

HOUSING AND LAND USE COMMITTEE

Council of the County of Maui

MINUTES

May 26, 2026

Online Only via Teams

CONVENE: 9:33 a.m.

PRESENT: Councilmember Nohelani U'u-Hodgins, Chair
Councilmember Tom Cook, Member
Councilmember Gabe Johnson, Member (Out 3:30 p.m.)
Councilmember Alice L. Lee, Member (In 11:25 a.m.)
Councilmember Tamara Paltin, Member
Councilmember Keani N.W. Rawlins-Fernandez, Member
Councilmember Shane M. Sinenci, Member
Councilmember Yuki Lei K. Sugimura, Member

EXCUSED: Councilmember Kauanoë Batangan, Vice-Chair

STAFF: James Krueger, Senior Legislative Analyst
Ellen McKinley, Legislative Analyst
Carla Nakata, Legislative Attorney
Jennifer Yamashita, Committee Secretary
Lei Dinneen, Council Services Assistant Clerk
Ryan Martins, Council Ambassador

Residency Area Office (RAO):

Roxanne Morita, Council Aide, Lānaʻi Residency Area Office
Mavis Oliveira, Council Aide, East Maui Residency Area Office
Chaelin Ryu, Council Aide, South Maui Residency Area Office

ADMIN.: Nāhulu Nunokawa, Deputy Corporation Counsel, Department of the Corporation
Counsel
Ana Lillis, Deputy Director, Department of Planning
Gregory Pfof, Administrative Planning Officer, Department of Planning

OTHERS: Testifiers
Mayor Richard T. Bissen, Jr.
John Chaisson
Travis Liggett
Greg Rylsky
Cara Birkholz
Eve Hogan
Sonny Cave
Paele Kiakona
Malama Minn, Realtors Associations of Maui
Jackie Keefe
Jordan Ruidas

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Cory McKim
Pamela Tumpap
SK B
Jim Sullivan
Caitlin Miller, Maui Vacation Rental Association
Kathy Fleming
Jennifer Stadig
Andrew Church
Stacey Alapai
Julisa Adams
Jeffery Gilbert
Brian Banks
Rob Bence
Lauri Rego, Our Hawai'i
Stephen West, ILWU Local 142
Tom Croly
Kelsey Mapa
Junya Nakoa
Karen Smart
Kai Nishiki
C. Rose Reilly
Christopher Salem
Others (150)

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

CHAIR U‘U-HODGINS: . . .*(gavel)*. . . Good morning, everyone. Will the Housing and Land Use Committee meeting of May 26, 2026, please come to order. It is 9:33 a.m. I’m the Chair of this Committee, Nohelani U‘u-Hodgins. Members, in accordance with the Sunshine Law, please identify by name who, if anyone, is in the room, vehicle, or workspace with you today. Minors do not need to be identified. I think that only applies to you, Member Johnson, for the time being. Let’s begin with roll call. Councilmember Batangan is not here with us today, so let’s go to Councilmember Cook. Aloha and good morning.

COUNCILMEMBER COOK: Aloha. Good morning.

CHAIR U‘U-HODGINS: Councilmember Gabe Johnson, aloha and good morning.

COUNCILMEMBER JOHNSON: Good morning, Chair, Councilmembers, community members. There’s no testifiers here at the Lāna‘i District Office, and I’m alone on my side of the office with Hoku-Chan Johnson. Thank you.

CHAIR U‘U-HODGINS: Cute. Thank you. Council Chair Alice Lee will be joining us in the afternoon. Councilmember Paltin, Tamara Paltin, aloha and good morning.

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COUNCILMEMBER PALTIN: Aloha kakahiaka kākou. Streaming live and direct from the Council Chambers. Thank you.

CHAIR U‘U-HODGINS: Councilmember Keani Rawlins-Fernandez, aloha and good morning.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha kakahiaka. Happy to be here in person. No testifiers at the Molokai District Office. Mahalo, Chair.

CHAIR U‘U-HODGINS: Thank you. Councilmember Shane Sinenci, aloha and good morning.

COUNCILMEMBER SINENCI: Aloha kakahiaka, Chair.

CHAIR U‘U-HODGINS: And Councilmember Yuki Lei Sugimura, aloha and good morning.

COUNCILMEMBER SUGIMURA: Good morning.

CHAIR U‘U-HODGINS: From Administration, we have with us a Deputy Planning Director, Ana Lillis; Planning...Administrative Planning Officer, Greg Pfof; and Deputy Corporation Counsel Nunokawa. Along with us is our HLU Committee Staff. Good morning, everyone, and thank you for being with us.

