the Chair is proposing, but we can look at that as well.

COUNCILMEMBER LEE: Okay. Thank you.

CHAIR PALTIN: And I misspoke. Mr. Hopper left at 4:00 p.m., so First Deputy Desjardins is online and will be at our recessed meeting. The property on Front Street that Mr. Croly referred to, it's not a B&B.

COUNCILMEMBER SUGIMURA: It's a short-term vacation rental --

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CHAIR PALTIN: Yeah.

COUNCILMEMBER SUGIMURA: -- according to the tax records.

CHAIR PALTIN: Yeah. So, I mean, if you wanted to allow somebody not living on the property not to...to...the way to do it wouldn't be through his ASF, it would be withdrawing my ASF, which I don't really want to do, but that's what I'm...

COUNCILMEMBER LEE: Oh, why don't we discuss that on Tuesday? I...I'm not tied to that third one, the one on Front Street, but --

CHAIR PALTIN: Yeah. Because I thought the intention was to help those with owner-occupied status, not those without owner-occupied status. Okay.

COUNCILMEMBER LEE: Yeah? Okay.

CHAIR PALTIN: And we can discuss it more on --

COUNCILMEMBER LEE: Um-hum.

CHAIR PALTIN: -- Tuesday.

COUNCILMEMBER LEE: Um-hum.

CHAIR PALTIN: Okay. Member...it...does that conclude your...

COUNCILMEMBER LEE: Yes.

CHAIR PALTIN: Okay. Member Johnson.

COUNCILMEMBER JOHNSON: Thank you, Chair. Once again, going back through the Planning's...sorry, there's a...they're cutting grass right outside my window, so...I'll ask my question real quick.

CHAIR PALTIN: We can hear you good.

COUNCILMEMBER JOHNSON: You can hear me.

COUNCILMEMBER SUGIMURA: Can't hear your dog.

COUNCILMEMBER JOHNSON: So, the...if...if the powerlines were underground, how does nonconforming buildings affect that if the setbacks are right on the...the road or...you know, can you guys...there was a question asked in the...in the

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documents, and I wanted to have the Department maybe respond a little bit more deeper than that because they basically said we don't know of any plans of undergrounding powerlines. So, what would happen if we underground powerlines and...in front of nonconforming buildings?

CHAIR PALTIN: I think that's more of an easement issue rather than a setback issue.

COUNCILMEMBER JOHNSON: Thanks for that clarification. Easement then.

CHAIR PALTIN: Okay. The person to...I...I believe Director Molina, right?

MR. HART: Chair, it's --

COUNCILMEMBER JOHNSON: That response...oh, go ahead.

CHAIR PALTIN: Go ahead, Mr. Hart.

MR. HART: The...the question is presuming that the road is going to be widened, and that the...the utilities are not going to be underground in the existing right-of-way. And so, that's the complicated factor of like where would you be talking about, and is there a plan to widen that right-of-way.

CHAIR PALTIN: Okay. So, I...it sounds like Mr. Hart is saying that your question makes certain assumptions that we're not sure of like that the road will be widening...widened, and the utilities wouldn't be put in that right-of-way. So, it's difficult to answer since we don't know the answer to those...if the road is going to be widened and if the utilities...where they would be put if they're in people's setbacks, or if there's easements on people's property, or if it will be put in the existing right-of-way easement. So, there's a lot of variables is what I'm hearing that we don't know at this time, and so we couldn't answer without knowing those specifics. Go ahead, Mr. Hart.

MR. HART: Chair, the...the default is to put utilities in the right-of-way. So, the question is...is on the basis...well, as I understand it, it's asking what happens if you need to take property, and that you're pushing the property line closer to what may be already a nonconforming setback. What the challenging thing to answer is, is what...what...what are the scenarios where you couldn't underground in the existing right-of-way, and that you would need to take more lot frontage. It's...it's just...there's no way to answer that now because there's...there's not a specific established slate of streets that are going to be widened right now, much less *... (timer sounds) ...* knowledge of what's in...underground in those right-of-ways [sic], to determine whether or not there's insufficient room to put utilities down there.

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CHAIR PALTIN: Like Iwi Kūpuna, or standing spring water, or so on and so forth.

MR. HART: Completely...right. Those are things that weren't even brought up...other factors.

COUNCILMEMBER JOHNSON: So, I guess if I could maybe narrow it down to evacuation routes, you know? That's something that's a priority that has to be open. Does nonconforming buildings along evacuation routes...we wouldn't have to widen those? Or, I...that's why I'm curious. Like that's the...I guess there is a lot of nuance and we won't know if that...that's a...building a plane while we're driving is really kind of...kind of how I'm feeling right now. . . .*(laughing)*. . .

