

AGRICULTURE, DIVERSIFICATION, ENVIRONMENT, AND PUBLIC TRANSPORTATION COMMITTEE

Council of the County of Maui

MINUTES

November 21, 2024

Online Only via Teams

CONVENE: 1:36 p.m.

PRESENT: VOTING MEMBERS:

Councilmember Gabe Johnson, Chair
Councilmember Shane M. Sinenci, Vice-Chair
Councilmember Tom Cook, Member
Councilmember Alice L. Lee, Member
Councilmember Yuki Lei K. Sugimura, Member (Out 2:30 p.m.)

NON-VOTING MEMBERS:

Councilmember Tamara Paltin, Member

EXCUSED: VOTING MEMBERS:

Councilmember Keani Rawlins-Fernandez, Member
Councilmember Nohelani U‘u-Hodgins, Member

STAFF:

Samantha Tanck, Legislative Analyst
Ellen McKinley, Legislative Analyst
Kirsten Szabo, Legislative Analyst
Maria Leon, Committee Secretary
Megan Moniz, Legislative Attorney
Jean Pokipala, Council Services Assistant Clerk
Ryan Martins, Council Ambassador

Mavis Oliveira-Medeiros, Council Aide, East Maui Residency Area Office
Roxanne Morita, Council Aide, Lāna‘i Residency Area Office
Bill Snipes, Council Aide, South Maui Residency Area Office

ADMIN.:

Gregory Pfost, Administrative Planning Officer, Department of Planning (All)
Kapono‘ai Molitau, Director, Department of ‘Ōiwi Resources (ADEPT-18)
Jordan Molina, Director, Public Works (All)
Parish Purdy, Captain, Fire Prevention Bureau, Department of Fire and Public Safety (All)
Rogerene “Kali” Arce, Director, Department of Agriculture (All)
Nahulu Nunokawa, Deputy Corporation Counsel, Department of the Corporation Counsel (All)

OTHERS:

Sydney Smith, Facilitator, Agriculture Working Group (All)
Robert Horcajo, Owner, Mahina Farms (All)
John Varel, Owner, Waihe‘e Valley Plantation (ADEPT-17)

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Testifiers

Eve Hogan (All)
Lawrence Carnicelli (ADEPT-17)
Jasee Law (All)
Annette Niles (All)
Faith Chase (ADEPT-18)
Gale Ashby (ADEPT-17)
Jacob Williams (ADEPT-17)

(12+) additional attendees

PRESS: *Akakū: Maui Community Television, Inc.*

CHAIR JOHNSON: . . .*(gavel)*. . . Aloha, will the Agriculture, Diversification, Environment, and Public Transportation Committee meeting of November 21, 2024 please come to order. The time is 1:36 p.m. Members, in accordance with the Sunshine Law, if you are not in the Planning Conference Room, please identify by name who, if anyone, 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 and remember to silence all cell phones. Good afternoon, everyone. I look forward to chairing a productive meeting today. I'm Gabe Johnson, your Committee Chair. Also joining us today is Vice-Chair Sinenci. Aloha, Councilmember.

VICE-CHAIR SINENCI: Aloha 'auinalā, Chair. Here at my home office. I'm here by myself, and there's no testifiers in Hāna.

CHAIR JOHNSON: Okay. Thank you so much. Next, we have Council Chair Alice Lee. Aloha, Councilmember.

COUNCILMEMBER LEE: Aloha and talofa.

CHAIR JOHNSON: Talofa. All right. Talofa. Committee Yuki Lei Sugimura...Committee Member Yuki Lei Sugimura just got on, so we'll give her a minute to set up and we can come back to her. And we've got Councilmember Tom Cook. Aloha.

COUNCILMEMBER COOK: Talofa. Aloha. Good afternoon.

CHAIR JOHNSON: All right. And then there's Councilmember Sugimura. Can you hear us, Councilmember? Talofa.

COUNCILMEMBER SUGIMURA: I can hear you. Talofa, and sorry for my tardiness. I am on now. Thank you.

CHAIR JOHNSON: Thank you so much. Of course, Councilmember...Non-Voting Committee Members, such as Councilmember Tasha Kama and Councilmember Tasha...Tamara

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Paltin are always welcome. From the Administration, we have the Department of Agriculture, Director Kali Arce; from Department of Fire and Public Safety, we have Captain Parish Purdy; Department of 'Ōiwi Resources, we have Director Kapono'ai Molitau; Director...or Department of Planning, we have Greg Pfof, Administrative Planning Officer; Department of Public Works, Director Jordan Molina; and from Corporation Counsel, we have Nahulu Nunokawa, Deputy Corporation Counsel. The Committee Staff is Sam Tanck, Legislative Analyst; Ellen McKinley, Legislative Analyst; Kirsten Szabo, Legislative Analyst; Megan Moniz, our Legislative Attorney; and Maria Leon, our Committee Secretary. And Members, on the agenda today we have two items: ADEPT-18, Resolution 24-172, Referring to the Planning Commissions a Proposed Bill on Agricultural Tourism; and ADEPT-17, Resolution 24-171, Referring to the Planning Commissions a Proposed Bill on Mobile Food Trucks on...or Trailers in the Agricultural District. Thank you, Members, resource personnel, Administration, for being here. I was going to hold off on public testimony, but it seems like we might have some folks who are on a limited time. So, we can open up public testimony before the items come out, or before they...before we discuss items. So, let me just go through my public testimony script here for you. Oral testimony via phone or video conference will be accepted in addition to in-person testimony. Individuals wishing to testify in person may sign up with Staff member at the entrance of the Planning Conference Room. For those joining the meeting via Microsoft Teams, those wishing to testify can let Staff know by using the raise-your-hand function you wish to testify. Once you have been added to the testifier log, Staff will lower your hand. Testifiers wanting to provide video or audio testimony should have joined the online meeting via the TinyURL link or by calling in to the phone number noted on today's agenda. Written testimony is encouraged and can be submitted via the eComment link at mauicounty.us/agendas. Oral testimony is limited to three minutes per item. If you're still testifying beyond that time, you will hear a second timer go off after 30 seconds and I'll kindly ask you to complete your testimony. We ask that you state your full name and organization, but if you prefer to testify anonymously, Staff will identify and refer to you as "Testifier." Please also indicate the agenda items or items that you're wishing to testify on. Once you're done testifying, or if you do not wish to testify, you can view the meeting link on *Akakū* Channel 53, Facebook Live, or mauicounty.us/agendas. Thank you all for your cooperation. The Chair will maintain decorum at all times. Any person who behaves in a manner that disrupts, disturbs, or impedes the orderly conduct of any Council meeting can, at the discretion of the presiding officer or a majority of present Councilmembers, be ejected or banned from the Council meetings, or if participating remotely, muted or dropped from the meeting. Examples of disruptive behavior include heckling, shouting, use of profanity, threatening or slanderous remarks made to any Member, or the Council Staff, or general public. Members, I will now proceed with oral testimony. So, Staff, do we have any testifiers today?

MS. MCKINLEY: Yes, Chair. The first testifier is Eve Hogan, to be followed by Annette Niles.

. . . BEGIN PUBLIC TESTIMONY . . .

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MS. HOGAN: Aloha. I thought we were testifying after the presentation when I would --

CHAIR JOHNSON: You certainly can.

MS. HOGAN: -- have had more to say, but at the moment, I'm just going to say I'm testifying in support of both of these. My name's Eve Hogan, I own the Sacred Garden Upcountry, testifying on my own behalf, and I'm also a member of the Ag Working Group. And we've been working on these really in-depth for a really long time. Please, thank you.

CHAIR JOHNSON: Thank you. Before we call on the next testifier, I...I noticed that Councilmember Paltin has joined us, so let me just welcome her. And aloha, Councilmember Paltin.

COUNCILMEMBER PALTIN: Talofa and aloha 'auinalā. Streaming live and direct from Nāpili. I have with me two canines, one unidentified minor canine and one adult, old-man canine named Kingy-Poo Paltin-Vierra. Thank you.

CHAIR JOHNSON: . . .*(laughing)*. . . Thank you. Give my best to Kingy-Poo. Okay. Now, is there any members of the public who want to testify before the agenda now? Because we will open it up too after, so...okay. Okay.

MS. NILES: Okay. . . .*(laughing)*. . . Thank you.

CHAIR JOHNSON: Mr. Carnicelli, would you like to testify? Staff, I'm just going to call them out. So, go ahead, Mr. Carnicelli.

MR. CARNICELLI: Thank you, Chair. Talofa, everyone. My name is Lawrence Carnicelli, and I am here testifying on Resolution 24-171, which is the food truck bill. And before I start, I'm having a little PSD being in this room . . .*(laughing)*. . . as a former Planning Commissioner, but I...I just want to say that I'm here testifying in favor of this bill. I think that it...it's important that...that we move towards some sort of resolution. I don't...I think that with the economy being what it is--you know, everybody talks about diversification of the economy--that we've got to do more things to help support ag, we got to do more things to help support farmers. So, this isn't just an ag bill, right, this is about farmers. Mr. John Varel's here. I'm sure he'll...he'll talk as well. He's a good friend of mine. He runs a regenerative farm out in Waihe'e, 100 percent of what he grows stays on island. If you guys have had mac nuts just about anywhere--whether you go to Tasty Crust, you know, for the pancakes, or you go to Mama's for the fish--I'm more of a Tasty Crust guy--as...those are John's...those are . . .*(laughing)*. . . John's mac nuts. He has a food truck, 'Ula 'Ula Cafe. If you haven't been there, you should. It's absolutely wonderful kimchee fried rice, by the way. That's the one you want. His...his farm wouldn't be sustainable without the food truck, and he's, you know, got a lot of resources. So, I think about just some of the smaller farmers that need to do this. To have to make people go through and get a special use permit for a food truck on a farm seems ridiculous. And I'll go back to sitting in this room around that table as a Planning Commissioner and having people come for special use permits, I would not want to

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subject anyone to that because I was the guy that actually subjected those people to that.

UNIDENTIFIED SPEAKER: . . .*(laughing)*. . .

MR. CARNICELLI: And so, I would just say please pass this bill. I think that this should just be allowed and legal on farms. No permits, no anything like that, just go. So, anyways, thank you, Chair.

CHAIR JOHNSON: Thank you, Mr. Carnicelli. Members, do we have any questions? We do have one from Councilmember Paltin for you.

UNIDENTIFIED SPEAKER: Oh, stay there.

UNIDENTIFIED SPEAKER: . . .*(laughing)*. . .

COUNCILMEMBER PALTIN: I don't want to disappoint my fans, but my question is, the bill says, not more than one food truck within 500-something feet or yard on first-come, first-serve basis. If they wanted to do a second food truck within that 500 yards, would you be open to them being allowed to do it through a special use permit?

MR. CARNICELLI: I...I think that they should be allowed to without. I...I mean, I get that the five--what I understand is the 500 feet was some sort of a concession and people are worried about a proliferation of food trucks. I personally don't think that's going to happen. I think we should even just take the 500 out and just--like, you know, I mean, if we had a bunch of food trucks, is that a bad thing? So, I...I'm in favor of, you know, whether it's, you know, you want to make people get a special use permit, I...I wouldn't agree with that, but at least if that's a mechanism for a farmer to be able to have a food truck, then maybe. But I would rather just remove that condition in...a straight away. So, thank you for the question, though.

COUNCILMEMBER PALTIN: Okay. Thanks.

CHAIR JOHNSON: Okay. I don't see any other...other hands for our testifier. So, again, we're going to have more chances to testify, but if someone want--has some place to go, and I see...Jasee Law, would you like to testify?

MR. LAW: Yes, sir. I didn't read much on this, but I'm in favor of it. And it goes along with this morning's discussion about the land that the County is looking to purchase...the 'āina, not the property. Please use the word 'āina. And as you're fond of saying, Mr. Johnson, I got my boots and I'm ready to go to work.

CHAIR JOHNSON: All right. Great. Any questions...clarifying questions? Don't see any. Now, does anybody need to go...testify now? Because we can do it after. I'm still going to keep it open. Okay. I don't see any other hands. There's nobody, so we're going to move forward.

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. . . END PUBLIC TESTIMONY AT BEGINNING OF MEETING . . .

**ITEM 18: RESOLUTION 24-172, REFERRING TO THE PLANNING
 COMMISSIONS A PROPOSED BILL ON AGRICULTURAL
 TOURISM**

CHAIR JOHNSON: Resolution 24-172, Referring to the Planning Commissions a Proposed Bill on Agricultural Tourism. Members, most of the time, farmers just want to farm. But with the high cost of land, water, equipment, many farmers in our County can't just farm. To make it by, we have to be...we have become entrepreneurs and develop new value-added products, study businesses and marketing, and learn ways to share our knowledge or take on culinary or crafting skills to present our produce in creative ways. Hawai'i Revised Statutes, Section 205-2 and 205-4.5 supports farmers' efforts to increase their revenue by allowing agriculture tourism uses on a working farm--a working farm, now--if the County adopts an ordinance that regulates agriculture tourism. That's what they're asking us to do as County, to regulate it. The proposed bill attached to this resolution establishes those provisions so that our farmers will have more options to make their working farms viable, which will increase our food security and food sovereignty. This aligns with our Countywide policy plan directives to promote the teaching of traditional practices and diversifying the tourism industry. Let's get some opening comments from resource personnel who helped initiate this bill. Members, if there's no objections, I would like to designate as resource persons under Rules 18(A), given their expertise and experience in local agriculture, Robert L. Horcajo, owner of Mahina Farms, Maui; and Sydney Smith, Facilitator of the Agriculture Working Group. Any objections, Members?

COUNCILMEMBERS: No objections.

CHAIR JOHNSON: Okay. Ms. Smith, thank you for being here. Please proceed. The floor is yours.