**ITEM 16 BILL 88 (2026), AMENDING THE COMPREHENSIVE ZONING
ORDINANCE TO ESTABLISH THE H-3 AND H-4 HOTEL
DISTRICTS (HLU-16)**

CHAIR U‘U-HODGINS: We have one thing on the agenda today, which is Bill 88 (2026), Amending the Comprehensive Zoning Ordinance to Establish the H-3 and H-4 Hotel Districts, HLU-16. Members, I just said what we have on the agenda item today. The proposal originates from one of the recommendations made by the TIG of this Committee formed last year on policies and procedures for transient vacation rental uses in the Apartment districts. As proposed, H-3/H-4 Hotel Districts are similar to the A-1 and A-2 Apartment Districts, respectively. However, TVR uses permitted the...the day before the effective date, Ordinance 5909, which phased out TVRs in the A-1 and A-2 Apartment Districts would be permitted outright. The existence of the H-3 and H-4 districts may allow Council to consider rezoning Apartment District properties. The Council transmitted this proposal to the planning commissions earlier this year when it adopted Resolution 25-230, FD1. The Commission’s recommendations were reported back to the Council earlier this month and are available on Granicus as item number 2. In summary, the planning commissions recommended denial. Today we can discuss the bill and determine whether or not to move forward to full Council for its consideration. As a reminder, the bill would establish H-3 and H-4 zone...Hotel Districts, but would not rezone any properties into those districts. That would have to be done through a later and separate legislation. Joining us today to aid our discussion is Deputy Planning Director Ana Lillis and Mr. Pfof. Thank you so much for being with us today. And before going into public testimony, I’d like to first ask for any opening comments from Councilmember Cook in a second as the introducer of the bill, and then

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afterwards, Planning is going to have their presentation. So, Member Cook, if you will begin.

COUNCILMEMBER COOK: Thank you, Chair. The establishment of Bill 88 only creates new zoning category for the STR and Apartment-zoned properties. It does not rezone properties. It establishes a new zoning category that enables the Planning Department to be used when deemed appropriate for zoning. Currently, there's A-1 and A-2. There's a whole issue. So, this is to enable the Planning Department to have a zoning category. But like you said, it isn't to rezone any...anything.

CHAIR U'U-HODGINS: Thank you, Member Cook. Planning, if you're ready, we're ready.

MS. LILLIS: Thank you so much, Chair and Members of the HLU Committee. I'm going to kick it over to Greg Pfof.

CHAIR U'U-HODGINS: Thank you.

MR. PFOF: Thank you, Ana. I have a real brief presentation here to give you kind of a summary of what's occurred since the last time you reviewed this item. Next slide, please. As you may recall, and I think as stated back in January, the Council adopted Resolution 25-230, FD1, forwarding this bill to the planning commissions. The Maui, Lāna'i, and Molokai planning commissions heard this item back in February, March, and April. As mentioned, the purpose of this bill is to create a new H-3 and H-4 Hotel District, and I kind of think of this as kind of step one in a two-step process. The second step would involve actually creating or moving properties into the H-3/H-4 District. So, the purpose today is just establishing the H-3/H-4 District that would accommodate that in the future or step two. Next slide, please. Within your report, there is a extensive report to the planning commissions discussing this item and...and more or less giving a lot of background on this item. Also during presentations during the hearings, we gave an update to the commission as far as the adoption of Bill 9 or Ordinance 5909, which is what it's referred to as now, which discontinued TVR use in the Apartment districts. Also gave information to the planning commissions regarding the August 13th Council meeting where the TIG was created and the purpose of that; the August 14th meeting of the HLU Committee where the TIG report, which is also attached to your packet, was presented to the HLU Committee with its recommendations. And you may recall that the TIG had two main recommendations. The first was to introduce legislation establishing the new H-3/H-4 Hotel Districts that would be like-for-like with the A-1/A-2 Apartment Districts, allowing the potential future land use changes in the future. And then their second recommendation, main recommendation, was to conduct Council-initiated changes in zoning and community plan amendments for specific properties that may be able to be moved into the H-3/H-4. That would be part of two of this...of the two-part process. The...the HLU Committee...at the HLU Committee, the TIG report also identified in Exhibit "2," which identified a number of properties that the TIG was recommending move into the H-3/H-4 District as well. That's part of your packet. Then on January 5th, the HLU Committee heard its...conducted its meeting regarding the bill specifically today, provided comments, and minutes were specifically provided to the Maui Planning...to the planning commissions from the HLU Committee Chair. So, those were forwarded to the commissions, and that's attached to your packet