CHAIR PALTIN: Yeah. I think...you know, we held a series of workshops in the Mill Camp area because that was one of the largest loss of life of the burn zone. And from walking away from those workshops, residents tended to not want to give up any frontage of their property. And my understanding is that the Administration addressed the situation by providing more connector or through streets so that when they ran their evacuation modeling for the situation, everybody could get out. So, they purchased up a...either a property or a easement through one of the properties on Aki Street so that you can get out and in that way. They're planning on another go-around partially into the plantation, the Pioneer Mill property around to like Komo Mai or something. And then also like a Dickenson Street extension, depending on if the Pioneer Mill property would allow extension from like Aki Street down to Pāpalaua. But they had several extensions instead of going the road widening route because the residents in those areas, a lot of them are like, you know, from plantation times, so they didn't have a lot of square footage to work with to begin with and having to come up to Building Code standards, possibly setbacks. And there's some setbacks, I think, the cross-corner ones that aren't...that we don't want to, for safety reasons, allow to go back. So, there...there is a lot of variables in that whole thing. And I don't know that the routes have all been set yet.

COUNCILMEMBER JOHNSON: Okay. Thanks for that response, Councilmember Paltin. Sorry, I couldn't hear that loud, they're...they're leaf blowing now, so...but I got the gist. Thank you so much.

CHAIR PALTIN: Sure. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I look forward too, for the discussion next Tuesday.

CHAIR PALTIN: Okay. Member Cook? Okay. If everyone agrees, we can just give Member U'u-Hodgins unlimited time because it seems...unless somebody...some

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of the questions she asks sparks something, and then raise your hand. But I'll let Member U'u-Hodgins exhaust her questions.

COUNCILMEMBER RAWLINS-FERNANDEZ: No objection.

VICE-CHAIR U'U-HODGINS: Wow. Pressure. Thank you. I do...I do have a few more questions, I guess, but mainly related to the enforceable Building Codes subjective to whatever the Fire Chief decides. Are we thinking this is going to be the entire commercial Building Codes to shore up the safety of this residential area, or what specific sections do we think of the commercial Code will be applicable to these residential units...if Fire is on?

CHAIR PALTIN: That...that question is for Captain Vaas? Okay. Captain Vaas.

VICE-CHAIR U'U-HODGINS: I'm looking at it right now, and a lot of its replaced and new, 16.26C, so...

MR. VAAS: So, the...the Building Code is going to be applied regardless. I...I believe the intent--and Jordan Hart can chime in if--but what...what it was is that residential isn't held to the strict fire safety precautions as a commercial would be.

VICE-CHAIR U'U-HODGINS: Um-hum.

MR. VAAS: So, the intent was to say, okay, where safety is impacted, could we apply the more strict commercial Code to these residences?

VICE-CHAIR U'U-HODGINS: Um-hum. Um-hum.

MR. VAAS: I think that was the intent of it. I do believe we could probably clean up that language.

VICE-CHAIR U'U-HODGINS: Okay.

MR. VAAS: I would rather push this...because we don't want to put Building Code into the Fire Code. But what we might want to do is strengthen up the part that says the Fire Chief--right now, it says can make recommendations. Not sure what kind of teeth that has.

VICE-CHAIR U'U-HODGINS: Okay.

MR. VAAS: So, maybe it's more like by requirements of the Fire Chief, additional fire protection measures may need to be met. Something like that. And it would be more than likely within our Code. For example, if we wanted to put sprinklers in

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a building, that's within our Code already. We don't have to go to the Fire...or the Building Code to get it. I'd be happy to work with anybody on cleaning up that language a little bit--you know, if Mr. Hart's still involved or whatever--if it makes it clearer for everybody because we're more leaning on something a little stronger than recommendations. And to talk to Mr. Cook's point as well, you know, our concern is, if we allow somebody to build back to a nonconformity, does that now stop us from being able to improve that road? And if we know for sure we're not going to improve it, then I guess we let it go. But if it's something that we might want to do in the future, maybe not let somebody build in it. And again, this kind of falls by that case-by-case. So, I really appreciate you are bringing that up about awareness. So, if Zoning were to review something, and they say, you know what? This meets the nonconformity. We're going to let them build in the setback--I think some are along there--they should make Fire aware. Because we're not necessarily measuring all setbacks for all properties under our normal review.

VICE-CHAIR U'U-HODGINS: Um-hum.