MS. SMITH: All right. Thank you, Councilmember Johnson. I have you to thank and your wonderful Staff, who's been working with us to create this Bill 24-172, because in 2023, things like stringing a lei or pounding poi or making a basket as part of your farm or plantation tour became a problem for zoning and enforcement. They began requiring a special use permit--which Mr. Carnicelli talked about--for these activities, which had been not only allowable, but encouraged by the State Department of Agriculture and State Statute. I'm going to review with you today the policy, network of laws and opinions, and prove that even without this bill, these activities have been lawful all along. Slide 2, please. All right. This is Title 19. So, the number one purpose and intent of this is to implement Chapter 205, which Councilmember Johnson just read. That's the number one thing in Title 19, which is for the Agriculture District. Next slide. All right. That's HRS 205. Now, this was implemented...this section of this was implemented during Neil Abercrombie's administration, and after that, all the counties

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were supposed to create an ag-tourism ordinance. So, the Ag Working Group did work with--at the time, the agriculture Chair was Don Guzman--and the Ag Working Group worked with him and created the farmstand bill, and also added things about ag tourism into Chapter 19. Next slide. So, back in March of this year, a testifier at Council, who is sitting right next to me right now, Bob Horcajo, mentioned that Planning had told him that he would need a special use permit to string a lei or pound poi as part of their farm tour. I was in the Chambers that day for another bill, and I just was shocked when I heard that. And one of the things that they had told him was if it is not specifically written as allowable, it's illegal. But here, you can see that this is in the Maui Countywide Policy Plan, to promote the teaching of traditional practices, including aquaculture; subsistence agriculture; Pacific Island, Asian, and other forms of alternative health practices; and indigenous Hawaiian architecture. Next slide, please. This is the Maui Island plan; diversify the tourism industry by supporting appropriate niche activities, such as ecotourism, cultural tourism, voluntourism, ag tourism, and it goes on. But ag tourism includes all those things. This is the Planning Department's own plan. Next slide, please. This is the Hawai'i Tourism Authority, and they have a lot of things on their website about ag tourism, and it's been on there for over ten years. Next slide. The USDA and the NRCS, which is the Natural Resources Conservation Service, universally support ag tourism and know, and have known for 20 years now, that it's really an integral part of bringing a farm into the 21st Century to deal with all the extra regulation and the money it takes to farm today. Next slide, please. Farmers Union also supports it. It's pretty universal in the world. You have agriturismo, that was 20, 25 years ago, that the European farmers also adopted this then. Next slide. So, if you haven't been on the cacao farm tour above Lahaina, it's really worthwhile. They've been doing a really good job and, you know, it...it spreads our visitors around. They're not all at the beach, or they're not all, you know, hiking on the same trail. It's really good for our whole ecology and economy. Next slide. Now, this is a really interesting story here. You know, what most of you know is that Maui Gold Pineapple is the best pineapple you can buy, but you wouldn't be able to buy it right now if it wasn't for the pineapple tour. Because they started doing that tour ten years ago, and they were just a subcontractor to the actual farm. But then when the farm was going to shut down because they couldn't afford to continue anymore, the farm tour company bought the entire pineapple farm, and now they're doing innovation, they're bringing everything up to par. I talked to the manager, who's been the manager since way back in the Maui Pine days, and he said it's just been wonderful working with them. Next slide. Maui Bees is a really great experience. I think that most of you have probably been there, or have had their honey. Next slide. O'o Farms. They're Upcountry, and they have a lot of things going on...130 different crops in rotation. They have olives, coffee. That's how I first got to know them when I was president of the Coffee Association. They've won some amazing awards for their coffee. Next slide. Now, this is probably one of the first farms in Maui that really embraced ag tourism. They've been doing it for a really long time, and I think most of you probably been there. The Ag Fest started there, and they outgrew the road. I mean, the road was blocked with traffic all the way to Kēōkea to get to 'Ulupalakua, and they moved it Down...Downcountry because of that, but that was all ag tourism. Next slide. Maui Sea Spirits. I highly recommend the wild mushroom pizza. I mean, it's a favorite of most of the people I

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know, and they give lots of jobs to people, they pay a really good wage, and, you know, it's a farm-to-table experience where you drive through the farm to get there. And it's really wonderful. Next slide. Now, this gives some really interesting statistics, which, you know, 15.6 percent is how much the yearly amount has gone up on inputs--fertilizers, feed, things like that--in the nation, but I'm telling you from personal experience, it's much more than that here in Maui. And the cost of insurance has not only doubled, but it's tripled in the last couple of years. You need to have these other components to your business to be able to survive, unless you have a huge grant situation like the Sugar Mill had coming from the Federal Government, which ran out in 2016. And when that grant ran out, that's when they shut down. So, us small farms, we have to have other ways to make...make things work, and to be able to pay our employees. So, I'd like to kind of close in that a lot of people don't understand what's entailed in getting a special use permit, and it's between 50 and 100 and...\$150,000 to get one. If you're going to hire a consultant, that's what they tell you when you walk in the door. Now, I have a special use permit, and I did it myself, and my friend, Eve, did it herself. It's one of the hardest things we've ever done, and, you know, it...it took us a long time to do it. And it took two years to go through, you know, the...the Planning Commission, and to get grilled and really treated like a criminal through the whole process. And I'd like to point out that HRS 205-6, which is the section for special use permits, says, subject to this section, the County Planning Commission may permit certain unusual and reasonable uses within agricultural and rural districts other than those which the district is classified. But it actually is classified to allow, so why they would want you to get a special use permit for something that is actually allowed in the law and the Code, that's been a mystery to me for ten years. So, that's all I have to say right now about that. So, Councilmember Johnson, I can leave it back to you.

CHAIR JOHNSON: All right. Thank you, Ms. Smith. I...I'll also add that Maui Gold doesn't spray anymore because of the tourists, so that...a byproduct that is important. Okay. Let's move on to...oh, Members, any clarifying questions? Clarifying questions. Okay. Seeing none. We're going to go to Mr. Horcajo.

MR. HORCAJO: Hi.

CHAIR JOHNSON: Oh, we do have a clarifying question. Beg your pardon. Councilmember Paltin.

COUNCILMEMBER PALTIN: I just was...wanted to clarify about, you know, what it...what it says about cultural tourism. Like, what is to stop a cultural appropriation?

CHAIR JOHNSON: You mean on her...her presentation, you mean?

COUNCILMEMBER PALTIN: Yeah.

CHAIR JOHNSON: Or --

COUNCILMEMBER PALTIN: Because poi pounding isn't even a thing.

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CHAIR JOHNSON: Yeah. Well --

MS. SMITH: Oh, that wasn't for me. That was an actual Hawaiian that wanted to do it, who was told that they needed a special use permit to do it.

CHAIR JOHNSON: Mr. Horcajo, was that your...did they...somebody give you a --

MR. HORCAJO: Yes.

CHAIR JOHNSON: Okay. Maybe Mr. Horcajo can add...add more on that, Councilmember Paltin.

COUNCILMEMBER PALTIN: Okay.

CHAIR JOHNSON: Because that's his personal experience.

COUNCILMEMBER PALTIN: That's not the correct verbiage, I'm just saying.

CHAIR JOHNSON: Okay. I...all right. That's...that's duly noted. Okay. Any other clarifying questions? Seeing none. Okay. Go ahead, Mr. Horcajo.

MR. HORCAJO: Hi. Afternoon, Council Chair Johnson [sic] and fellow Members. My name is Bob Robert Horcajo, live in Wailuku, have a small farm up in the 'Iao Valley. Specifically, we started talking with the...the Planning Department in March of 2023 about doing cultural activities on the farm. Our farming mainly consists of lei plants and canoe plants. So, our intent on that--I mean, you know, we're native Hawaiians who wants to share our cultural history and practices and stuff. So, we were--you know, addressed the Planning Department, basically--I want to...I want to change what Sydney just said. What I mentioned at the March meeting--Council--was that we ourselves, as farmers, can pick the lei and make the lei, we can basically harvest the kalo and pound the poi, but our guests, our visitors cannot do it unless we get a special use permit. So, basically that's how this whole thing started and stuff. Regardless of what...just to let you know, regardless of what happens here with this resolution and bill, the family...we're still going to apply for a special use permit for this particular case here. You know, they're--I would imagine there may be some culture practitioners they may not like some of the cultural practices, you know, the more modern customs, lei making--you do that every place, right? Even in Europe. So, anyway, we decided to just proceed with our own family plan to apply for the special use permit while still supporting what happens with this bill. As mentioned by Sydney, I mean, part of my education after getting that comment was to confirm that HRS 205 does have agricultural tourism as a permissible use. And regardless of whether Maui County does not have the word agricultural tourism in our code, we already have agricultural tourism activities. Just think about zip lining--which, of course, could change--mountain biking...biking, hiking all that stuff. Guess who the majority of the people using those activities? They're the visitors. They're willing to pay the 75 to 100 bucks to go on a zip

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line, or to bike ride down the Crater, whatever. Those can only be described as agricultural tourism activities. I mean, you can't really stop that. Are they involved, are they participating like HRS 205 allows? Of course they are. For the local farmers who make lei, who grow lei, who grow kalo, who raise cattle, you know, they're undoubtedly also sharing what they know, their knowledge. They're part of this education thing that all citizens do with their family, with their friends, with visitors. Some of you have already probably been at a rodeo or some event you...where you have probably made your own lei or...or made pa'i'ai. I mean, that's all part of what activities that...that happen now. Businesses do it now probably not knowing what the law is. I would imagine a lot of that happens. And luckily, at this point in time, Planning Department's policy is...is that it's a complaint-driven system. So, unless somebody complains, they're going to let it go, but that's kind of not the way to run business. It's better just to fix the law and make it easy so nobody has to be al...always worried about Big Brother coming on their property or citing them for something. We know that happens. We know that just happened recently with the mobile food trucks and stuff. So, I guess...yeah, I think a lot has already been said by Chairman Gabe as to the reason, and I was--yeah, about why this bill is important. And like I said, for us, we're still going to process the special use permit. We feel--I mean, you know, all these, whether it be lei making, pounding poi, lomilomi, many of what I'm going to call modern customs of old traditions exist every place, so why not have it here on our farm?

CHAIR JOHNSON: Okay.

MR. HORCAJO: So, thank you for that.

CHAIR JOHNSON: Thank you, Mr. Horcajo. Members, any clarifying questions? We do have one from Councilmember Sugimura.

COUNCILMEMBER SUGIMURA: Nice seeing you, Bob. Thank you very much. So, if this bill passes though, lei making and poi pounding will be allowed. Are you still going to process your special use permit?

MR. HORCAJO: I...you know, it depends. Unfortunately, I...I think we will only because our process only going through the Planning Commission may take six to eight months, and that we're sure this process may take longer, having to go through three commissions --

CHAIR JOHNSON: Yeah.

MR. HORCAJO: -- and back to Committee and back to Council. But there may be also cultural activities that we feel more than capable...capable of doing that the Council and the community may not allow the broad public to be able to easily just say, oh, in...in Chapter 19, it says we can do, you know, something. I mean, you know...I mean, we're not going to lua classes, although we have, but that's an art that's only in our nature for Hawaiians. So, again, there may be practices that...that we want to do and we feel we're capable of doing. So, I guess the answer is still yes.

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COUNCILMEMBER SUGIMURA: Wow. Okay. Thank you.

CHAIR JOHNSON: Okay. Thank you for that. I don't see any other clarifying questions. We're going to move on. Thank you, again. So, Members--Staff, if you can please share screen to the memo that we have up...coming up here. And we're going to pass out a memo here for the folks that are present, and then the folks online, we got the shared screen up for you. So, this is basically kind of how--I'm just going to go through this real quick so we can really let everybody know what...what some of the impetus was. So, the bold statements, it's one...it's...bold sentences one to five on pages 1 and 2 is what the State is asking for the counties to regulate. So, number one, requirements for access to a farm, including road width, surface, and parking; number two, requirements and restrictions for accessory facilities connected with farming operation, including gift shops and restaurants; number three, activities that may be offered by farming operation for visitors, and it just lists all the activities. This was basically...basically came up with the Ag Working Group. If we have...if we feel like we need changes--I know Councilmember mentioned poi pounding--we certainly can amend these. And day...number four, days and hours operation between 8 and 6; and number five, automa...automatic termination of accessory use upon cessation of the farming operation. So, if you stop farming, then you can't do these. So, really, those...those were basically the five points that we wanted to go over real quick. And basically, as the bill goes, in the very back of the page--let's see, we're just going to jump to the back, if you don't mind. Staff, it's got all the little side boxes, if we can get to that one? And then Members in person, it does...it looks like this in the back. It's got all these little...yeah, we got it up on the screen here. So, basically what I'm going to do here, I'm going to kind of explain these little boxes. We're getting into how the sausage is made, as they say. So, in the beginning, the top agriculture tourism is on a farm, so it miss...must take place on a farm, in addition to be...an additional--in the Agricultural District. And then I'm just going to go through these three red block...three red boxes that were basically told to us, you know, this is under the Hawai'i Revised Statutes, we have to have this in there. So, I don't think I need to read it, but I'm really just trying to explain to you, Members, that this is what the State is requiring us to do, and that's basically the first, I'd say, maybe three paragraphs of the bill. Now, on the left-hand side of this worksheet, you're going to see the...agricultural tourism is considered passive recreation. This is a very important part of the bill, to call it a passive recreation because it...it'll...it's...it's from...it's about parking. So, off-street parking spots for passive recreation requires zero for up to two acres and four for above two acres. Require paved parking spots could result in additional expenses and would require additional time for permitting, construction, and would force paving over ag land. We don't want--you know, that's one more part of this. We don't want to have a requirement to pave a parking lot on ag land because, you know, of course, it's expensive. But you know, if that farmer sells their land, who--is the next farmer going to tear up that paved lot? You know, that--and we want to kind of keep ag lands free so that...free of that so that they can farm it, right? And that's really what it comes down to. Then I'm going to jump down to the bottom, and you see the little boxes on the left-hand side, the green box, D as in delta. The Maui County Code allows for a maximum of two commercial ag structures per lot. Gift shops are not considered commercial ag structures. And then

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that's also under Hawai'i Sections...Revised Statute, Section 205B. And the idea that these activities may operate...oh, this is important, I'm going to bounce up a little bit here, about C. as in Charlie. Activities related to traditional methods of voyaging or wayfinding which reference loc...location of celestial bodies to navigate. These activities may operate after 6 p.m. and before 8 a.m. That is basically...there are folks who want to have a class on Hawaiian traditional practices of wayfinding. and we wanted to give them a time when they can do that. So, that's in the Code.

MS. SMITH: Chair?

CHAIR JOHNSON: Yes?

MS. SMITH: Could we add, you know, moon-phase farming and lapa'au tradition --

CHAIR JOHNSON: Okay.

MS. SMITH: -- to that?

CHAIR JOHNSON: We'll...we'll certainly take that consideration, Sydney. Thanks for pointing that out, that there are other evening activities that may...they may want to include. And then on the back of the page, or the other page, the very next page, if you can, it just says, again, under Hawai'i Revised Statute, Section 205B., that its...enforcement of this Chapter shall be pursuant to Chapter 19.53 of this title. All right. So, I just wanted to go over the worksheet with you, Members, to show you exactly--if you can stop sharing screen, that would be lovely. Thank you. Just to kind of let you know where--you know, how a lot of the bill was made. It was heavily influenced by State code...State law. So, let's see here. Now for some comments from the Administration. We have some members in the Administration here, and we want to hear their comments on this bill. So, we're going to start with Director Arce. Thank you for joining us, and do you have any comments from the Department of Agriculture?

MS. ARCE: Yes. Thank you, Chair. The Department of Ag supports Resolution 24-172. We also echo Sydney Smith's suggestion of including practices, such as planting with the moon phases. Additionally, products sold should be made with more than 50 percent of crops that are produced on the farm.

CHAIR JOHNSON: Okay.

MS. ARCE: Thank you. That's it for this resolution.

CHAIR JOHNSON: Okay. Thank you so much. Members, any clarifying questions? Clarifying, now. I don't see any hands. So, thank you, once again. Let's move on to another department, Department of Planning. Mr. Pfof, are you on the call? I think I see him turn his camera on. Welcome, Mr. Pfof from Planning. Do you have any comments?

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MR. PFOST: Thank you. Thank you, Chair. I...I just--or for the Department, I want to appreciate your assistance in working with the Planning Department on this resolution. I think...for the most part, I think we've addressed all of the Department's initial comments on this particular resolution, and so I really appreciate that. I think generally, we're in support of this because it is consistent with HRS recommendations. The Department always looks at these items and being concerned about unrelated ag uses--or...or not unrelated ag uses, but more commercialization of the Ag...Ag District, so that's our initial response we look at, but we generally feel that this is consistent with State law, and I think we've addressed most of the issues that the Department has. So, that's all I have to say at this time.