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as well. Then on January 7th is when the Council adopted Resolution 23...25-230, FD1, forwarding this to the Maui planning commissions and the other commissions. Next slide, please. It's a real quick summary of the proposed Code amendment. It actually implements the TIG's recommendation number 1. The proposed revisions establish a new H-3 and H-4 Hotel districts. The purpose in establishing these districts is to allow for existing A-1 and A-2 properties that were subject to Bill 9 to allow their continued TVR use. That's the main purpose of...of establishing these two districts. Importantly, these districts are like-for-like. In other words, they have the same development standards and same use standards as what's in the A-1/A-2. So, these properties would get no other advantage than operating TVR use. They would be subject to the same development standards and same land use standards that they're subject to today. And importantly, this bill does not affect any properties at this time. That would be step two of the two-step process. In that step two, there would be a future Change in Zoning and community plan amendment that would be necessary to actually move these properties into the H-3/H-4 Districts. That may or may not include all of the TIG's recommendations in Exhibit "2," so that's important as well. And then any of those changes in zoning and community plan amendments do require future Planning Commission review and Council approval before they're moved over. Next slide, please. When the Department reviewed this proposed bill, the Department supports it, mainly because it only creates the base H-3 and H-4 zoning districts. It does not affect any property at this time. As I mentioned, that would be step two process, where future changes in zoning and community plan amendments will need to be done and analyzed. The H-3 and H-4 Districts specifically replicate, exactly as I mentioned, the A-1 and A-2 Districts, having the same land use standards and development standards exactly. And then the Department believes it was generally consistent with the Maui County General Plan. Next slide, please. The Department had one slight modification to the proposed bill, and that was...and this was actually mentioned at the HLU meeting back in January. I mentioned this in verbal comments, and then I actually presented this to the Planning Commission within the report that's attached to your packet. And that was to clarify that the properties that would be moving from the A-1/A-2 District to the H-3/H-4 are exactly the properties that were subject or allowed to do TVR in the A-1/A-2 and no other properties. It's only those properties. And so, what the Department is proposing to do is any of those properties that were allowed in the A-1/A-2 District today were allowed to do TVR based upon certain criteria. And so, the Department's recommending that exact same criteria be moved over into the H-3/H-4 District to make sure that it's only these properties that we're talking about that would be allowed to be in the H-3/H-4 District. Next slide, please. As the Chair mentioned, the planning commissions heard this item back in February, March and April. All three commissions recommended denial, including the Molokai Planning Commission also indicated that if the Council does approve this bill, they would like to be...note except for Molokai, apply to Molokai. So, next slide, please. Finally, as the Department was reviewing the bill and even after the planning commissions, we noticed one slight change that needs to be made. I apologize for the late notice on this, but it's very slight that the...within...within the ordinance in Section 6, specifically Section 19.14.050, which lists the development standards in the H-3/H-4, it's a table on page 6 of the ordinance. It refers to the side setback. It should read 10 feet for the portion of the building, 35 feet or less in height, and 15 feet, not 20, for the portion of the building taller than 35 feet. So, it's a very slight change that I think it was just a slight error in preparing the ordinance. And that

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concludes my presentation. I'll be happy to answer any questions you may have. Thank you.

CHAIR U'U-HODGINS: Thank you very much. Before we get to asking you questions, though, we are going to hear from our testifiers. So, testifiers wanting to provide testimony should sign up in the lobby, join on the meeting...online meeting via the Teams link, or call 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 as well. For individuals wishing to testify via Teams, please raise your hand by clicking on the raise-your-hand button. If calling in, please follow the prompts via phone, star-5 to raise and lower your hand and star-6 to mute and unmute. Staff will add names to the testifier list in the order the testifiers sign up or raise their hands. For those on Teams, Staff will lower your hand once your name is added. Staff will then call the name you're logged in under and the last four digits of your phone number when it is your time to testify. At that time, Staff will also enable your microphone and video. Please ensure your name appears on Microsoft Teams as the name you prefer to be referred as or anonymous if you wish to testify anonymously. If you are in person, please tell Staff if you would like to testify anonymously. Otherwise, please state your name for the record at the beginning of your testimony. Oral testimony is limited to three minutes, and if you are still testifying beyond that time, I will kindly ask you to complete your testimony. Once you are done testifying or you do not wish to testify, you can also view the meeting on *Akakū* Channel 53, Facebook Live, or mauicounty.us/agendas. We will do our best to take up each person in an orderly fashion. And right now, Staff, if you could please call our first testifier.