MR. VAAS: And I think we can work this out with the Permitting Department, and how we're going to advise each other later. I don't know if it needs to be clarified in this bill, but there should be a way to communicate that. Thank you for bringing that up.

VICE-CHAIR U'U-HODGINS: No problem. Mr. Hart, did you want to respond? Sorry, I don't mean to Chair if from the floor.

CHAIR PALTIN: Go ahead, Mr. Hart. You can answer our Vice Committee Chair's question.

MR. HART: Chair, thank you. With regard to the recommendations from the Chief to the Director of Planning, that's relating to expanding a nonconformity to a portion of the lot that previously didn't have a nonconformity. So, the reason it's the recommendation there is because the existing Code says that you can't...cannot expand a nonconformity into an area that didn't have it already. So, you would be...you would be doing that now, but because Fire is saying there's a health and safety concern to cause that to happen, for the portions that relate to the Fire Chief requiring compliance with the Fire Code and the commercial Building Code, that's a require, it's not a recommend. And there...there was another point that you were...

VICE-CHAIR U'U-HODGINS: Honestly, I...I forget.

MR. HART: Okay.

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VICE-CHAIR U'U-HODGINS: But thank you.

MR. HART: Me too. Thank you.

VICE-CHAIR U'U-HODGINS: This is...I mean, this is such a dynamic conversation. There's so many facets to how this is going to be impacted, and then how it's going to be implemented, I guess, is also very curious to me. My...I guess really, I don't have too many questions, except how much do we anticipate commercial firewalls, sprinklers, in a residential home to cost? So, people are already basically at their limit. I think Member Johnson was asking this question too. To my understanding, it's near about \$20,000. But how do we give people fair warning that when you're going to build back, and you might be subjected to commercial Codes in your nonconforming areas, you might have an additional cost of about \$20,000? Do we know how we're going to communicate that to our future homebuilders? Anybody?

CHAIR PALTIN: Planning?

MR. VAAS: I...as far as from Fire goes, like we all agree, once...if we put this bill through, we need to do some public education. And in that, as talking specifically to where the Fire Department may have some requirements, we can build it up, so that at least they know that that could be...if you're going to build within the setbacks, you may be asked to sprinkle your home. That's not necessarily the case for everybody, but it...it could happen. And so, with the awareness there, they may decide, you know what? Maybe I'll...I won't build in my setbacks. If they do decide to do that, then that might be one of the things that we may be asking for.

VICE-CHAIR U'U-HODGINS: I'm curious to see how this is going to work in the very smaller lots that Lahaina has. When people have no choice to sometimes build in their setbacks, to accommodate their ever-growing family, and then to also accommodate a sprinkler system. I don't disagree with Captain Vaas that we have to, of course, protect the safety of our...of everyone, really, and our neighbors, and...and each other. And with some odd acknowledgement that life is just never risk-proof, I don't know where the balance is. I'm just saying, we have to find it somewhere. And I guess every property might be different, but if we're going to assess each and individual property individually, this is going to take a really long time.

CHAIR PALTIN: To...to add to that, in Member Cook's Committee earlier this year, they did state that our current fire hydrant systems are not designed nor can they handle a megafire. And to the sprinkle point, one of my nephews just had installed sprinklers at the outlets, and they burned down. So, if we're dealing with a megafire, as in all the other localities where a megafire has occurred, the hydrants, the sprinklers, the water fails because that's not what the fire hydrant

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system was designed for. It was designed for, you know, three, four houses max, not an entire town. And so, I don't know what the solution to that is because, I mean, of all the states that have dealt with megafire, Cal OES, they are considered to be the experts, you know, in the country, and still yet, L.A. happened. So...and...and even in Lahaina, there's people whose house burnt down in 2018, and burnt down again in 2023, and similar to other jurisdictions in California. So, you know, we're making our best effort to build back safe, but it really does take attention to all the details--the large landowners, the individual property owners, that five-foot of buffer, you know, the tree within five feet of your house, dead and dying branches, compost--all of it matters. And then there's sometimes it's with...beyond your control. We talk about even undergrounding power lines, but that doesn't prevent straight-up arson, you know, and other things. So, I mean, I think we do the best we can, and then we do more better.

VICE-CHAIR U'U-HODGINS: I agree.

CHAIR PALTIN: Oh, Director Blystone.

MS. BLYSTONE: I just want to jump in on this question because we're trying, in the Planning Department, to create livable communities. And Lahaina was special. It was precious, and it was special...because of...in large part because of the density.

VICE-CHAIR U'U-HODGINS: Um-hum.

MS. BLYSTONE: Because as it developed over time, it would...it was a walkable community.