CHAIR JOHNSON: Thank you, Mr. Pfof. Members...oh, we have a clarifying question from Councilmember Paltin.

COUNCILMEMBER PALTIN: Sorry, I just got to make a disclosure. I have an adult male in the room just pau hana, George Vierra.

CHAIR JOHNSON: All right. Thanks for that information. Seeing no clarifying questions, and we're going to move on from another...to another Department. Thank you so much, Mr. Pfof. Department of Public Works, Director Molina. If he's on the call, we'd love to hear his opinion on this bill. Director Molina? He's turning his camera on, and there he is.

MR. MOLINA: Hi, good afternoon. Jordan Molina, Director with Public Works. So, our --

CHAIR JOHNSON: Can you speak up just a little bit, Director Molina?

MR. MOLINA: Is that better right here?

CHAIR JOHNSON: Okay. Yeah.

MR. MOLINA: Okay. Thank you. So, the Department's comments regarding, I guess, the first, Reso 2417-2 [sic] and the attached bill...primarily this bill, you know, doesn't affect Public Works, so we...you know, we have no objections. There is one provision under this new Subsection 15--or excuse me...yeah, Subsection 15--that refers to farms having legal access to a public highway and comply with County and State standards for road width and road surface. The Department has no objections to this language, but just to clarify that this...this most likely is going to apply to the driveways or the private roads on which these farm tours are going to be operating, and really pertains to concerns about emergency access and our first responders' capabilities to reach these operations should there be an event in which they have to respond. But we feel that the language as written allows us that flexibility to address kind of the site-specific issues that each property presents. So, that's the comments on the first one. Regard--or are we on the second one as well at this time, or just the first?

CHAIR JOHNSON: Just the first one, Director Molina.

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MR. MOLINA: Okay. Thank you. That is my comments. Thank you.

CHAIR JOHNSON: Okay. All right. Thank you so much, Director. Members, do we have any clarifying--oh, we do have one from Councilmember Paltin.

COUNCILMEMBER PALTIN: Thank you. The wording about public highway and comply with County and State standards for road width and road surface, would a County road be the same as a public highway, or is it only State has the highways? It's a little confusing. And at some point, will we know what the standards are for County road width and road surface?

CHAIR JOHNSON: Director?

MR. MOLINA: Yeah. So, public highway refers to any--both State and County roadways. Regarding road standards, this is kind of a little bit more nuanced scenario. In this case, there's going to be real no trigger for these properties to provide road improvements, and so it's really going to come--and for the most part, it's...you know, we envision that the access is really the issue of the driveway on the property from the public street to wherever the activities are occurring. And it's...there...there is--I don't think there's an appropriate standard to apply because of just the varying conditions of properties. And to me, what...what comes to mind is East Maui, like places like Nāhiku. Like, the terrain, the distance from the highway is so differing amongst parcels that I don't think it would be appropriate to kind of call out a particular standard because each condition is going to warrant its own unique considerations. Thank you.

COUNCILMEMBER PALTIN: So, if I could clarify what you just said. We're required to have that in there because of HRS, but realistically, it doesn't mean much except that you have to be able to access the farm from a public road?

MR. MOLINA: Yeah. I mean, that's the way we read it because there's really no triggers. And again, because this isn't outright allowed, we're not going to be reviewing any of this stuff, right? So, this...this...we anticipate this issue mostly is going to occur after something happens and there's a trigger for us to come out...or, you know, primarily, it'd be Fire Department coming out and identifying a problem with the access that we need to then talk through with the operators to work through a remedy so that, you know, that safe access can be provided.

COUNCILMEMBER PALTIN: Okay. Thank you. I...I understand that the second time. Thank you.

CHAIR JOHNSON: ...*(laughing)*... All right. Thank you, Director Molina. I don't see any other clarifying questions from the Councilmembers, so thank you once again. And maybe for the second agenda, if you can stick around when we get to that, or if you want to...want us to call you, but we'll probably ask for your mana'o on that one as well.

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MR. MOLINA: Okay. Thank you.

MR. HORCAJO: Mr. Johnson? Oh, I'm--excuse me. I'm not sure if this is the topic for a question, but reading your notes on...on the side about off-street parking, is it assumed that when you're talking about two acres or four and above, you're talking about the usable area of what's being used for the activity versus the acreage of the whole property?

CHAIR JOHNSON: Okay. We'll get into that comment when we get to there.

MR. HORCAJO: Okay.

CHAIR JOHNSON: We'll have all the presenters, and then we'll--can get into actual discussions.

MR. HORCAJO: Okay. Thank you.

CHAIR JOHNSON: Let me just get these folks through with their...the Departments' comments, and then we can get to that. Thank you. All right. So, Fire Department's up next, and we have Captain Purdy on the call. Fire Department, we'd like to hear your opinions, share your mana'o with us. Let's see...Captain Purdy?

MR. PURDY: I'm trying to get my camera on. There we go.

CHAIR JOHNSON: Oh, there we go.

MR. PURDY: . . .*(inaudible)*. . . Okay. Captain Parish Purdy with the Maui Fire Department's Fire Prevention Bureau. Just maybe building off of Director Molina's statement about the access. Maybe if we could have them put in for like a special permit, or a special-event permit, through the Fire Department, and we can take a look at the access for that areas. Other than that, the only other question that we have is, we see mobile food truck, or is maybe, like, also a stand? Is that part of the --

CHAIR JOHNSON: We're--that's the second part of the agenda today.

MR. PURDY: Okay.

CHAIR JOHNSON: We're just on--about the agricultural tourism, ag tourism.

MR. PURDY: Okay. Sorry.

CHAIR JOHNSON: When...when we get to that item on the agenda, I'm going to probably ask you all about that.

MR. PURDY: Okay. All right. But other than that, that's probably all that we have, and we're in support for the resolution.

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CHAIR JOHNSON: Okay. We might have some clarifying questions. I see Councilmember Paltin's hand crawling up. There it is. Okay. Councilmember Paltin.

COUNCILMEMBER PALTIN: Thank you. I just wanted to clarify because I think the purpose of this was to get away from any kind of additional permit. But what I wanted to clarify is like in the rebuilding of Lahaina, what we were repeatedly told is the Fire Department needs 20 foot of pavement, and then it was said it doesn't need to be 20 feet as long as it's 20 feet right-of-way. So, would that suffice, just 20 feet so that...

MR. PURDY: Yes, that's correct.

CHAIR JOHNSON: Captain Purdy?

COUNCILMEMBER PALTIN: Oh.

MR. PURDY: So, like...like Director Molina said, there might be some issues in some areas that may not be able to get that 20 feet. So, if we could see or take a look at that areas, we could recommend what access points or how wide those areas would need to be.

COUNCILMEMBER PALTIN: Okay. Okay. We can work on it during discussion. Thank you for that clarification.

MR. PURDY: Thank you.

CHAIR JOHNSON: Thank you. And Captain, I...I have a clarifying question for you. So, when a new business gets created on a farm and were--they're going to do some ag tourism, do they reach out to you, or do you reach out to them, and you guys do site visits?

MR. PURDY: If they request through us, we will. If it comes in with a building permit, then we will go out and do an inspection on that. Otherwise, it's...if they reach out to us, we can come out, take a look at what they have on their property, and give them suggestions.

CHAIR JOHNSON: Okay. Great. Thank you for that clarification. All right. Let's see. Now, we're going to move on--I don't see any other clarifying questions from the Members--we're going to move on to Department of 'Ōiwi [sic] from Director Molitau. Oh, he's turning his camera on right now. Director, good to see you. Would you...do you have any comments?

MR. MOLITAU: 'Ae, mālo e lelei a talofa kākou. Aloha mai. My name is Kaponō'ai, Director of 'Ōiwi Resources, and thank you very much for allowing me to speak upon this resolution. So, here are some of my...my cultural reservations. When we look at this particular resolution to include cultural tourism, I see it as an opportunity for other farmers that don't necessarily utilize cultural practice to be able to gain or commodify the cultural practitioners in and on their...their particular ag properties. And when I

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look at properties that are going to be able to only operate in the evening because of wayfinding, or moon-phasing farming, et cetera, that I'm also not including other practitioners that do cultural kind of practices at night, which include mea oli, or chanters, or hula practitioners, et cetera, Kumu hula. And I don't necessarily want to be the cultural police, but I do want to make sure that we are not utilizing this cultural tourism card as cultural misinterpretation or misappropriation of that particular mana'o. And so, those are my...my strong words of encouragement, to make sure that we understand that if we allow for that particular thing to happen, then it opens up the door for...for many other organizations that don't necessarily do cultural practices to be able to utilize that piece to inco...incorporate into their business model.

CHAIR JOHNSON: Okay. Thank you, Director Molitau. Let's see if we have any clarifying questions, Members. Oh, we do have one from Vice-Committee-Chair [sic] Sinenci.

VICE-CHAIR SINENCI: Mahalo, Chair, and mahalo, Director Molitau. So, if...if--when you're talking about cultural practitioners, if...if they want to do--they're a farm, but they're having a hula show, should they be farming ipu...ipu if...if they were farming implements for hula, and...and that was their farm business, would they be able to...to also like maybe just showcase the use of the ipu on their farm?

CHAIR JOHNSON: Director?

MR. MOLITAU: Yeah. So, even...yeah. My...my...my thought of...of practitioners could be so...it could be so vast, right? So, when we're thinking about...about mahi'ai and the...our farming ipu gourds for the...the promotion of that kind of intellect of Lono, the gourd of Lono, then...then yeah, I can see that...that being part of. But if they're...if they're incorporating a hula show, which is considered...lū'au is considered a cultural practice, right, with--from our kūpuna. And so, I want to be very mindful that...that this particular resolution is--when I'm reading it, it is making sure that we're not tapping into the cultural practice as...as a way and as a means of...of making it laulā or vast for everybody to go ahead and say, okay, we're going to have a lū'au show on this evening on our farm, and it's going to be considered a cultural practice. And so, I just want to be mindful about how we go about initializing that kind of thought.

CHAIR JOHNSON: Yeah.

VICE-CHAIR SINENCI: Real quick. Director, you used the term mahi'ai, if you may.

MR. MOLITAU: Yeah. Farming. Farming.

VICE-CHAIR SINENCI: Farm --

MR. MOLITAU: Yeah.

VICE-CHAIR SINENCI: Farming, farmer. Thank you. Thank you, Chair.

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MR. MOLITAU: Yeah.

CHAIR JOHNSON: Oh, okay. Thank you. Oh, I have a--go ahead, Councilmember Paltin.

COUNCILMEMBER PALTIN: Thank you. Just a follow up to what Director Molitau was saying. Like, to clarify about the lū'au, if it's a cultural practice, it's not something like how old Lahaina Lū'au or Feast at Lele used to be where you charge admission, and then all of those things. Like, a traditional cultural practice of a lū'au is like 'ohana and friends, and it's--you know, you making the...the food like kind of from your heart. So, would that be a cultural practice, or a cultural ag tourism? Lū'au will not be if there's a commodification to it. Is that what...kind of what you saying?

MR. MOLITAU: Yeah. That...that would be more like an 'aha'aina, right, or a pā'ina. That...that would be reflective upon family get-togethers. That would be reflective upon ancestral intellect being passed on, right? Learning how to go ahead and...and create the imu, create the...the preparation of the laulau, the preparation of the pa'i'ai, the preparation of the pohole. All of those things that create that lū'au experience, as well as having the...the mele that is anticipated with that kind of 'ohana get-together. It's not necessarily a practice in which you're going to go ahead and create a \$100 ticket so that you can come and...and come to our farm and...and be a part of that. And that's what I'm trying to steer away from, is utilizing our cultural practices to commodify and be okay in this particular resolution.

COUNCILMEMBER PALTIN: Thank you for that clarification. I think I'll have more unclarifying [sic] questions in the discussion. Thank you.

CHAIR JOHNSON: ...*(laughing)*... Okay. Thank you, Director Molitau. Thank you, Councilmember Paltin. When we get into the discussions, Director Molitau, maybe we could ask for some of your suggested language because your...your...your voice holds water in this Committee, in my opinion. So, thank you. Okay. Let's move on to public testimony. Now, I read all of the public testimony information ahead of time. So, Staff, if we're ready, just start going down the list of public testifiers. I'm ready if you're ready.

MS. MCKINLEY: Chair, the first testifier is Annette Niles, to be followed by Faith Chase.

. . . BEGIN PUBLIC TESTIMONY ON ITEM 18 . . .

MS. NILES: Hi, Chair, everybody. My name is Annette Niles, farmer, rancher, and also I'm on the Ag Working Group. I'm here testifying on my behalf. I'm so for this. You know, we need extra money, we need extra--people are suffering right now. The food trucks have been stopped. That's their...that's their...I mean, it's horrible, you know what I mean? We need to get this food trucks on the road again, you know, and so they can--you know, people have something to make money with on ag...of course, on the ag part of it.

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CHAIR JOHNSON: Are you testifying on the ag tourism or the --

MS. NILES: Well --

CHAIR JOHNSON: -- food trucks?

MS. NILES: Oh, I should be on the ag tourism --

CHAIR JOHNSON: Ag tourism.

MS. NILES: -- ag tourism first, right? Okay.

CHAIR JOHNSON: Yeah.

MS. NILES: Sorry. Well, anyway, going back to the ag tourism, I'm so for it. I do want to see this passed. Tremendously, we've worked hard on it, and it's been for years and years and years. And as a rancher, you know, going back to the deer problem we have, as a hunter, you know, and trying to get people on your property--because they're wanting people to come on our property. Our insurance will not have it at all. But if we take them, we go and we do it with them, they allow it. So, that would be a possibility of having people take people on their farms for hunting purposes. And like from my...my farm, I don't allow guns, it's all bow. They only hunt big bow in my property. And so, I look at it as a real, you know, plus thing to get rid of the deer, you know, and on the other hand, I want to do other things, you know, on...on my ag property.

CHAIR JOHNSON: Okay.

MS. NILES: And...and then go back to the food truck, if we're going back to them, I sorely want that.

CHAIR JOHNSON: Great.

MS. NILES: What--to see. And again, on...having it on ag land, and having it...another food truck on it, I don't...if you have a big property, I don't see what the point is of not having more than one, you know? I mean, not many of them, but at least two, you know, without having to go get permits or whatever it may be. And that's all I got to say. Thank you.

CHAIR JOHNSON: Thank...thank you, Ms. Annette.

MS. NILES: . . .*(inaudible)*. . .

CHAIR JOHNSON: Members, do we have any questions for our testifier? Seeing none. Thank you once again for your testimony.

MS. NILES: Okay. Thank you.

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CHAIR JOHNSON: Staff, will you call the next testifier, please?

MS. MCKINLEY: Chair, I've been informed that we're going to give Eve Hogan another chance to testify since she --

UNIDENTIFIED SPEAKER: . . . *(laughing)* . . .

MS. MCKINLEY: -- . . . *(laughing)* . . . indicated that she wasn't --

MS. HOGAN: Thank you.

MS. MCKINLEY: -- wasn't prepared the first time, and to be followed by Faith Chase.