MS. MCKINLEY: Chair, the first testifier is Mayor Richard T. Bissen, Jr., to be followed by John Chaisson.

CHAIR U'U-HODGINS: Thank you. Aloha, Mayor. *(pause)*

. . . BEGIN PUBLIC TESTIMONY FOR ITEM HLU-16 . . .

MR. BISSEN: Aloha kakahiaka, Chair U'u-Hodgins, Members of the Committee. Mahalo for this opportunity to testify in strong support of Bill 88. This will establish the new H-3 and H-4 Hotel Districts within the Comprehensive Zoning Ordinance. First, I want to mahalo this Council for the leadership in passing the historic legislation in Bill 9. That action reflected a commitment to prioritizing local families first and addressing the longstanding imbalance created by the concentration of transient vacation rentals in Apartment-zoned districts. I believe everyone involved in this conversation ultimately wants the same thing, a Maui where local families can afford to live, work, and raise their children here at home. At its core, Bill 9 and the legislation before you today is about restoring balance to our community by addressing the urgent need for housing while recognizing the realities of Maui County's economy and long-term future. As we move through the Bill 9 process, I committed to ensuring there would still be pathways for properties to be appropriately classified according to their intended uses. Bill 88 is a step in that direction, creating a structured framework with safeguards in place for properties that may seek consideration for continued visitor accommodation use

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through future land use actions. I want to be very clear, this legislation does not unilaterally reclassify any properties, nor does it undo Bill 9 or reverse the Council's policy direction regarding the phase-out of transient vacation rentals in Apartment zoning. Instead, it creates a transparent process for the community, planning commissions, and the Council also to consider whether certain properties may be appropriate for Hotel District classification in the future. I also want to acknowledge that all three planning commissions voted unanimously against this proposal. To me, those recommendations reflect the community's strong support for the intent behind Bill 9, while also showing how deeply important this issue remains for Maui County. These conversations are not easy because people care deeply about this community and its future. This legislation represents an intentional next step in implementing Bill 9. It establishes a clear zoning framework for considering properties that have historically functioned as visitor accommodations, while continuing to prioritize Apartment Districts for local housing. This framework helps us move forward in a way that protects housing opportunities . . . *(timer sounds)* . . . for local families, while thoughtfully addressing the realities our community must navigate together. I understand there are strong feelings on all sides of this issue, and I deeply respect that. I also believe our community is strongest when we continue working through difficult issues together with humility, respect, and a shared commitment to Maui's future. I respectfully ask for the Council's favorable consideration of Bill 88. And again, mahalo for this opportunity to testify.

CHAIR U'U-HODGINS: Thank you very much, Mayor. Members, any clarifying questions? Member Sugimura?

COUNCILMEMBER SUGIMURA: Yeah. Thank you very much for coming and supporting this.

MR. BISSEN: Mahalo.

COUNCILMEMBER SUGIMURA: I appreciate it. In your statement...in your testimony, you said that this legislation is for local families, to support --

MR. BISSEN: It is.

COUNCILMEMBER SUGIMURA: -- local families. So, do you have any data that you could provide us that shows the housing, what this bill is impacting, and on purchasing from...of local families versus outside of Hawai'i?

MR. BISSEN: You mean beyond the information we provided during the Bill 9 presentation?

COUNCILMEMBER SUGIMURA: Yes.

MR. BISSEN: Beyond that?

COUNCILMEMBER SUGIMURA: Do you have...do you have current information? Because you're supporting this based upon supporting local families. So --

MR. BISSEN: Yeah.

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COUNCILMEMBER SUGIMURA: -- do you have current information on sales or what's happening? . . .*(inaudible)*. . .

MR. BISSEN: On sales?

COUNCILMEMBER SUGIMURA: Yeah.

MR. BISSEN: Yeah, the issue today is on rezoning H-3 and H-4, not on the sales of --

COUNCILMEMBER SUGIMURA: Or...or...

MR. BISSEN: -- condos. We can bring that up at another hearing, but I'm here to clarify my testimony on what we've testified.

COUNCILMEMBER SUGIMURA: Okay. I just...I just thought because you said local families, I wondered if you had --

MR. BISSEN: Yeah, I said that many times --

COUNCILMEMBER SUGIMURA: -- more information.

MR. BISSEN: -- almost as many times as you just said it.

COUNCILMEMBER SUGIMURA: Thank you. Thank you.

MR. BISSEN: Yeah, we are here for local families. That's clearly our intention.

COUNCILMEMBER SUGIMURA: Right. Right.

MR. BISSEN: But if you're talking about sales, I didn't come prepared to talk about sales today.

COUNCILMEMBER SUGIMURA: Okay.