VICE-CHAIR U'U-HODGINS: Um-hum.

MS. BLYSTONE: And you get that walkability with that density. And so the conversations we've been having with the Fire Department are about how to do density so that it's safe. And that...part of that is building materials as well. And so, it's not just everyone gets a sprinkler system because, you know, sprinkler systems are great when you have a fire in your kitchen, and it...it goes whoosh, and it's gone, right? The...that's not exactly what we're...you know, that's...that doesn't solve the problem that we had, like the Chair said, about megafires like this. So, I just want the Council to know that the Fire Department and the Planning Department are working very closely together on this subject, talking about the wildland-urban interface, and things...we may be bringing things to you on that subject. We're going to a conference together, and we're going to have a hard conversation about...about these subjects, not just between the...the Fire Department and the Planning Department in...in Maui, but in Kauai County, in

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Hawai'i County, in City and County of Honolulu. We're all talking together about how to solve these problems because we recognize this. So, I just wanted to --

VICE-CHAIR U'U-HODGINS: Yeah.

MS. BLYSTONE: -- pass it along.

VICE-CHAIR U'U-HODGINS: I can only imagine. That's my point about finding balance. It's extremely different. Life is just never risk-free, but of course, we want to do all the things. During the recess, we were discussing Pā'ia Town, and of course, it's extremely similar to Lahaina. I know Pā'ia Town way better than I know Lahaina, but that almost nonconformity vibe is what made it special. And so, it is a weird balance, which is why I said I don't know the balance. Luckily, we can all collectively figure it out. I do have one more question, though, probably for Member Cook's ASF when we come back on Tuesday. Specifically, Mr. Croly mentioned Kula Sandalwood, and how they had several different buildings...six, I think he said. So, what happens when you have maybe one or two buildings that were impacted, but not all? How...how are they going to potentially build back, and how do we make their uses conform to today's standards?

MR. PFOST: It's part of...excuse me...thank you for the question. It's part of the nuances of the site...site-specific issues, you know. I agree, it's kind of...and that's kind of why we left it up to the Director to determine whether or not the nonconformity existed and can continue. It's going to be difficult in those situations for maybe like partial...maybe they had...they had partial use of the property, and maybe not all use of the property. So, should we then allow them to...let's continue use? Those are the kind of the things that I think we need to look at. I...I'm not sure I can give you an answer on the specifics...or that specific one. I don't know all the details of...of that one. But it's...it's...that's those nuances of every site's going...it's...it will be difficult to make those determinations, I agree with you. But I...but I think, you know, I...with the understanding of the context of what we're trying to do here is allow folks to actually rebuild, and that's the context of the whole bill is...so I think that will carry on through the Planning Director's...I can't speak for the Planning Director, but through her decisions and...and what's going to happen, you know, we're...we're looking at context of trying to bring people back, so --

VICE-CHAIR U'U-HODGINS: Thank you.

MR. PFOST: -- . . . *(inaudible)* . . .

VICE-CHAIR U'U-HODGINS: No. I appreciate that. Next week Tuesday, can I request that we further discuss what kind of proof you guys might be looking for for

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people to provide their burden of proof? I would appreciate that. I guess a little bit more specifics.

CHAIR PALTIN: Go ahead.

MS. BLYSTONE: Mahalo, Chair. I...I too have Planning Commission, so I will not be here. But we will have...Greg will be here and available, and we can make sure that there's...there's plenty of support for any questions that you have.

VICE-CHAIR U'U-HODGINS: Thank you. Thank you, Chair. I'm...I'm done with my questions for today. I appreciate everybody's flexibility.

CHAIR PALTIN: Okay. Chair Lee.

COUNCILMEMBER LEE: Okay. Planning. All of us are concerned that...you know, we...we want to move this legislation out as soon as possible, but the...you see everybody being cautious. But at the same time, we know we can't have it both ways. So, is it possible for us to move this out, and...and putting you on notice that this is subject to change? Because there's no way that we can anticipate every single circumstance, you know, in the world. And I agree that we need to give your Department, you, the latitude to make all these calls that...that we could never have anticipated coming up. But we...we'll need assurances from you though, that...that you can handle that, you know? Like, for instance, instead of you carrying the entire burden, that there may be two or three of you that, you know, confer with each other over these issues on a regular basis. Yeah? Because, like you said, you have Planning Commission meeting, and you have other things to do. So, somebody has to keep the ball rolling, yeah?

CHAIR PALTIN: Go ahead.