CHAIR JOHNSON: Oh, because...because you --

MS. HOGAN: Because I had talked before and I just said yay. But I want to just add that I have the Sacred Garden Upcountry, and it's a 10,000-square-foot greenhouse in addition to our farm on the adjacent property. There's no way we would be in business without being able to...you know, like first of all, the tourists can't buy any of the agriculture at all except for value-added products because they...they can't take it with them, you know, because of the ag check. So, we support both the local community and the tourist industry. But being able to do additional things, classes--I do labyrinth walks, which I...you know, I put them in the cultural practices, but I'm not...it's not a Hawaiian cultural practice, but it is something that's been happening on Maui for 30 years. And people love it, and they come walk the labyrinth, and I do them at nighttime on the full moon. And I would love to have this all be a legal use of the land. So, you know, having additional ways to make money on ag land. I mean, literally, I am open seven days a week, eight hours a day. I have eight employees working for me, and there is no way we would be in business if I didn't have the ability to sell other things and offer other classes and do other stuff. And I made it into a nonprofit, so it's all donation-based just so that I, you know, don't hit the you're-making-money-on-ag-land issues. . . . *(laughing)* . . . But, you know, we need to be able to, as farmers, have other ways to make money, so I support this --

CHAIR JOHNSON: Okay.

MS. HOGAN: -- wholeheartedly.

CHAIR JOHNSON: Thank you. Let's see if we have any clarifying questions from our Councilmembers. Seeing none. Thank you once again for your testimony.

MS. HOGAN: All right. Thank you.

CHAIR JOHNSON: Staff, will you call the next testifiers, please?

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MS. MCKINLEY: Chair, the next testifier is Faith Chase, and she's currently the last one signed up to testify.

CHAIR JOHNSON: Okay.

MS. CHASE: Aloha, Chair. Aloha, Committee. Can you hear me okay?

CHAIR JOHNSON: Loud and clear.

MS. CHASE: It's been a long time coming. There's a lot of stuff in here that's good. I just have to express, on the record, concerns about excessive solar...solar farms. I think that there's new information that will have to be incorporated, and there may be changes in the future. Yeah. I just wanted to say that. I really do appreciate the cultural points that were made. I think there's more in that area as well, but...yeah. I mean, anything that serves the farmers is...can't go wrong. So, thanks for having this push forward.

CHAIR JOHNSON: Thank you, Ms. Chase. Members, do we have any clarifying questions for our testifier? Seeing none. Thank you once again for testifying, Ms. Chase. Staff, you said no more testifiers? Last call for anybody wishing to testify, please unmute yourself. If you're ready to testify, raise your hand. Seeing none. Okay. I'll now close public testimony for this item. Any objections, Members?

COUNCILMEMBERS: No objections.

. . . END PUBLIC TESTIMONY ON ITEM 18 . . .

CHAIR JOHNSON: Okay. Let's go on to deliberations. I propose three minutes per Councilmember for each round of discussion. As a reminder, our resource personnel here are to answer any questions you have. As we complete our discussion, I'll make my recommendation for a motion. And I know Councilmember Sugimura has left for another meeting, so we have a short, small round-robin. So, we'll start with Vice-Chair Sinenci, followed by Committee Member Tom Cook, followed by Chair Lee, myself, and then Councilmember Paltin. So, Vice-Chair Sinenci?

VICE-CHAIR SINENCI: Okay. Mahalo, Chair, and mahalo for bringing up this item. I...I am supportive of sending it to the Planning Commission for...for their review. And I did want to also thank Ms. Sydney Smith and the Ag Working Group for...for bringing this up and their presentation. I do agree that to bring farming into the 21st Century, we definitely need to address Title 19, which is kind of still stuck in...in the old plantation days. So, I appreciate this bringing up. I guess my question for Director Arce--and if anything to promote agriculture business, I'm...I'm happy...I'm supportive of that--but Director Arce, you mentioned 50 percent of the product. So, if you're serving coffee at your ag tourism, should you be growing the coffee?

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MS. ARCE: Thank you, Chair, and thank you for the question. I think...I don't want to make that determination, but it's a suggestion that could be more defined with more conversation with the farming community and Council's input. Thank you.

VICE-CHAIR SINENCI: Would...would this bill--so, if you're not...if you're serving coffee, and you're not growing coffee but your nei...your...the neighboring farm has coffee, could you also include products from...from the farms down the street--but you're not growing the coffee?

MS. ARCE: Thank you for the clarification. Again, I think more discussion should be made on that. I was suggesting that because I believe that our farmers, if they're promoting their product and they have an...a food establishment, or any operation connected to agriculture that they're...that they're promoting, that they should have some of the products that they're selling made with more than 50 percent--for example, the jams and jellies, and for coffee, at least that it's grown there. But I don't want to commit to any firm explanation or rules right now. I think it needs more discussion with the community because, you know, our Department serves the farmers, and we'll . . . *(timer sounds)*. . . advocate for them what they determine. It was simply a suggestion from our Department that would be a consideration to the Council. Thank you.

VICE-CHAIR SINENCI: Okay.

CHAIR JOHNSON: Just...okay.

VICE-CHAIR SINENCI: Go ahead, Chair.

CHAIR JOHNSON: Vice-Chair Sinenci, if you'll allow, I'll just jump into the bottom section of the bill, Section D., the sale in a gift shop of an agricultural products grown in the State of Hawai'i and of processed agricultural products where the main ingredient was grown in the State of Hawai'i, or the incidental sales of nonagricultural, blah, blah, blah. But basically, the thing is...is, like, on Lāna'i, we have the...we had the coffee bore beetle, and we had the...the avocado lace bug. So, if I'm all of a sudden getting nailed with new invasive species, maybe I can go to Maui and get some avocados from Maui or somewhere across the State. Because it just seems that there's new invasive species every day that wipes out crops in this island, but this island, not...this island, yes, this island, not. So, that's kind of like...I like the idea of a Statewide, and it's in the bill written like that. Because if it just, you know, on my farm, well, if all of a sudden I get hit with an invasive-species swarm, then I'm out of luck, right? So...

VICE-CHAIR SINENCI: Right. But...but just so long that...that the...the agrotourism is not larger than your agriculture business, right?

CHAIR JOHNSON: Yeah.

VICE-CHAIR SINENCI: It's...it's...it's not, like Mr. Pfof said, taking over this commercial --

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CHAIR JOHNSON: Right.

VICE-CHAIR SINENCI: -- store while your business is just, you know, not even producing anything. Yeah. Okay.

CHAIR JOHNSON: Yeah.

VICE-CHAIR SINENCI: Thank you.

CHAIR JOHNSON: I hear you.

VICE-CHAIR SINENCI: Thank you. Thank you for that explanation. Thank you, Chair.

CHAIR JOHNSON: Thank you. Okay. Let's move on to Committee Member Tom Cook, followed by Chair Lee.

COUNCILMEMBER COOK: Thank you, Director--I mean, Chair. So, my question for Director Arce. Do you think your Ag Department would be able to do some of the monitoring? I wouldn't--I don't want to say enforcement--monitoring and interpretation of this as opposed to the Planning Department?

MS. ARCE: Thank you for the question, Councilmember. We would definitely participate in determining some of the...you know, the details, and also work with other Departments and the Council, for sure. Yes.

COUNCILMEMBER COOK: Thank you. I...my...kind of the basis of my comment, or my question is...and...and I'm grateful to have this conversation, I'm really supportive of it. I see the tension and the challenges, trying to keep country, country; promoting agriculture; having rules and regulations that are not subdivision-type. I...I see the Planning Department's mentality of being more city and less country. So, that's why I...I'm putting that out there, that the Department of Agriculture would be more akamai and familiar with whether the farmers are actually farming, the efforts, the intentions, the challenges that they're having, the opportunities that exist. So, I'm just putting that out there. I'm supportive of this, I just don't think that the Planning Department is geared up or appropriate to be doing the monitoring because it tends to be regulatory, and I'd love to see country not be regulated like town. So...

MS. ARCE: Um-hum.

CHAIR JOHNSON: Director?

COUNCILMEMBER COOK: So, does that make any sense?

MS. ARCE: It does. It's stated clearly before the Department was started. We just need to get more E/Ps on that to be able to give our applicant arm the help to, you know, monitor, not enforce.

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COUNCILMEMBER COOK: Thank you very much. That's all my --

CHAIR JOHNSON: Okay.

COUNCILMEMBER COOK: -- questions and comments for now, Chair. Thank you.

CHAIR JOHNSON: Thank you, Councilmember Cook. Let's move on. Chair Lee.

COUNCILMEMBER LEE: Thank you, Chair. Director Arce, I was just wondering if you have any idea how many farmers we have in Maui County...well, Maui Island, first?

CHAIR JOHNSON: Director?

MS. ARCE: Thank you, Chair. No, we don't have an exact idea. We don't do the counts. We're relying on our partner agencies, and we're in the process of trying to set up...or gear up to have a dashboard that we can compile all that information. And that is one of the mandates in our section in the County Code, we just don't have...we just have to determine what we want to set up in there, and determine the contact persons and agencies that we want to pool those information pieces from. But we're working on that.

COUNCILMEMBER LEE: When we first envisioned the Department of Ag, we considered that division--or Department, I should say--an agency to assist farmers rather than regulate them. And so, I'm hoping that that's the direction you're moving in. Because to come up with all kinds of restrictive regulations, you may as well apply for permit, you know? If...so, that's why I'm...I'm hoping that you will take the lead on this one rather than the Planning Department because we...we don't need any more red tape with regard to, you know, farmers and farming. And...and a lot of times, they may cross the line, main...mainly because they don't know any better, and sometimes they just need guidance. So, rather than over...overregulate everybody from the very beginning, let's see how it goes, and then...and then make adjustments in the future. You agree with that?

MS. ARCE: Agree.

CHAIR JOHNSON: Director?

MS. ARCE: Yes.

COUNCILMEMBER LEE: Okay. Thank you.

CHAIR JOHNSON: Okay. My turn, followed by Coun...and then Councilmember Paltin will be next. So, this question's for Director Molitau in regards to the language. You know, I really hear you, where we don't want to commodify the culture, right? And it goes back into this idea of, well, how do you define a cultural practitioner? And I recall this body, back in the day--I shouldn't...well, not back in the day--but we made...we...we kind of

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defined it to put people on planning commissions, and commissions--remember that? The boards of commissions, we had to have one spot open for a...I think it was called...maybe you guys can remi...help me remind the term, but it was like a cultural practitioner or somebody on...on some of those planning boards and commissions. So, maybe it's kind of defined in the Code, but I really would like to hear Director Molitau, if maybe you think you have language now...or if you don't have language now, this bill will go on if it pa...or this reso will go on if it passes to the planning commissions, and once it's in the planning commissions, maybe you could propose language then. But I'm really curious that...I'm concerned about your concerns, you know what I mean? Like, how...how do we come up with language that makes people not abuse this and not commodify the culture?

MR. MOLITAU: Right. And I think I will...I will preface that...this particular statement...like, I just don't want misappropriation of the host culture --

CHAIR JOHNSON: Yeah.

MR. MOLITAU: -- to be misinterpreted in this body of work...in this body of the resolution. And so, I'm going to speak as...as a kumu right now, as a kumu hula, kumu oli, kumu 'ōlelo Hawai'i, as a Hawaiian practitioner in that realm. And I won't speak necessarily for other practitioners, but as a practitioner, these are some of the principal guidelines that...that I live by. And it's making sure that...that my kuana'ike, my...my way of thinking, is transmitted to my students, is transmitted to...to those that...that look for this type of 'ike, that are...that are bound to...to wanting to learn that kind of lifestyle. Also, in the practitioner realm, it is being able to connect not only to your 'āina, but to all of your other elements that...that allow you to be that practitioner. And so, I also said earlier that I don't necessarily want to be the cultural police because I...I don't think it's my...my particular kuleana to do that, but I will...I will say this as a practitioner. That I wouldn't want to see this particular resolution be an example where agricultural businesses can go ahead and utilize the term cultural practitioner...practitioner, or cultural tourism, to benefit their business. And I'm not saying that...that agricultural tourism and all of those things are...are not maika'i. They are so very really needed . . . *(timer sounds)* . . . but I just don't want the cultural tourism card to be utilized as...as another opportunity.

CHAIR JOHNSON: Okay. All right. Thank you for that response, Director. We're going to move on to Councilmember Paltin next.

COUNCILMEMBER PALTIN: Thank you. Three minutes could go by fast, so if I cut you off, I don't mean to be rude. First one is for Captain Purdy, so...or...or Corp. Counsel. Do you think it's fair like if the driveway or the access is less than 20 feet, then they consult or have the Fire Department try to review or...or something like that, try to work something out with the Fire Department for public safety, like where it's not like you can't do it if you're less than 20 feet, but if you are less than 20 feet, consult with the Fire Department on how to make it a safe ingress-egress?

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CHAIR JOHNSON: Captain Purdy?

MR. PURDY: Yes. Thank you for the question, Councilmember Paltin. We'd love that. We'd love for you to come by, talk story with us. We'll go out, we'll do a site visit, we'll see what we have. We can make recommendations. You know, I think we'd rather go out there and figure out a way where our trucks will be able to make...make it to the...to the food truck, or stands, or whatever may be. It...it'd be easier if we can go and do that than--versus if they were just to put it up, and then if we have to respond, then we find out there's a problem. So --

COUNCILMEMBER PALTIN: And then if --

MR. PURDY: -- better than if it...

COUNCILMEMBER PALTIN: Sorry.

MR. PURDY: Sorry, go ahead.

COUNCILMEMBER PALTIN: If there was an agricultural event, like say a lū'au or whatever it is, if there's a certain amount of people, or like that...that...that's...doesn't...this bill wouldn't affect that. They would still need to get a permit for the event with so many people?

MR. PURDY: That is correct. So, if they...if it's open to the public, and it's over 50 people, they would need to get a special event permit from the Fire Department.

COUNCILMEMBER PALTIN: Okay. Thank you.

MR. PURDY: You're welcome.

COUNCILMEMBER PALTIN: My next question would be for Director Molitau, specifically in 15A--sorry, wait, let me scroll up...B...well...oh, 19.30A.050B.15A. On page 5, is poi pounding the correct verbiage, and...and what would you suggest, if not?

MR. MOLITAU: Poi pounding is not the correct verbiage. The correct verbiage is pa'i'ai.

COUNCILMEMBER PALTIN: Okay. So, we can make that correction. I guess part of...part of my concern is I don't know how many people see, you know, people saying on Instagram ho'oponopono or whatever. That's the...the last thing that I'd...I'd . . .*(timer sounds)*. . . like to see, and I...I'd like to know if you had any input on how we can prevent those types of things.

CHAIR JOHNSON: Director?

MR. MOLITAU: Okay. Thank you very much for the question. And I...I will say this with as much aloha as I possibly can, that we don't misappropriate the host culture's ancestral

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intellect. And I...I say that with as much aloha because that kind of process of ho'oponono is ancestral memory being passed down to...to those that actually practice that kind of conduct or lawena, but to go ahead and...and utilize platforms, such as social media, to be able to...to misinterpret it around the world, and it...it get a sour taste in a lot of people's na'au, or within themselves, I think is...is hurtful to the host culture. And so, this is...this is the reason why I...I take this particular stance, and when I look at 15A, there are cultural practitioner work in there, but then there's also things like brewing coffee or tea. That is not necessarily mea Hawai'i kind of think...thinking, but it--that's more on the agricultural kind of concept. So, I just wanted to make those kinds of clarifications.