CHAIR U'U-HODGINS: We can follow up if you --

COUNCILMEMBER SUGIMURA: Yeah.

CHAIR U'U-HODGINS: -- need us to.

COUNCILMEMBER SUGIMURA: Yeah. Please.

CHAIR U'U-HODGINS: Okay. Does anybody else have any clarifying questions? If not, thank you very much, Mayor --

MR. BISSEN: Thank you so much, Chair.

CHAIR U'U-HODGINS: -- for being with us today. Thank you. Next testifier, please.

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MS. MCKINLEY: Chair, the next testifier is John Chaisson, to be followed by Travis Liggett on Teams.

CHAIR U‘U-HODGINS: John Chaisson, good morning. Thank you.

MR. CHAISSON: Okay. Good morning, honorable County Councilmembers and HLU Members. My name is John Chaisson, and I’m a 20-year owner at Maui Sands I. I’m here today because I supported Bill 9 and I support Bill 88 and the creation of H-3 and H-4 zoning. This will provide jobs for the local economy and the creation of this new zoning will allow certain A-1/A-2 properties with current TVR status to transition to H-3 and H-4 to continue short-term rentals. The TIG report identified the conditions by which this A-1/A-2 property can transfer...transition to H-3/H-4. These conditions identify whether a property is appropriate and attainable as affordable housing. These properties listed on the TIG and Exhibit “2” are identified not as appropriate for affordable housing because of the conditions they present. These issues are identified by the TIG report and it includes whether it’s a leasehold, whether the monthlies are affordable, whether the property lies within the sea rise impact zone, whether there might be legal issues with the property. These are some areas of concern as I read the TIG report. Please pass Bill 88. This would not only create jobs but create a balance of TVR condos and hotels within the short-term rental market and a win-win for everybody. But more importantly, I think I’m on step two...this gives Maui Sands I a chance to be part of Exhibit “2.” We meet all the TIG criteria, and some being a leasehold property, a land lease so short it doesn’t qualify for a mortgage, \$3,000 monthlies, located in the middle of the sea rise impact zone, and probable legal issues on the horizon. My presentation I dropped off today to support this has receipts that...that prove and support Maui Sands is not an affordable property with all the existing issues of Maui Sands I. I’m asking the Housing, Land Use Committee and Maui Council when appropriate to please include us on Exhibit “2” for the County-initiated zoning change. Mahalo for your time.

CHAIR U‘U-HODGINS: Thank you. Members, any clarifying questions related to H-3 and H-4? Go ahead Member Cook.

COUNCILMEMBER COOK: Thank you. Thank you for your testimony. I just want to...so you’re supportive of the Bill 88 and the creation of H-3/H-4?

MR. CHAISSON: Yes, I am.

COUNCILMEMBER COOK: Okay. Thank you. I want to bring to your attention and everybody’s that’s the issue today, and the...the balance of the legislation that potentially will come is separate, but today focusing on that is the agenda. But thank you for your testimony.

MR. CHAISSON: Yes, I realize I’m probably partially in step two, but I support both because I understand...I really think there needs to be a balance for both that goes on.

COUNCILMEMBER COOK: Thank you.

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MR. CHAISSON: Thank you.

CHAIR U'U-HODGINS: Thank you. Seeing no further questions, thank you very much for your testimony. Next testifier please.

MS. MCKINLEY: Chair, the next testifier is Travis Liggett, to be followed by Greg Rylsky on Teams.

CHAIR U'U-HODGINS: Aloha, Mr. Liggett.

MR. LIGGETT: Good morning Mayor, Committee Chair, and Councilmembers. Thank you so much for hearing me out yet again. I'm engaging in public life for the first time today as a citizen who is designated as sheltered by the Federal standard for the first time since 2017. Every time I have appeared before you, the founder of flushaware.com has not had a bathroom. It's something I couldn't crack. I don't know how to make money come out of anywhere if I don't have it. And I've developed flushaware.com. I educated the toxicologist and the disease outbreak people and all my doctors that disinfection is not required or happening. But it is required. The NPDES decision requires that what --

CHAIR U'U-HODGINS: Mr. Liggett --

MR. LIGGETT: -- goes into the ocean . . . *(inaudible)*. . . the ocean...

CHAIR U'U-HODGINS: -- could you please...could you please stay on topic with us? We're talking about Bill 88.

MR. LIGGETT: Yes, absolutely.