MS. BLYSTONE: Mahalo. And so, I'm...I'm a Planner, which means I never do anything alone, ever. Planning is a team sport, 100 percent. So, if I'm not able to make the call on a...would be able to make a call, or whoever the Deputy is if things change, we never know. But we'll also...I will be moving based on recommendations from my staff. And that's often how I move, is if there's a...they...they dig into the subject, they...they...they dissect it, and then they say, Kate, this is what we think we should do. And I'll ask follow-up questions, and we go.

COUNCILMEMBER LEE: Okay.

MS. BLYSTONE: So, we have a...we have a...we have a well-oiled machine to get stuff moving through. It's when things get a little crazy that we've got issues, but for the most part, we are...we...we're cooking.

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COUNCILMEMBER LEE: Thank you.

MS. BLYSTONE: Mahalo, Chair.

CHAIR PALTIN: Okay, to...go ahead, Member Sugimura.

COUNCILMEMBER SUGIMURA: So, I somehow logged myself out of the meeting. But I wanted to...I wanted to just say that people are talking about Kula Sandalwood, and questions that come up from Mr. Croly. And just for clarification--because I been talking to them a lot--they are impacted by the fire. They are a...they are related to Senator Akaka, so they're the Akaka family. I mean, they're like Hawaiian, I want to just throw that in. That's how I first met them. And they do have six cottages that didn't burn. They do have a structure that did burn was...which was a house, and they had to, you know, sleep wherever. And they were taking rentals, or whatever they're called, you know. So, the discussion about how you determine, you know, use and whatever, they...they were operational all the way up to August the 8th. And whenever they could, they were helping, taking in fire victims or, you know, Army Corps of Engineers, whoever needed housing. So, they've been active. So, their use has been...they have been, you know, all this time. And so, they're very concerned about what this is going to do to them because they've been operating on a notification from the County that they have this use from--I don't know, I want to say 19-something, whatever it was--but they...they do have...and so they...they're nonconforming, but they have this...an understanding from the County that they were allowed to, you know. So, I just want to put it out there. Because people are throwing things out, and I don't want people to think oh, that they were not, you know, operational because they were, and they were impacted by the fire. They're great community partners, and I don't want them to be impacted and not be able to continue their use because of us having all kine information. So, thank you.

CHAIR PALTIN: I guess the point is, the existing Code addresses that. If the rental cottages weren't destroyed, the existing Code says if they discontinue for 12 months, then they no longer qualify as nonconforming. That wasn't anything that was touched. But it's getting to that time, 4:30, so just a reminder. It looks like Member Cook has been designated as the ASF worker for owner-occupied transient vacation rentals. And the language that was suggested by the Committee Staff, it seemed as though...I don't know...we'll...we'll come back with it incorporated into a CD2 version perhaps. But it did kind of sound like Mr. Vaas wanted to work with Mr. Hart on prettying it up? Was that true, Captain Vaas, about...it's on page 3, letter ii? The suggested amendment is to say, "The repair or reconstruction is permitted in compliance with Title 16. For residential projects, the Fire Chief may exceed the requirements of the residential Code by

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requiring compliance with Chapter 16.25 and 16.26C, or portions of those Chapters, as may be necessary to improve public safety." Were you okay with that language, Captain Vaas?

MR. VAAS: Well, I...if...it sounds to me like people weren't really clear on that. And to be honest with you, I'm not 100 percent sure how we would apply that exactly either. But we probably should have a discussion with Planning and see if that meets the need, and then propose something to you guys, and see if it sounds clearer if we re-write that.

CHAIR PALTIN: Okay. So, my request is that we do that, and be ready on Tuesday with whatever it is that you guys propose.

MS. BLYSTONE: Mahalo, Chair. We will work with Captain Vaas on this issue.

CHAIR PALTIN: Okay. And I have a Post-it with the existing wording that we're on. Do you want...do you want that? Okay. All right. Oh, you have...I'll keep my Post-it then. So, everyone clear on what it is that we're coming back tomorrow [sic]. If you have any questions, if you receive questions from the public, come with those ready to go on Tuesday. The intention is to take a vote . . .*(feedback)*. . . on Tuesday. Any questions? Okay. So, if there's no objections, I will be recessing until next Tuesday at 9:00 a.m., same place, same link.

COUNCILMEMBERS: No objections.

CHAIR PALTIN: The time is now 4:33, and this meeting is in recess until Tuesday the 11th, 9:00 a.m. . . .*(gavel)*. . .

RECESS: 4:33 p.m.

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Transcribed by: Charlotte Hunter

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CERTIFICATION

I, Charlotte Hunter, hereby certify that pages 1 through 59 of the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 28th day of February 2025, in Wailuku, Hawai'i



Charlotte Hunter