CHAIR JOHNSON: Thank you, Director.

COUNCILMEMBER PALTIN: Okay. I might need to make another disclosure. I have two unnamed minors that have returned from their jobs at school.

CHAIR JOHNSON: Okay. Thanks for that. Members, we're at the end of our rounds of questions. Does anybody have any other questions? So, I don't see any hands because we can do by hands. Otherwise, I think--remember, we're just sending it off to the planning commissions, and this will come back to us, and we will discuss this robustly as long as you folks want to. So, Members, it sounds like--oh, go ahead, Councilmember Paltin.

COUNCILMEMBER PALTIN: I was wondering if amendments could be made prior to sending it to the planning commissions. I think Director Molitau said it would be the pounding of pa'i'ai, or I'm not sure exactly how it would be worded, if that could be made. And the amendment about the 20 foot...if the road...or the entry accessway is less than 20 feet, please consult with the Fire Department, Fire Prevention Bureau, as well as a statement about not misappropriating the host culture's ancestral intellect. Those...those would be the three amendments I would love to see before it goes to the Planning Commission.

VICE-CHAIR SINENCI: So moved.

CHAIR JOHNSON: Yeah, I...I also have a motion. But go ahead. . . .(laughing). . . Councilmember Sinenci, so moved. We need a motion on the floor before...before we start making some motion...motions, but why don't we do that, okay? So, the Chair will entertain a motion to recommend the adoption of Resolution 24-172.

COUNCILMEMBER COOK: So moved.

COUNCILMEMBER LEE: Second.

CHAIR JOHNSON: Moved by Councilmember Cook, seconded by Chair Lee. All right. So, I have an amendment. You...you want me to go first, or you guys want to go...okay. All right. So, Members, the Chair would like to entertain a motion to amend Exhibit "1",

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attached to Resolution 24-172, as set forth in the ASF, item number 3 in Granicus, and it's just basically move to amend Sub...Subsection 19.3A.050.B as in bravo, 15 by inserting, "unless otherwise noted after 6 p.m.," so it doesn't contradict. That's all that little amendment was, was just to make sure that the bill doesn't contradict when it comes time to...hours of operation. So, that's a simple amendment. Mo...

COUNCILMEMBER COOK: So moved.

COUNCILMEMBER LEE: Second.

CHAIR JOHNSON: So, it's moved by Councilmember Cook, seconded by Chair Lee. Any discussion on this, Members?

COUNCILMEMBER LEE: No.

CHAIR JOHNSON: Okay. See no discussion. Call for the question. All those in favor for the amendments, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR JOHNSON: Aye. Okay. We have one, two --

COUNCILMEMBER COOK: Member Paltin.

CHAIR JOHNSON: Member Paltin's a Non-Voting Member. So, we got one, two, three, four...is that four, Staff? Okay. Four. Four "ayes." Amendment passes. Now, back to the main motion as amended. Councilmember --

MS. MCKINLEY: Four "ayes," three excused --

CHAIR JOHNSON: Oh, thank you for that.

MS. MCKINLEY: -- Member Sugimura, Rawlins-Fernandez, and U'u-Hodgins.

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VOTE: **AYES:** **Chair Johnson, Vice-Chair Sinenci, and Councilmembers Cook, and Lee.**

NOES: **None.**

ABSTAIN: **None.**

ABSENT: **None.**

EXC.: **Councilmembers Rawlins-Fernandez, Sugimura, and U'u-Hodgins.**

MOTION CARRIED.

ACTION: **APPROVE amendment.**

CHAIR JOHNSON: Thank you for that. So, now let's make those motions that Councilmember Paltin suggested. And I'm going to have to--okay, we'll call on Vice...Vice-Chair Sinenci.

VICE-CHAIR SINENCI: Move to amend to the egress, less than 20 feet, to consult...if the egress is less than 20 feet, to consult the Fire Department.

CHAIR JOHNSON: You want to do them one at a time, Councilmember, or all...all three? One at a time?

VICE-CHAIR SINENCI: Sure.

CHAIR JOHNSON: Okay. You heard the amendment. Moved by Sinenci...Vice-Chair Sinenci.

COUNCILMEMBER LEE: Second.

CHAIR JOHNSON: Seconded by Chair Lee. All those in--discussion? Any discussion?

COUNCILMEMBER PALTIN: No discussion.

CHAIR JOHNSON: Okay. All those in favor, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR JOHNSON: That's four "ayes," three "noes"--or three excused, beg your pardon.

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VOTE: **AYES:** Chair Johnson, Vice-Chair Sinenci, and
 Councilmembers Cook, and Lee.

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CHAIR JOHNSON: To?

VICE-CHAIR SINENCI: What...what section...in the cultural practice section.

CHAIR JOHNSON: A.

VICE-CHAIR SINENCI: In A to what Director Molitau had recommended, and if he can provide the...the correct verbiage?

CHAIR JOHNSON: Director Molitau, what was it? Ai'ai [sic] I think it...

MR. MOLITAU: Pa'i--pa'i'ai.

CHAIR JOHNSON: Pa'i'ai.

VICE-CHAIR SINENCI: Pa'i'ai.

MS. MONIZ: And e kala mai, if we could make sure we get the correct diacriticals, Kumu.

MR. MOLITAU: Sure.

MS. MONIZ: It would be after the first a and after ai, so pa'i'ai, correct?

MR. MOLITAU: Yeah. So, it would be pa'i, p, a, 'okina, i, and then 'okina, i. Pa'i'ai.

MS. MONIZ: Mahalo.

MR. MOLITAU: Ai.

CHAIR JOHNSON: Okay.

COUNCILMEMBER PALTIN: So it would be pa'i'ai pounding is okay?

MR. MOLITAU: Just pa'i'ai is fine.

CHAIR JOHNSON: Okay.

COUNCILMEMBER PALTIN: Oh, okay.

CHAIR JOHNSON: We can delete poi pounding and just put in pa'i'ai. You...you got that, Staff? Everybody agree --

MS. MONIZ: Yes, Chair.

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CHAIR JOHNSON: We got four "ayes," three...three excused. Okay. Amendment passes.

CHAIR JOHNSON: Okay.

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MS. MONIZ: Back to your main motion.

CHAIR JOHNSON: All right. So, Sydney Smith, did you have an...an...concern about the time?
No?

MS. SMITH: You mean the evening --

CHAIR JOHNSON: Yeah.

MS. SMITH: -- time? Well, it's not my kuleana to discuss cultural practice since I'm not a cultural practitioner, but I would like to make a statement. Cultural practice is commodified everywhere in Hawai'i, and it's mostly not the actual host culture that profits from it.

CHAIR JOHNSON: Okay.

MS. SMITH: So, from my standpoint, you have cultural practice at the big hotels, and lū'aus, and cultural lessons that they charge money for. You have it at the Maui Ocean Center.

CHAIR JOHNSON: Um-hum.

MS. SMITH: You have it at the, you know, Sheraton. And they're making a lot of money from it, but none of the host culture is actually profiting from it at all.

CHAIR JOHNSON: Yeah.

MS. SMITH: So, I know a lot of cultural practitioners that would love to profit from it. So, I'm conflicted about sort of banning that. So...but it's not my kuleana.

CHAIR JOHNSON: Okay.

MS. SMITH: But I think it bears discussion.

CHAIR JOHNSON: All right. We...we see a hand. Councilmember Paltin.

COUNCILMEMBER PALTIN: I think she was referring to Item C. on page 5, activities --

CHAIR JOHNSON: . . .*(inaudible)*. . . yeah.

COUNCILMEMBER PALTIN: -- related to traditional methods of voyaging or wayfinding or other activities which reference the location of celestial bodies to navigate. These activities may operate after 6 p.m. and before 8 a.m. And on the side of that amendment that somebody else can move to make, it's not a--I...I don't know that it's not about making profit off of cultural practitioners [*sic*], it's about not misappropriating cultural practices and perpetuating incorrect knowledge. And...and I'm not trying to offend anyone by that. Because of the prolonged U.S. occupation, we haven't been

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taught--you know, to the extent, like when I was growing up and the generations before me--the correct information, you know? I used to say poi pounding before I was corrected and educated, and that's more so what it's about. I think ensuring the correct cultural practices are what is being passed on, and not incorrect things, and...and not taking somebody else's culture and making a profit off of it...and especially perpetuating incorrect knowledge. But I could be wrong. You can ask Director Molitau if...if that's what he meant. I'm not sure.

CHAIR JOHNSON: Director Molitau?

MR. MOLITAU: Hi. Aloha. Thank you very much for the question, and thank you very much...is it--kala mai, I forget her first name, but Ms. Smith.

CHAIR JOHNSON: Yeah, Sydney.

MS. SMITH: Sydney.

MR. MOLITAU: And I...I...I recall a discussion that you and I had prior to this actual meeting, and it was in regards to this particular bill...resolution. And...and in that discussion, part of...part of the concern was just about the noise. It wasn't necessarily about...about the actual practices itself, and it was about the noise that...that other ag owners didn't want to...to actually have. And so, the reason why I bring up this whole cultural tourism of misappropriation of--or being even in this particular resolution is because I didn't want to necessarily have that as part of the discussion of...of noise being part of the...the complaints. And I think also, the other part to all of that is, I...I agree that...that other areas around Maui are profiting off of the host culture. And I'm not saying that...that it should...shouldn't be done within the particular ag properties, but I think the misappropriation or the misinterpretations are...are what's going to be part of the discussion moving forward, especially as more ag people want to open up businesses that...that utilize that effort.

CHAIR JOHNSON: Okay. Thank you for that clarification, Director Molitau. You know, if we back up a bit to that section in regards to evening activities. I know we discussed about, well, what about evening planting, or any kind of cultural activities in the evening, and we only had it down with the voyaging, wayfinding. Would...would the body be amenable to the idea...idea of activities related to night planting, comma, and then just go to traditional methods of voyaging, wayfinding? That just allows them to do things in the evening. That's kind of where I thought--maybe Sydney Smith, you can speak on that--but that's really what I thought maybe could be included in this.

MS. SMITH: This is...these were suggestions from practitioners that came to me and said, you know, like lapa'au is harvested by moon phase.

CHAIR JOHNSON: Um-hum.

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MS. SMITH: And if they want to pass this along and share that knowledge, it's really hard to do it in the middle of the day, you know, when the cultural practice is to do it on certain moon phase. So, like I said, I'm not an expert, I'm trying to speak for, you know, people that are not here. And I know that when I talk to Kapono'ai, that I was saying, I know that the...the reason that the Planning Department is a little bit concerned is because they are worried about the complaint-driven things that are going to happen from people that have moved into the Agriculture District that are not farmers, you know, that might complain about noise. So, I'd like to point out that, you know, you...you can do any of these things at night if you're not charging money for it.

CHAIR JOHNSON: Right.

MS. SMITH: This is only if you're charging --

CHAIR JOHNSON: That's right.

MS. SMITH: -- that...that this is a regulation for.

CHAIR JOHNSON: So, what do you guys...what...what does the body think? You guys want to add anything to this, to allow people to do cultural practices at night and classes?

COUNCILMEMBER LEE: Well, my concern, Chair, is that the longer the list, how do you possibly enforce this?

CHAIR JOHNSON: Um-hum.

COUNCILMEMBER LEE: You know, this is more aspirational.

CHAIR JOHNSON: Okay. Well, who...okay. . . .*(laughing)*. . .

COUNCILMEMBER LEE: You know?

CHAIR JOHNSON: All right. Okay. I...okay. Vice-Chair Sinenci.

VICE-CHAIR SINENCI: Thank you, Chair. And speaking as a cultural practitioner for...for wa'a and things of voyaging, I mean, it's...it--you're...you're either a farmer or you're either a voyager, you know what I mean? It's your...it's two very...what is the...I mean, we...we go to the...to the forest to...to, you know, make...to build the canoe, so I don't know what would be the...the farming--because again, we want to...the agritourism to be a small part of the agriculture production...the overall agriculture production business. So, I mean, it's--to me, I don't see...as a...as a practitioner for wa'a --

CHAIR JOHNSON: Okay.

VICE-CHAIR SINENCI: -- wa'a kaulua, I don't...I don't see the...the farming in --

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CHAIR JOHNSON: So --

VICE-CHAIR SINENCI: -- in it.

CHAIR JOHNSON: So, you wouldn't want to suggest any language, you just think it's good as it is?

VICE-CHAIR SINENCI: If...and I don't know if those people that...that Sydney spoke to were...were wa'a practitioners that wanted to do stargazing at night, but are they farmers...are...are they farmers, or are they voyagers? That was --

CHAIR JOHNSON: Right.

VICE-CHAIR SINENCI: That's just my question.

CHAIR JOHNSON: Okay. I see Councilmember Paltin's hand up.

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

COUNCILMEMBER PALTIN: Thank you. I...I went to the Arbor Day planting at the...with the Pu'u Kukui Watershed crew, and...and, you know, it...it was a big thing to see when Hōkūle'a returned from the worldwide tour, all the koa and 'a'ali'i, how tall they've grown from--I think it was 2017. And they do have a star compass up on that agricultural field. I'm not sure...I think for this one, because we have such tremendous resources of navigators that have sailed with Hōkūle'a and things like that. My...my kid's Kumu Kalā Baybayan, who we honored her father when he passed, and, you know, plenty of connection to Hōkūle'a, and...and folks that have brought back that practice from Mau Piailug and Micronesia. I think for this one, maybe we should consult with them. Because it's commodifying something that is their life's work, and...and they are...people that are...I think--was it folk navigators? That's PWO. I think that we are not the experts. I don't know if Director Molitau, but I think it would be worthwhile to consult with them on this particular thing. Because we do know those people in our communities, if it is the right thing to do, to charge for night --

CHAIR JOHNSON: Right.

COUNCILMEMBER PALTIN: -- teaching of this. So, maybe for now we can leave it in, and...and we can each contact folks that we know in that cultural practice and see what they say, and then come back...or have that knowledge for when it comes back for becoming a bill, if it should be left in and expanded, or if it should be taken out. Because, you know, I...I know that they...they are okay with sharing their mana'o. They...they shared it at the plantings and like that, but I'm not sure if they're okay with the commodification of it or, you know, that there is no cultural police, and what the mana'o being shared is correct or incorrect, I think, is part of the concern. So, I think...I mean, we can leave it in now, but we should all go and consult with people, experts in that field and practitioners, and...and find out directly from the source here in Maui County.

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CHAIR JOHNSON: Okay. I...I agree with that. Members, are you ready? We should just call for the question, send this down to the planning commissions, and have it come back. Okay. Before we do that, I think Director Arce has to leave, so I want to thank you for your time. And if there's anything else you want to add on, I really appreciate you being here.

MS. ARCE: . . .*(inaudible)*. . .

CHAIR JOHNSON: Just maybe one sentence.

MS. ARCE: Okay.

CHAIR JOHNSON: . . .*(laughing)*. . .

MS. ARCE: Thank you. Thank you for that. So, the Department also supports Resolution 24-171 as written.