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

MR. LIGGETT: Absolutely. Right. Rezoning properties or considering it that are not in compliance, especially when you're putting the same tourists that you're inviting here at risk, has so many layers of internal inconsistency to it because it actually depicts to these tourists that everything's hunky-dory and it's safe to go in the ocean right outside these facilities. We know that's not true. And it actually appears to be legally indefensible because it would reinforce this false signal that things are safe, legally compliant, and the aunties are okay. And, you know, I took a lot of time, three-and-a-half years to get myself before the sponsor of this bill, chair of the wastewater committee, to gently educate him that they were telling him wrong. It's not disinfected. And he told me it was delightful. I don't think he knew I was unsheltered at the time, and actually at great risk because I was very sick from exposure to wastewater. So, I really created a hard connection with him, but it was kind of like a sledgehammer to my soul to find out that this is happening because I don't think people think about unsheltered people as sponsors of bills, former research engineers. And, you know, one of the STR owners who testified in the comments said that if this doesn't pass, they're going back to Arizona. Well, that may not be the only person going to Arizona because our former DEM director is, in fact, incarcerated. These are real risks.

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It is a real crisis. It's illegal. And I would invite you to allow more time for this bill to be vetted and consider my Section 7 that allows philanthropy so that if some crisis happens, we'll have an avenue for us to pick up these units and not, say, the...the oil industry or some effectively infinitely resourced parties. We could also refer the matter to the Water Authority, social equity, and the WAI Committee so that we can actually deeply look at these issues because we don't want to put you or us at risk . . . *(timer sounds)*. . . anymore. And we also--thank you--would not like to invite tourists here with this new zoning and say, everything's okay, it's safe. It's not legal. It's not safe. And you could also not pass Bill 88 or pass it with Section 7. So, if some sort of global crisis happens, all this liquidity is just standing outside waiting for these to be commodified forever, like slicing up a ham, and they will pounce. So, we have to be prepared with something like Section 7, so that if all this liquidity comes in and swipes up these units . . . *(timer sounds)*. . . without warning, we're prepared. So, thank you. And thank you, Mayor.

CHAIR U'U-HODGINS: Thank you very much.

MR. LIGGETT: What a rock. What a great guy. And I...I just appreciate all of you so much. Thank you.

CHAIR U'U-HODGINS: Thank you, Mr. Liggett. Members, any clarifying questions for our testifier? If not, thank you very much for your testimony. Next testifier, please.

MR. LIGGETT: Thank you, Chair.

CHAIR U'U-HODGINS: Thank you.

MS. MCKINLEY: Chair, the next testifier is Greg Rylsky, to be followed by Cara Birkholz.

MR. RYLSKY: Aloha and good morning --

CHAIR U'U-HODGINS: Good morning.

MR. RYLSKY: -- Housing...Use Committee. I'm...I'm here to talk about the Hotel zones 3 and 4. And so, I just wanted to just kind of remind everybody that there are residents there. I'm not sure. We know that there's 6 percent ownership, but I'm not sure that...that we've kind of looked at the A-1/A-2 and seen the tax records to see how many are actually owner-occupied. So, I'm hoping that...that the Committee had an opportunity to do that. And which kind of leads to the bigger question, which what's wrong with Hotel zoning 1 and 2? There are procedures in place and there have been very clear for years to be able to...to do that up-zoning. And these new zones are mimicking the A-1 and A-2. And we just heard from Planning that there are operational or land use concerns? So, it'd be great if we...if we can get to those during today's meeting. Another big issue has been the tax revenue that would possibly change over this zoning change, going from the A-1 to the H versions and the TVRs and all that. And if more of these units do become residential, which we're...we're hoping for, and that...that tax revenue, the Mayor's already talked about that they have a plan for that tax revenue. You know, one of the other things is all three independent planning commissions have talked about

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this. They've all heard testimony. They've all reviewed the plan and they've all rejected it. And we know that the planning commissions have a lot of input and are normally very respected by the Council and by the Committee. So, I'm hoping that you will really take to heart that they did reject this...this opportunity. If this does go forward, it would be great if we could have shoreline armoring provisions and parking and all those other things that...that are missing right now from the...from these properties. They're cutting off the shoreline access. They do their best to discourage people from coming on their property. So, if parking and shoreline access can be a part of that, that would be great. You know, we've gone over this for a long time, and we...we have multiple hearings more to go, depending on what happens today. You know, it's been said before, you know, people over profits. Let's also think about residents over revenue, right? That is all I have. Thank you very much for your time.

CHAIR U'U-HODGINS: Thank you. Member Paltin, you have a clarifying question? Okay. Go ahead.

COUNCILMEMBER PALTIN: Thank you, Mr. Rylsky. I just wanted to clarify the part that you said you wanted to understand about why H-1 and H-2 is not appropriate. Is that what you said?