CHAIR JOHNSON: All right. Thank you so much for joining us, Director Arce. All right. So, Members...and it sounds like we're ready to vote. The Chair will entertain a motion to recommend the adoption of Resolution...did we do that already?

MS. MONIZ: Yeah.

CHAIR JOHNSON: Because we amended it. So, let's just call for the question then, right?

MS. MONIZ: Yes.

CHAIR JOHNSON: So, okay. All those in favor, raise your hand, say "aye" for the motion as amended.

COUNCILMEMBERS: Aye.

CHAIR JOHNSON: We have four "ayes."

MS. MCKINLEY: Zero "noes," three excused, Councilmembers Rawlins-Fernandez, Sugimura, and U'u-Hodgins.

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establishment or product stand is on wheels, it can still count as an accessory use on a working farm in the Agricultural District. Let's get some comments from our resource personnel. Member, if there's no...Members, if there's no...no objections, I would like to designate as a resource persons [sic] under Rule 18(A) of the--given them...their expertise and experience in local agriculture the following member...following folks: John Varel, owner of Waihe'e Valley Plantation; Robert L. Horcajo, owner of Mahina Farms Maui; and Sydney Smith, facilitator of the Agricultural Working Group. Any...any objections, Members?

COUNCILMEMBERS: No objections.

CHAIR JOHNSON: Okay. Thank you for that. So, we'll start with Ms. Smith. Thank you for joining us, and please proceed with your presentation. The floor is yours.

MS. SMITH: All right. Thank you, Chair Johnson. Okay. Next slide, please. All right. This was the first bill that we worked on. Councilmember Don Guzman was put in charge of the Agriculture Committee, and we were charged with bringing the County Code into compliance with HRS 205. So, that is the first thing that Title 19 lists is, that's the number one thing to do. So, we did that, we thought back then, and that was called Bill 60 at that time. And we had to learn from the very beginning how you write a bill, how you vet a bill, and how you take it through all the commissions. So, it's a big learning curve for us. Next slide, please. So, what we heard over and over again was the fear of proliferation from the Planning Department, and then they expressed that to every Planning Commission and the Hāna Advisory Group. And one of the things that was said was--that I have in the minutes from, you know, 2014, was if--you know, if there's no concern, if you think a Pizza Hut or a Whole Foods is okay, if that's an okay use and they sell all-Hawai'i--or 51 percent of the product is grown in Hawai'i, then the bill is probably going to be okay as written. And we were just appalled, you know, that this was how our bill, that we had worked so hard on, was being presented to the commissions. So, most of the commissions advised against the bill. But it was passed by the Council anyway, and after ten years, there's still no Pizza Hut or Whole Foods on ag land in Maui County. Next slide, please. So, this was the three minutes from 2015, when Councilmember Guzman mentioned that the agriculture food establishment was going to be in the bill. And we called this the agriculture food establishment so that it would include food trucks, food trailers, push carts, small buildings, pop-up tents, little wagons--I mean because we thought there's so many things that it can be, we'd rather not be specific. And we didn't at that time know that we were going to have, you know, ten years later, somebody that wanted everything to be spelled out. And so, you know, I guess that was our mistake. But the bill passed on first reading, and it's--everything worked just fine until 2023. Next slide, please. So, from 2015 to 2023, Maui County family farms began opening food trucks and trailers...but not that many because it's very expensive. And a food truck can cost \$150,000. And so, that really lowers the number of people that's going to be able to do this. But the ones that did worked very, very hard, you know, to be able to make them happen. Next slide, please. We were shocked when we found out that they were shutting down all the food trucks and trailers. That's Brendon Balthazar right there, one of our members.

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UNIDENTIFIED SPEAKERS: . . .*(laughing)*. . .

MS. SMITH: And he couldn't believe it either. So . . .*(laughing)*. . . you know, we...we heard...what they said was, if it is not specifically written as allowable, it's illegal. And we were just stunned. Next slide, please. So, there has been no massive proliferation ten years ago, and there hasn't been all this time. And everyone loves food trucks. What's not to love? I mean, they...they serve the food that they grow. But, you know, if you're making banana bread, you really can't grow the wheat, you know, that you're putting in the bread, and they don't grow the sugar here anymore, so I mean, you have to have some allowance that you can buy products from other places. But the primary ingredient has always been the things that people grew because they're proud of what they grow, and they want people to experience what they grow. You know, I can't really stress enough that really, people are not looking to open a restaurant on their farm, serving things that they buy from the mainland. You know, that's really not what people want to do. So, I'd like to kind of close this by saying that, you know, farmers are not, as a rule, always trying to game the system. But I think unfortunately, the Planning Department views us as people trying to game the system. And they told me one time that they needed to make it more difficult to build a barn. And I said, why would you want to make it more difficult? And they said, because people might do yoga in the barn. And I said, yeah, but we don't care if anybody does yoga in the barn, we just want a barn. And I still feel that way today. You know, there's abuse, but don't paint us all with the same brush. And that's all I have to say on there.

CHAIR JOHNSON: Thank you, Ms. Smith. Members, do we have any clarifying questions? And Staff, if you don't mind . . .*(inaudible)*. . . We do have one from Councilmember Cook.

COUNCILMEMBER COOK: I have a clarifying question. I apologize, I couldn't hear what the Planning Department said. Did you say yoga?

MS. SMITH: Yeah. Somebody might do yoga in their barn.

COUNCILMEMBER COOK: Oh.

MS. SMITH: So, they had to make it more difficult to build a barn because that might happen. . . .*(laughing)*. . .

CHAIR JOHNSON: All right. Any other clarifying questions? Seeing none. Thank you for your testimony. Let's move on to Mr. Varel. Mr. Varel, are you ready? The floor is yours.

MR. VAREL: Thank you, Chair Johnson and the --

CHAIR JOHNSON: Oh, you...go ahead and take a mic.

MR. VAREL: Oh, I need a mic.

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CHAIR JOHNSON: Yeah.

MR. VAREL: Sorry. There we go. There we go. Good afternoon, Chair Johnson and fellow Councilmembers. My name is John Varel, I am the trustee for the John and Angie Varel Trust. We own and operate Waihe'e Valley Plantation, 1,200 acres, sustainable, organic farming operation here on Maui. We grow a very diverse range of crops after cleaning up the mac nut orchard, which has taken us most of the last 20 years to do. We've now--in the spare and vacant spots of the mac nut orchard, we've put in over 1,000 bananas, 1,000 papayas, coconuts, breadfruit, dragon fruit, oranges, mangoes, hydroponic tomato greenhouses, the leafy greens. In addition to that, the base business was the mac nut processing business and farming. We're bringing over 500,000 pounds wet and shell, all, and only, and exclusively to the Maui Marketplace. I'm here, obviously, in support of Resolution 24-171, which clarifies that food trucks can be put on our own farmlands. This issue is deeply personal to me because 'Ulu 'Ula Cafe, our food truck, is the final piece and the most profitable contributor to the farm-to-table proposition. We lose money without the food truck. With the food truck, I can finally convert that wholesale, deliverable, a dollar banana to a \$5 meal. That allows me to be able to get that revenue that we're missing because we now have to sell it off to somebody else to operate the...the business. We began operating 'Ulu 'Ula Cafe at the start of COVID, and as I said, it's been the cornerstone of our efforts to continue to expand the plantation's offerings to Maui. Through the café, currently it generates farm tours, it generates the individual meals to the tourists and the locals, as well as those personalized weekly baskets that individuals want to take home. Thanks to this operation, we've received tremendous support from the community, getting over a 4.8 Yelp rating with over 400 comments, better than most of the restaurants here on the island, and it's just a little, bitty, dirty food truck sitting right alongside the road, serving the food that we grow so hard to make for the rest of the community. So, I'm quite proud. But all of a sudden in January, after looking through 2023 going well, that little ten-by-ten kitchen we've got there, and we're shoving out all these meals--Jeff Bezos from Amazon ate there three times in a row when he came, and he helped cook in the kitchen. So, we had it very commercialized, and it would operate, but I said it's time for us to get a new kitchen and get bigger. So, I spent 120 grand, got a fully commercial kitchen delivered to the property, called our friendly Hawaiian State Health inspector, and no, we're not going to give you a green card on that until you get approval from the County that you can have it on your land. I said, well, what about the one that's sitting over there that I want to take this nice big, beautiful one and move in there so that we can be better supportive of what we're trying to deliver? He goes, well, no, that won't happen. You can't move it. And I'm...my green card--feel like I'm an alien, I'm moving over from Mexico now, I'm sorry--but my green card won't be given to me as a renewal of my current food truck, so I'll be out of business. And that's just a couple of months away. So, I'm really concerned about where all of the monies, and time, and investment, and labor that we put into this. I've got 30 employees that operate the rest of the farm, and those 3 people that operate my food truck make more money for the farm than the other people do. And in order to be able to...to keep the farm going, I have to have this holistic circle. And if a food truck's going to get yanked out because all of a sudden

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somebody thought the rules needed to be changed, I think that's just very shameful. And I'm not alone in desiring this clarification. I've talked to other food truck...other farmers who are in the same situation as I am, that they're being threatened by the State to not operate a food truck on the land until you're able to get the County approval. So, I humbly request that you pass and support Resolution 24-171 without delay. I think then, between the farmers and you, the Councilmembers, we can take a meaningful step to fulfill the commitment to agriculture on this island. Thank you.

CHAIR JOHNSON: Thank you, Mr. Varel. Members, any clarifying questions? Seeing none. Thank you for your...your presentation. Let's move on to Mr. Horcajo then. Thank you for joining us. Do you have any opening remarks?

MR. HORCAJO: Excuse me. Yes. Thank you very much. In that March meeting Sydney Smith talked about at the Council, I also mentioned to her our discussion with the Planning Department about putting a agricultural retail structure on the food truck...I mean on the trailer, I...I should say. And same thing, you know, if it's not specifically allowed in the Code, then it's...it's not allowed. We...you know, anyway, so that's kind of what happened with our family. Although we decided to build our ag-retail structure on grade--which I don't have yet, I'm waiting for approval through the...from the Planning Department--you know, I personally decided it's really something I want to help the other farmers, especially the...the actual form...small...smaller farmers with. So, I definitely support the bill as written. I'm a little disheartened by the limitation based on...based on distance from other farms. For me, if you're a farmer, and you have the right today, or any day, to basically have a farm stand, have an ag-retail structure, have a farmers' market, there should not be any restriction for that purpose. To go down the path of...of pitting farmer against farmer, citizens against citizen in a land use issue, for me, it's just not the right path...not the right path for governance. But what I wanted--besides the language in there now, I had offered...suggested additions to the resolution as written, which I think is important for the--not the rest of the farmers, but...you know, with all the farmers. And the word trailer is there, but given what we know now, how the Planning Department looks at words in the law, I want to have additions to be sure that it's...you know, it's...it's obvious what that word means. So, I've suggested added, for example, what I'm calling structures on wheels or a vehicle. For example, Sydney had mentioned in the PowerPoint their...you know, their thought about food establishment in the beginning of 2014, '15 was for even like carts, right?...stuff on the trailer. And the way the law is written--because in talking with Planning on our discussion for our property, I said, well, what about all these carts selling flowers and stuff on the side of the road? It's really not written in the law as being legal. And they said, well, you know, it's a...it's a complaint-driven system, so unless somebody complains against them, we're just going to let it go. That's really not the right attitude from that Department, but that's just how it is nowadays. It's just overworked, but that's really what is...what's happening. So, if you really understand what I'm talking about with an ag-product stand and a ag-retail structure on the trailer, that means that the farmer doesn't have to take his products out of a storage, put it in his vehicle, take it out, drive it to his, whatever, farmers' market in front of his property, put it on the table in a bin, sell his products. What he doesn't sell, he puts it back in

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his truck, takes it back to his property. Being able to put that on the trailer on his property and close means that he can...it just saves a lot of time, a lot of money. But the biggest bonus for the farmer is that then he gets to start retail, as John just said. You're not stuck with selling wholesale. You can sell your products retail on the street, and by adding it being as an allowance, having a structure on wheels and a vehicle at a farmers' market, which used to be--in the Upcountry Farmers' Market, you may remember in the beginning, Ms. Lee, you could...you were selling--I was selling stuff out of the back of my '46 Ford pickup truck. People selling stuff out of the back of their car. I don't know why that's such a big issue, but that's kind of what we're dealing with. We have to be specific in the law. And again, if you can really look at what I've suggested for word changes, adding those, you would be very advantageous. I spoke with a lot of farmers within the past couple of weeks. Unfortunately, one of them, Bobby Pahia, was going to be here, but they just lost 1,000 feet of waterline this past couple of days, so--but he'll be around for the next round of Planning Commission and hopefully County Council meetings. Thank you for your time.

CHAIR JOHNSON: Thank you, Mr. Horcajo. Members, do we have any clarifying questions? Seeing none. Thank you once again for your presentation. Okay, Members, I'm going to pull up a...if Staff can share screen, I'm going to pull up a memo to explain the changes this bill proposes to make the Code [sic]. And if you can share the screen, Staff. And also, we have a physical copy for those in...in the Chambers. I think the...basically, the first page is kind of explaining the proposed amendments. I guess I'll read these five bullet points real quick, and it's up on the...the share screen. But basically, the bill . . .(inaudible). . . definitions of agricultural food establishment and agricultural products stands--understand, those are two different things. So adding--and we're putting mobile food trucks under both of them, all right? So, adding mobile food trucks, trailers to the definitions and requiring that the operation be located on a farm to ensure farmers reap the economic benefits. Expanding the definition to allow mobile food trucks or trailers to be operated by a producer, even if not owned by a producer. So, a lot of farmers lease land, and that farmer would be able to, right? Agriculture...allowing agricultural products grown, raised, or caught in the State to be used in agricultural food establishments in case of local crop loss due to invasive pest pressure. We discussed that a little bit earlier. And changing the term single agricultural product producer to just producer, which is also defined in the Code. Then we'll go on to the second page--and Staff, if you just scroll up, this is kind of monstrosity--again, this is how the sausage is made. This is how you...sometimes you see the bills and it looks a little bit complicated, but basically I'm just going to go along some of the reasoning why we had these changes. So, the first box on the left, it says it includes mobile food truck or trailers in the definition of agricultural food establishments, and also specifies that they must be operated by a producer, so that farmers that lease land, not just the owner of the land, is allowed. And located on a...on a farm so the bill generates income and supports the sustainability of farmers in Maui County. Then it says, see the definition of mobile food truck. It cites the Code. And then the...the reason is is if it's been placed for more than three consecutive days, it's to be considered an eating establishment. So, we wanted to be able to allow that food truck to be under what defin...any of those two definitions. And then the--we change from County to State. That allows farmers to use

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value-added products which may not be available in the County, which would support agriculture throughout the State. We're going down to the second section on the right, the red box. It says, includes mobile food trucks or trailers in the definition of agricultural product stands--see the definition of mobile food truck--that requires if a mobile food truck has been placed for more than three consecutive days, it's to be considered an eating establishment, but specifies that they...they must be operated by a producer and located on a farm to ensure the economic benefits go to farmers. Then we'll go on the left side of the page, use the term producer, which is the term that has been defined within the chapter of the Code. And then at the very bottom left, allow farmers to use value-added products that may not...may not be available in the County, which would support agriculture through the State. This language has been added to alleviate the Planning Department's concerns over...over-proliferation of food trucks, and allow Planning some ability to regulate their registration. So, basically, working with--you know, this is my style, Members. And I like to work with the Administration as much as I can, but sometimes we just simply don't agree, and they wanted this food trucks to be every three miles so I moved it down to every 500 feet, which is similar to what we do for short-term rentals. Short-term rentals cannot be closer than 500 feet. So, that was my moving--being malleable for them. And then also, they must still register, and it's granted on a first-come, first-serve basis. These were all concessions we made to the Planning Department. All right. On the back of the page--and if you scroll up a little bit--let's see here...okay. That's basically the same thing, what we mentioned earlier about the over-proliferation and the Planning's--want some ability to regulate. Then we're going to go onto parking. So, basically, this huge, big old tables basically says...we wanted to...we wanted to say that if...if a food truck has a...is required a parking stall, we don't want the food truck to be in one of the parking stalls, right? So...so, that kind of allows that...it kind of makes the concern of people saying, oh, we're going too many cars on the side of the road. But we will...we'll make sure that that food truck isn't in one of those required stalls. Okay. Let's see...the next page basically...it...it goes back into the idea of mobile food trucks, trailers not occupying space required by this title. That's really the same thing in just a different section, right? So, that's overall the way...the...the way we wanted to kind of move forward, and I wanted to explain to you all the details and all the discussions we had on this. All right? So, that's the memo. Let me see where we're at. If you --

COUNCILMEMBER LEE: Chair? Chair?

CHAIR JOHNSON: Yeah?

COUNCILMEMBER LEE: Me.

CHAIR JOHNSON: Oh, sorry. . . .*(laughing)*. . . Go ahead.

COUNCILMEMBER LEE: . . .*(laughing)*. . . So, real quick question. How many of the planners have a food truck or --

CHAIR JOHNSON: None that I've worked with.

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COUNCILMEMBER LEE: Okay. I don't know, they...they're making all these rules and regulations without having experience.

CHAIR JOHNSON: Yeah.

COUNCILMEMBER LEE: So, that's why I'm waiting for the feedback from --

CHAIR JOHNSON: Right. Yeah.

COUNCILMEMBER LEE: -- those who have.

CHAIR JOHNSON: That's a valid point. All right. So...okay. Let's...if you did--okay. Now we're going to get some comments from the Administration. You know, I will say though, the...we try to work with the Administrations as best we can to come out with a good bill, and, you know, not many of them have food trucks, but at least we're...we're getting work done. That's really important. Director Arce was going to speak, but she had to leave, but you heard right before she left, she said she--the Department supports the bill. So, we're going to go on to Mr. Pfof, and I want to appreciate Mr. Pfof for staying with us this long. We've had many meetings back and forth with Mr. Pfof, and I...I'd like to hear your comments.

MR. PFOF: Thank you, Chair. And I thank you again for working with the Department in the past. We really appreciate that in trying to craft this resolution. I think where some of the statements you heard is the Department has been concerned and is concerned just over the commercialization of the Ag District and the over-proliferation, potentially, of food trucks. Whether or not that will occur or not occur, I don't know, and it's really...really comes down to more of now a policy issue for Council to decide whether or not this is really going to be an issue or not. I...I think the Department's expressed its concern. I think if it carries now to the planning commissions, we'll hear from the planning commissions, and then back to the Council, of whether or not this will be a concern or not. I...I don't know, and I think...I think the Council is in a position that will have to make that policy discussion and determination. So, beyond that...I don't really have any other comments beyond that, and to...eager to take it forward to the planning commission, and then back to Council. Thank you.

CHAIR JOHNSON: Thank you, Mr. Pfof, for your words. And once again, I...I really appreciate working with you on this. Okay. Let's open up for public testimony. Staff, do we have any testifiers on this item? Or...or wait a second...

MS. MCKINLEY: Yes, Chair.

CHAIR JOHNSON: Okay.

MS. MCKINLEY: Eve Hogan, to be followed by Annette Niles.

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CHAIR JOHNSON: Oh, I'm...I'm sorry. Hold on a minute. We...we--I forgot to ask for Public Works. Beg your pardon. Public Works, are you on the call? I asked...I...I recall asking his earlier. Oh.

MS. MCKINLEY: We do see Jordan Molina.

CHAIR JOHNSON: All right.

MS. MCKINLEY: Yeah.

CHAIR JOHNSON: Director Molina, beg your pardon. I almost...I almost forgot about you.

MR. MOLINA: Yeah. No problem. Jordan Molina, Director with Public Works. Regarding the Reso 24-171, Department didn't have any objections to the foregoing bill. We don't really see this affecting us directly. But I did have some just outside perspective comments on the structure of the ordinance, and what comes to mind is an example like in Nāhiku Market of an area that --

CHAIR JOHNSON: Can you speak up a little bit? I'm sorry.

MR. MOLINA: Sorry. Yeah, so I was just saying we...we don't have any direct comments as it pertains to the operations of the Department, but just as a general perspective, or outside perspective, what comes to mind is an operation like what we see at Nāhiku Market where you have multiple vendors on a single parcel operating, in large part, just because that parcel happens to have conditions that are conducive to that...you know, that...that kind of business activity. There's...there's a, you know, terrain along their frontage that can accommodate parking, as well as the...the food trucks themselves, or in this case, kind of those farm stands where other parcels may not benefit in that way or have that ability. So, in...in that case, you're going to have more than one vendor on a single lot operating. And then the other part, just as a comment, was that there was a provision about the owner of the farm also has to be the operator of the food truck, and just that, you know, all farmers aren't cooks and all cooks aren't farmers, and so there may be a need--or I mean, there may be a desire, I should say, to allow a farmer to bring on a partner to expand, you know, the...the...the value-added use of the produce that are grown on the farm in that sort of relationship. So, that was the only comments I wanted to offer. Thank you, Chair.

CHAIR JOHNSON: Okay. Thank you for your time. That...that was important comments you made, Director. Okay. . . .*(laughing)*. . . Staff, we have--let's open up public testimony. And Eve, I thought you te...you did one item? Okay. This is the second item.

. . . BEGIN PUBLIC TESTIMONY ON ITEM 17 . . .

MS. HOGAN: This is the second item.

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CHAIR JOHNSON: Yeah. Okay. Go ahead.

MS. HOGAN: That's--all right. Thank you. My name's Eve Hogan, I'm the owner of the Sacred Garden and a member of the Ag Working Group. And I was involved back ten years ago or whenever that was when this first went through, and I think it's just super ironic that the Planning Department would even have a problem with this at all after they have allowed permanent buildings. Because food trucks are mobile, and they can be moved in the event that there's any kind of problem, whereas a permanent structure cannot. Not only that, the food trucks can be moved if there's a fire, or a flood, or some other natural disaster. So, I think it's really important that we allow food trucks. And I also really appreciate Mr. Molina's comments because my--I have tenants who are a young couple who had a food truck in Israel before they had to leave due to the war, and they had an amazing food truck. She's an amazing baker. They want to do a food truck or trailer here. My property's not the best location, Sydney's property is. She's right next door. And...but they wouldn't be living on her property, but they'd probably be using the fruits and good things from both of our properties. So, I think it's really important that we remember that the map is not the territory, you know? And if I get a food truck, then Sydney can't have one because she's 500 feet away. So, it's really...I think it's...you know, it's a long...she's a long ways away. It takes me five minutes to get to her house, and she's my immediate neighbor, you know? I think sometimes people don't realize that the territory is not the map, and it's real...I think...just really want to encourage us all to allow the food truck bill to go through and not worry about the prolifi...when I started the Sacred Garden, the Planning Department came and told me if they let me do what I was doing, there would be a Longs Drugs on every corner in the whole Ag District. Hasn't happened. Then they told us there would be, you know, Pizza Hut, and that hasn't happened. And so, I really think we've been watching what happens, and it's acceptable. So --

CHAIR JOHNSON: Okay.

MS. HOGAN: -- thank you for making this bill happen. Thank you for passing it.

CHAIR JOHNSON: Thank you, Ms. Hogan. Staff, do we have any more ques...testifiers?

MS. MCKINLEY: Chair, the next testifier is Annette Niles, to be followed by Gale Ashby.

CHAIR JOHNSON: All right. Thank you for waiting.

MS. NILES: Hi, it's just me again. I wanted to rephrase what I said earlier, but...but she just made a good comment on the properties, you know? And it's true. Because we live on big property, and my property is right across from the--I got to go all the way up, and around, and down Calasa to get to my property. But it's closed from my house across the gulch, but I can't go across the gulch, I got to drive. So, again, she made a good point about that. So, we literally shouldn't be, you know, having to make a statement on the footage of it, you know? It should be just...we just need it. People need to make some money off their farms, period. That's all to it.

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

MS. NILES: Yeah. And not--yeah. Not everybody's going to do it. You know, like I said before, we would have Pizza Huts and here or there. We're not. We're not...it's not going to happen, you know what I mean? People are not going to do that. You don't have time or money anymore. So, anyway . . .*(laughing)*. . . thank you guys very much. Thank you.

CHAIR JOHNSON: Thank you.

MS. NILES: Okay.

CHAIR JOHNSON: Let me see if we have any questions for--oh, we do have one from --

MS. NILES: Oh.

CHAIR JOHNSON: -- Coun...Vice-Chair Sinenci.

MS. NILES: Hi. . . .*(laughing)*. . .

VICE-CHAIR SINENCI: . . .*(inaudible)*. . . I was just wondering, would you have...what's your take on the 500 feet?

MS. NILES: You know what? Like I said, we...we shouldn't be having to measure it because of the fact--when she just brought up a good thing about it, because the same thing as me. I mean, I have big property, but I also got to drive all the way around to get to it. So, you know, it would be close from my house across the gulch, but I can't go there. We'd have to drive all the way around. So, it wouldn't make no sense on it, you know what I mean, to...to limit the space on it.

VICE-CHAIR SINENCI: Okay. All right. Thank you. Thank you, Chair.

MS. NILES: Okay.

CHAIR JOHNSON: Thank you, Vice-Chair Sinenci. Members, any other clarifying questions? Seeing none. Thank you for your testimony. I appreciate it.

MS. NILES: You're welcome.

CHAIR JOHNSON: Staff, will you call the next testifier, please?

MS. MCKINLEY: Chair, the next and last person that is signed up to testify is Gale Ashby. If anyone else would like to testify, please let Staff know by raising your hand on Teams.

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MR. ASHBY: Good afternoon. Thank you for having me, thank you for what you do. And Chair Johnson, I appreciate your work on the bill. I'm here to support the food truck bill, and Sydney as well. She's worked hard on it, along with the Ag Working Group and so on. My name's Gale Ashby. I live on Hāna Highway at...in Ha'ikū. We've had a farmstand food truck since 2019. We grow dragon fruit, citrus, papaya, coconuts--a lot of coconuts. A little history as we relate to this bill, and I think it's relevant to our short history, is in 2019, we registered for a commercial ag farmers' market. We were told at that time, from the Department of Planning, that food trucks were allowed at that time, and they were allowed specifically for farmers' markets, that portion of it. So, that's what we registered our place for. We operated successfully through 2022, pretty much. It really helped us boost our income to support the farm, to expand the farm, and was, I think, well received by the community as well as a service to not only tourists, but to the local community. 2023, it all hit, and there was a change in policy. Received an email or a text, one of the two, and was notified that food trucks were no longer allowed on ag land. And while submitting, in that period of time, for two unrelated water tank permits on our property, I was told I must remove the food trucks or they would not give me the permits for the water tanks. So, they kind of did this, and I removed the tanks, and my business has been pretty much shut down since then. Because even though we still have farmstand and other products and vendors as...as well, the food truck was just an integral part. It draws people, people like food, and that helps us to market our products that we grow. So...sorry. . . .*(laughing)*. . . I know this bill will clarify once and for all that there cannot be this flip-flop of policy, even without any kind of warning or anything like that by technically unelected officials, and it's so good that it's going to be changed, we hope, by elected officials. And that once it's there, it will be clear to all, and there will be no push back. Why food trucks for farmers . . .*(timer sounds)*. . . Oops.

CHAIR JOHNSON: Maybe you could just summarize what you were going to--main point was.

MR. ASHBY: Yeah. Well, my main point--there's a couple things. We'll skip that. But farmers are able to--it gives the chance to retail our stuff. That's--there is that. It is an investment that a farmer can afford perhaps, 50 to 150,000 for a food truck versus 3 to 500,000 for a commercial kitchen stick-built structure, and so on. But I would like to make a point about...that the farmers' market is sort of the third leg of the food establishment and so on, and when I started, that's what they were granting registrations for, was the farmers'...farmers' markets. And I don't see that in our...in the bill, and I would recommend that we could kind of complete the third leg of that. It seems to make sense, at least reasonable, to me, that that get put in...into the bill as well. That's one point. The other point has to do with landscape and parking. I recently submitted to the...the County for a landscape and parking permit, as I've been told to do so by the Department of Planning. And...yeah. . . .*(timer sounds)*. . . At any rate, I think there needs to be a separation between the commercial landscape and park...parking regulations, and something different for farmers in--or on ag land. And that being...we're...my submittal requires shade...ornamental trees, shades on gravel parking and grass parking. It--a lot of the stuff that's in there just doesn't make sense. It's--and I think that would be something that could be looked at. But thanks a lot --

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CHAIR JOHNSON: Okay.

MR. ASHBY: -- for opportunity to share and --

CHAIR JOHNSON: All right.

MR. ASHBY: -- push forward...forward on it.

CHAIR JOHNSON: Thank you, Mr. Ashby. Let's see if we have any clarifying questions for you. Members, any clarifying questions from [sic] our testifier? Seeing none. Thank you for your testimony. Appreciate it. Staff, I thought I saw a hand raised. We have another testifier?

MS. MCKINLEY: Yes, Chair. The next testifier is Jacob.

CHAIR JOHNSON: Jacob? Yeah, I see...there he is. Go ahead.

MS. MCKINLEY: If you could unmute the microphone button on the top right of your screen, please, Jacob, and give us your last name if you choose.

MR. WILLIAMS: There we go.

CHAIR JOHNSON: There you go.

MR. WILLIAMS: Last name, Williams.

CHAIR JOHNSON: Okay.

MR. WILLIAMS: Just want to add to the story. You know, I was shut down by the Planning Department in 2023 after successfully running a food truck out in Nāhiku since 2017. You know, eight full-time employees cut immediately. We support 30 farmers and farms in Hāna and a lot of other added-value suppliers from Maui Hub and through, you know, any outreach that we can make with farmers who are trying to sell things. So, anyways, we're in support. It...it's cost us greatly, it's cost a lot of people in our community greatly, and we want to get back to business. And we hope you guys support this and find some answers for us.

CHAIR JOHNSON: Okay. Thank you, Jacob, for your testimony. Okay. Members, do we...do we have any ques...clarifying questions for our testifier? Seeing none. Thank you once again for sharing that with us. Staff, do we have any other testifiers?

MS. MCKINLEY: Chair, no one has indicated a desire to testify. This is last call. If anyone would like to testify, please approach the podium or raise your hand on Teams now.

CHAIR JOHNSON: Okay. Members, seeing there's no more individuals wishing to testify, are there any objections to closing oral testimony on ADEPT-17?