MR. RYLSKY: Yes, yes. You know, we...we heard from Planning that there are operational or land use differences because H-3 and H-4 replicate A-1 and A-2. But, you know, I guess I just don't understand what's wrong with H-1 and H-2.

COUNCILMEMBER PALTIN: Okay. I can't answer, but I'll try to work it into the discussion. I can't answer in testimony, but it...it has to do with the lot size, frontages, setbacks, and these are already built buildings. So, it can't be changed, but I'll try and go into more detail in discussion.

MR. RYLSKY: Thank you very much.

CHAIR U'U-HODGINS: Thank you. I also tried to write down your...your concerns because I think we've heard them several times. So, I'll try to bring them up, and they're valid concerns. So, I'll try to bring them up in discussion as well. Thank you very much for your testimony. Any other --

MR. RYLSKY: Thank you.

CHAIR U'U-HODGINS: -- clarifying questions? Seeing none. Thank you. Next testifier, please.

MS. MCKINLEY: Chair, the next testifier is Cara Birkholz, to be followed by Eve Hogan.

MS. BIRKHOLZ: Aloha Council, or actually, sorry, Housing and Land Use Committee. I would like...my name is Cara Birkholz. I would like to thank you for the opportunity to testify. I'm a Kihei resident, and for everyone's sake, I'm going to keep this short. I'm here in support of the creation of H-3 and H-4 zoning, and I recommend...or ask that you please recommend passage of a clean Bill 88 to Council. Mahalo.

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CHAIR U‘U-HODGINS: Thank you. Members, any clarifying questions? Seeing none. Thank you very much for your testimony. Next testifier, please.

MS. MCKINLEY: Chair, the next testifier is Eve Hogan, to be followed by Sonny Cave on Teams.

CHAIR U‘U-HODGINS: Okay. Aloha, Ms. Hogan.

MS. HOGAN: Good morning. Good morning, everyone. Nice to see you all again.

CHAIR U‘U-HODGINS: Good morning.

MS. HOGAN: I’m Eve Hogan, and I’m testifying in favor of the Council following through with the agreement to create H-3/H-4 zoning. I’m not going to say everything I submitted in written testimony because you all know it all already, but Bill 9 was passed clean with the understanding and commitment from most of the Councilmembers to pass the H-3/H-4 zoning so as to be able to follow through with the recommendation of the Council’s own TIG report. It was extremely clear and discussed at length and stated on the record, so this is not a surprise and it’s not gaslighting of the community or any of those things that we may hear in testimony today. And I agree with what the Mayor had to say, with one exception...he said that the Planning Commission voted no because it was a clear indicator that the community was in support of Bill 9. And I was at the Planning Commission meeting. I’m not sure that any of you were, but if you were not, if you did not watch it, I encourage you to do so because Bill 9 was...the Planning Commission did not patch...pass H-3/H-4 housing because much like some of the testifiers, they did not understand it. They thought...they seemed to think that H-3/H-4 zoning would create more vacation rentals, which we all know does...it does not. They seemed to think that it would automatically move the entire Minatoya list into these zones, which it does not. They thought H-3/H-4 zoning could...would create more water, trash, and sewer use, which it does not. And they thought that H-1/H-2 zoning was sufficient, which it isn’t because it is not like-for-like zoning. And if I may be so bold as to try to address this gentleman’s issues, it was to my understanding because H-1/H-2 zoning allows you to build bigger buildings with...with restaurants and all kinds of other facilities that are not what we currently already have, and the H-3/H-4 is like-for-like, apples-for-apples. It does not give us permission for additional support services to our properties. So, Corporate Council and Planning, with all due respect, may have given them the information before the vote, but they didn’t interrupt them and correct them, and the audience was not allowed to do so. So, again, with all due respect, if the planning commissioners did not understand accurately what they were voting on, their determination was not particularly useful. So, I am respectfully requesting that the Council do as you assured us on the record that you would do before Bill 9 passed and create the H-3/H-4 zoning so that you have the option of resolving this problem. Thank you so much.

CHAIR U‘U-HODGINS: Thank you very much. Members, any clarifying questions? Seeing none.

MS. HOGAN: Thank you.

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CHAIR U‘U-HODGINS: Thank you very much for your testimony. Next few testifiers, please.

MS. MCKINLEY: Chair, the next testifier is Sonny Cave, to be followed by Paele Kiakone [sic].

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

MS. MCKINLEY: Yes, Chair, I believe he’s been promoted. Let me double check.

CHAIR U‘U-HODGINS: Can you call their name one more time?