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COUNCILMEMBERS: No objections.

. . . END PUBLIC TESTIMONY ON ITEM 17 . . .

CHAIR JOHNSON: Thank you. I'll now close public testimony and introduce any written if there's any. Let's get into deliberations. I propose three minutes per Councilmember for each round of discussion. As a reminder, our resource personnel are here to answer any questions you may have. After we complete our discussion, I'll make my recommendation for a motion. We'll go down, Vice-Chair Sinenci, followed by Councilmember Tom Cook, followed by Council Chair Alice Lee, myself, and then Councilmember Paltin. Committee Vice-Chair Sinenci.

VICE-CHAIR SINENCI: Thank you, Chair. I don't have any questions. I'm supportive of sending it to the Planning Commission, but mahalo again for reaching out to the Administration and...and the resources you brought today. Thank you.

CHAIR JOHNSON: Okay. Thank you, Vice-Chair Sinenci. Councilmember Tom Cook?

COUNCILMEMBER COOK: Thank you, Chair. My question would be for Mr. Pfof.

CHAIR JOHNSON: Mr. Pfof?

COUNCILMEMBER COOK: Aloha, Mr. Pfof. Will the Planning Department be supportive of this when it goes to the Planning Commission?

MR. PFOF: Well, I think generally, the Planning Department will point out the issue of whether or not the Planning Commission feels there's a proliferation, or there may be a proliferation, of mobile food trucks along in the Ag District, and the...the concern that the Planning Department has in regards to whether or not the Ag District is really retaining its ag uses and not change...not moving forward to commercial, but that's pretty much it. That's our...that's our general concern. We've raised that in past ag bills, so I think we'll raise it again and just point out those general plan policies. But, you know, again, it's really...it is really a policy issue. I think if the Planning Commission does not feel that that's got...that's going to be a result, that we'll have a proliferation of these, as well as the Council, I think then the bill should probably move forward. But that's just our concern.

COUNCILMEMBER COOK: Okay. Thank you for your response.

CHAIR JOHNSON: Thank you, Councilmember Tom Cook. Let's move to Council Chair Alice Lee.

COUNCILMEMBER LEE: Questions for the Planner, Mr. Pfof. When you analyze these bills, do you take into consideration what the farmers are telling us, that in order for them to

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have a viable business, they need an outlet or a way to market their products? And one way is the use of these...these trucks, these food trucks, or stands. Do you guys take in--you know, understand the whole picture of how an agricultural farm or...or business, in order to survive, needs...needs a marketing plan, a successful marketing plan? And so, you know, for...my thinking is...is that when you look at a farm business, that you just want them to stay on the farm, and not try to use their property to advance and promote their products?

CHAIR JOHNSON: Mr. Pfof?

MR. PFOF: Yes. Thank you for the question. Yes, I...you know, I think we do. I mean, if you look at...if you look at the existing Code in the Agricultural District, it does allow for commercial ag structures in order for farmers to sell their product. It allows for agricultural food establishments, farmers' markets, agricultural product stands to actually sell that product to the...to the public. I think the concern we were raising when it came to the mobile food truck is adding mobile foods, then mobile food truck becomes more of a...it could be a temporary use, could be uses that roll onto a property and off, and...and...and/or they could be --

COUNCILMEMBER LEE: Okay. Thank you, Mr. Pfof.

MR. PFOF: -- they could be more permanent, but --

COUNCILMEMBER LEE: Okay. I need to talk to...ask Mr. Varel since I have--my...my time is so limited. Now, you mentioned that you have this rather large farm, and you grow a lot of things, but...but it's your...your food truck business that supports the...the employees and the expenses of having a farm; is that correct?

MR. VAREL: It is the cornerstone. It makes more money than any other division. More than the greenhouses, more than the...all of the...and all of the trees that we have in the farm, more than the mac nut operation, selling retail.

COUNCILMEMBER LEE: Okay.

MR. VAREL: Surprisingly so, but it is the anchor. And it allows to be able to--there's no waste. We have bad food, it goes into the--not bad food--an overripe banana goes into a smoothie. We save it. It's --

COUNCILMEMBER LEE: Um-hum.

MR. VAREL: -- a very, very economical way to make sure we keep all the produce on the farm.

COUNCILMEMBER LEE: And did--I saw you looking at Chair Johnson's proposals--amendments. . . .(timer sounds). . . Did you...do you have any comments on that?

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MR. VAREL: No. The...the 500-foot compromise that Chair Johnson had to go through to get this thing moved this far, I...I too...I think I'm supporting everybody else that said it. It's...it's meaningless. There's not going to be a proliferation. Whether it's a little-bitty pushcart or a food truck, it would have already happened by now. Since this started in the mid '90s, the proliferation should have exploded over the whole--everybody could afford a food truck for 10 or 20 grand, right? Well, that's not the case, and it's got to take support. And to the point that you want to be able to move your food for retail, I'm not here to open up--I...I can tell you how--all of us can drive through Kahului, and there's five food trucks squeezed onto a little-bitty lot. I wouldn't want to sit there and eat, I want to enjoy the ambience of the countryside, and the farm, and to hear the story about what it is. So, no, it is financially impossible for most farmers to make--especially on Maui.

COUNCILMEMBER LEE: Okay.

MR. VAREL: My father was a sharecropper and he couldn't make money living on the mainland. So, I know it's--how difficult it is. We've been doing it all my life, so --

COUNCILMEMBER LEE: Okay.

MR. VAREL: -- I think it's important that we keep the food truck.

COUNCILMEMBER LEE: Thank you.

CHAIR JOHNSON: Thank you, Chair Lee. Okay, let's move...okay. So, myself, and then Councilmember Paltin. So, Mr. Pfof, I just wanted to ask you, have you seen the amendment that we posted, and do you have a statement on it?

MR. PFOF: No, I'm sorry, I did not see the amendment that you posted.

CHAIR JOHNSON: Okay.

MR. PFOF: I...I saw what you provided on screen, but I did not see the amendment in time. So, apologize for that.

CHAIR JOHNSON: Okay. Well, it's basically just adding a statement, operating where the food truck or trailer is located. It's basically to ensure the farmer was owning the truck, and the farmer can own it, but they can also employ a chef if they need to.

MR. PFOF: Yeah.

CHAIR JOHNSON: So...

MR. PFOF: We were...we are in support of that change, yes.

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CHAIR JOHNSON: Thank...thank you for that. That's my question. So, let's move on to Councilmember Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. My question would be for Mr. Pfof, and it would be a process question. As we're sending this to the three planning commissions--or any bill that we send to the three planning commissions--how does it work if--you know, I've seen Molokai said except for Molokai or, you know, things like that, but what if one of the planning commissions--and maybe not this bill--but like what if one says no, absolutely not, or is it two to one, best out of three? How does that work?

CHAIR JOHNSON: Mr. Pfof?

MR. PFOF: Yeah. I...I know that...and I'm not sure I can give--the planning commissions can offer whatever their recommendation is, right? Their recommendation can be no, or their recommendation can be yeah, or we want to do revisions. The bill then comes to the Council for the Council's consideration, and I...I just can't remember if the Council overrides. And so, I'm sorry, maybe Corp. Council is there or...or Council Services --

COUNCILMEMBER PALTIN: I know --

MR. PFOF: -- can help with that question --

COUNCILMEMBER PALTIN: . . .*(inaudible)*. . .

MR. PFOF: -- on whether the Council overrides the decision. What happens, I can't recall.

COUNCILMEMBER PALTIN: Yeah. If it's a straight no, then we need six votes instead of five, but I'm not clear what happens if the planning commissions don't align with each other. Like what if two of them say no and one says no, or two says yes and one says no, then how many votes would be needed? Like, is there any clarity on that?

CHAIR JOHNSON: Mr. Pfof?

MR. PFOF: I apologize, but I do not have clarity on that, on actually that...that level of voting at the Council level. I'm...I'm just not sure. I apologize.

CHAIR JOHNSON: Councilmember Paltin . . .*(inaudible)*. . .

COUNCILMEMBER PALTIN: Okay. Maybe a lawyer?

CHAIR JOHNSON: Yeah. Let's see if we can get Corporation Counsel in on this. Corporation Counsel, do we have a comment on this? Do you need us to repeat the question, Mr. Nuno...Nunokawa?

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MR. NUNOKAWA: No, I...I heard the question. I don't have an answer for you at this time, but I can look into it.

CHAIR JOHNSON: Okay.

COUNCILMEMBER PALTIN: Oh, how about maybe our OCS lawyer?

CHAIR JOHNSON: Go ahead.

MS. MONIZ: Chair, I'm going to defer to Corp. Counsel on this, but generally, Member Paltin is correct, that, you know, if...if all the...the commissions are in agreement, it's a up and down yes or no. But if they say no, right, we would need the Council override, six votes at...at...at Council. So...but again, I guess it really depends on, right, that Molokai, Lānaʻi, Maui Commissions split there. So, I guess it would be very specific to what their proposals are --

CHAIR JOHNSON: Okay.

MS. MONIZ: -- Chair.

CHAIR JOHNSON: Well, Councilmember Paltin, do you want us to write a letter, and we...we can get a letter from the Committee to find out...to dig into that?

COUNCILMEMBER PALTIN: Yeah, yeah. I mean, not for this bill in particular, but for general knowledge, I'd...I'd love to see an answer in writing because then we'd always know. I was wondering also, on your ASF--this might be a question for you--the...the thing I think that they were saying about the...the food truck being on...food truck operators living on one property, but then taking the food truck to a different property and...and using--I...I love the part about using ...*(timer sounds)*... the produce from the neighborhood. Is there any requirement that some of what serves has to be from a farm in the area?

CHAIR JOHNSON: Okay. I'm going to have to look it up. Let's see here...

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

CHAIR JOHNSON: I'm pretty sure it's in here.

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

CHAIR JOHNSON: Okay. It's any...any produce within the State, as opposed to just the County. So, it's very similar to the other one.

COUNCILMEMBER PALTIN: And...and just to clarify, not exclusively, but just that they have to sell some sort of produce from the State?

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CHAIR JOHNSON: Right.

COUNCILMEMBER PALTIN: Okay. All right.

CHAIR JOHNSON: Okay. Okay. Okay. And that's...that takes us to the first--does anybody have a second round? I want to respect people's time. I got Vice-Chair Sinenci's hand up. Go ahead.

VICE-CHAIR SINENCI: No questions, Chair. I just wanted to request, can the Staff request that the bill be sent to the Hāna Advisory Committee in light of Jacob's testimony and of the...the farmers in East Maui? Thank you, Chair.

CHAIR JOHNSON: Staff, do you folks know that? I see thumbs up, and they...they're going to send it to...to them...the Hāna Advisory.

VICE-CHAIR SINENCI: Mahalo.

CHAIR JOHNSON: Okay. Councilmember Paltin.

COUNCILMEMBER PALTIN: I just wanted to clarify, was Member Sinenci only wanting this one or both of them?

CHAIR JOHNSON: Both of them, Councilmember? He...okay. Staff, do you mind sending both to--they--we got thumbs up. Okay, great. Good call, Councilmember Paltin. Any other questions? Oh, Mr. Pfof is--you...Mr. Pfof, you have something to add to this?

MR. PFOF: Yes. I apologize. Just on that particular issue, it's the Planning Commission that actually makes the decision whether something goes to Hāna Advisory Committee. And so, I can bring that message to the Planning Commission, and I put that in my report, but it's the Planning Commission that actually determines whether it goes to the Hāna Advisory Committee or not.

CHAIR JOHNSON: So, we can't tell them that it's...we --

MR. PFOF: No. It's actually the Planning Commission's responsibility to determine whether or not something will go to Hāna Advisory Committee. Now, I can...I will definitely forward that recommendation to the Planning Commission, and that is a...it's a Planning Commission decision.

CHAIR JOHNSON: All right.

MR. PFOF: I...I've made that same recommendation in past bills as well.

CHAIR JOHNSON: So, Councilmember Sine...Vice-Chair Sinenci, is that good, that we have Mr. Pfof recommend?

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VICE-CHAIR SINENCI: And...and I know we're not changing...making any zoning changes, but some of the farms do lie in that SMA area. So, I mean, if that's...you know, to help them discuss...for my community to discuss, if it's...if it's either on the mauka side of the highway or in the SMA area.

CHAIR JOHNSON: Okay. So, you...

VICE-CHAIR SINENCI: Thank you.

CHAIR JOHNSON: All right. Thank you, Vice-Chair Sinenci. Thank you, Mr. Pfost. Anybody else have any comments, questions, concerns? I don't see any hands raised. So, Members, it looks like we're ready to vote. The Chair will entertain a motion to recommend the adoption of Resolution 24-171.

COUNCILMEMBER COOK: So moved.

COUNCILMEMBER LEE: Second.

CHAIR JOHNSON: Moved by Councilmember Tom Cook, seconded by Chair Lee. Discussion, Members? The Chair will...will also like to entertain a motion to amend Exhibit "1" attached to Resolution 24-171 as set forth in the ASF, item number 3 in Granicus, to amend section 19.30A.015, the definitions for agricultural food establishment and agricultural products stands, by inserting language, "operating where the food truck or trailer is located." Can I get a motion to amend?

COUNCILMEMBER COOK: So moved.

COUNCILMEMBER LEE: Second.

CHAIR JOHNSON: Moved by Councilmember Tom Cook, seconded by Chair Lee. So, discussion, Members? This amendment incorporates recommendations made by Planning Department, will guarantee that food trucks are being operated on the farms which are owned, leased, or licensed by the producer. This will limit the presence of food trucks in areas where it could lead to overcrowding long roadways. So, is there any other discussion, Members? Seeing no...that there's no other discussion, please all raise your hand for...for the amendment. All those in favor of the amendment, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR JOHNSON: One, two, three...four "ayes." Staff, will you...

MS. MCKINLEY: Yes, Chair. That's four "ayes," zero "noes," three excused, Members Rawlins-Fernandez, Sugimura, and U'u-Hodgins.

CHAIR JOHNSON: Okay.

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MS. MCKINLEY: Yes.

MS. MONIZ: -- it's pursuant to Mr. Horcajo's testimony.

CHAIR JOHNSON: Okay.

MS. MONIZ: Okay. As long as the body is okay with that.

CHAIR JOHNSON: So, that's--you...your --

COUNCILMEMBER COOK: That's my proposal. . . .*(inaudible)*. . .

CHAIR JOHNSON: Motion to amend by Councilmember Tom Cook.

COUNCILMEMBER LEE: Second.

CHAIR JOHNSON: We have a second by Chair Lee. Discussion?

COUNCILMEMBER COOK: I think just simply for clarification and ease of understanding the intent.

CHAIR JOHNSON: Okay. Any other discussion? We're voting on the amendment. All those in favor, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR JOHNSON: You've got four "ayes."

MS. MCKINLEY: Zero "noes," three excused, Members Rawlins-Fernandez, Sugimura, and U'u-Hodgins. Motion passes.

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CERTIFICATION

I, Logan Tsuji, hereby certify that pages 1 through 62 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 23rd day of December 2024, in Wailuku, Hawai'i

A handwritten signature in black ink, appearing to read 'Logan Tsuji', is written above a horizontal line.

Logan Tsuji