MS. MCKINLEY: Sonny Cave, it’s your turn to testify.

CHAIR U‘U-HODGINS: Oh, there we go.

MR. CAVE: Hi. Can you hear me now?

CHAIR U‘U-HODGINS: We can, and we can see you. Thank you.

MR. CAVE: Okay. Thank you. A little computer problems here. Hi. My name is Sonny Cave. Aloha, Chair U‘u-Hodgins and Councilmembers. My wife, Stephanie Workman, and I own one unit at Mā‘alaea Kai that we operate through a business called Honu Hawai‘i Home, LLC. We have been testifying throughout the process here, and we are here today to voice our support for Bill 88. This is about modernizing the Zoning Code to match real-world uses. It’s not creating a loophole, as has been already discussed. And I think, you know, everybody that is...been involved with this knows that there...for decades, there’s a lot of properties on the Minatoya list that have been operating legally. We are one of those. A number of these properties were actually built and have been used for visitors. They weren’t originally intended as workforce housing. Our particular condo, our understanding is that when it was built in the 1970s, it wasn’t funded or priced as affordable housing. It didn’t receive any public support or subsidies. And Bill 88 simply implements the TIG’s recommendations by creating these H-3 and H-4 Hotel Districts. And the last thing I’ll just say, if...if the County decides not to go forward with this Bill 88, then there’s going to be a lot of jeopardy still out there to be dealing with. The...all the negative economic impacts that were forecast in the UHERO report are obviously, you know, much more likely to occur, putting thousands of jobs at risk, reducing small business viability, cut State and County tax revenues that are needed for essential services. And then there’s also the litigations that have been filed. This...adopting this, I think, will help the County mitigate its potential exposure in those litigations. So, I’ll just wrap up and say Bill 88, it’s focused, very encouraged with the work that everyone has been doing on it. It’s a...it’s a very elegant way to work through the...the very difficult situation that you all are continuing to work through with the full Bill 9 now having been approved. And I’ll just close and say we strongly support and encourage you to approve Bill 88. Thank you very much. Happy to answer any questions.

CHAIR U‘U-HODGINS: Thank you. Members, any clarifying questions? Seeing none. Thank you very much for your testimony. Next testifier, please.

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MR. CAVE: You're welcome.

MS. MCKINLEY: Chair, the next testifier is Paele Kiakona, to be followed by Malama Minn.

CHAIR U'U-HODGINS: Okay. Aloha.

MR. KIAKONA: Aloha, Chair. Aloha, Councilmembers. It's nice to see you all today. I know, like myself and many of you, we are ready to move past this discussion. So, we appreciate you opening this up for opportunity for all of us to speak today. I am Paele Kiakona. I'm here as a representative with Lahaina Strong, and I am, of course, in opposition of the new proposed zoning. I do understand...and I...I don't want this to be any more polarizing, I understand the...the need and the want of wanting to do this, given that many of these places will were never intentionally built with that H-1/H-2 zoning. And I know I've heard some of the...the arguments that placing any of these properties into an existing H-1 or H-2 would potentially invite lavish expansion and runaway development...redevelopment of these spaces. And given their current footprint, we obviously cannot have that. And, you know, with Lahaina Strong, we've been clear from the beginning that we are supportive of...of many of these individual buildings and properties being able to upzone and transition into and continue to operate as they've been, because there are places that do not look like it was a residential building. They operate...they look like hotels, they have full staffing, they have union members, they have front desk, their own on-site laundromat, and all of these things. So, we 100 percent support and agree with that and would even come and support those buildings in their upzoning process. But our fear with Lahaina Strong and many of the people in Lahaina is that this H-3 and H-4 zoning...new H-3/H-4 zoning will be used in a way that many of these new tools are used, which is quietly, incrementally, property by property, skirting under everybody's noses, and all the work that we've all done to get Bill 9 to this...this spot potentially undone. I do know that the Council has this authority to attach conditions to any of the zoning changes. You know, a conditional amendment that can be applied to the H-1 and H-2 specifically, that when a property is upzoned solely because it was never properly zoned in the first place, that no structural additions, no expansion of footprint, and no increase in...in unit count may follow. So, this potential amendment to this upzoning resolves that legal status of...of what already exists, and it does not become a license to build more. That answers the very concern being used to justify the H-3 and H-4 without creating a brand new category that develops...developers will spread...or spend . . . *(timer sounds)*. . . the next generation trying to, I mean, probing these loopholes. So, we...we mahalo all of you for your time, and we just hope that this...if this is in fact pushed through, that it does not uproot or undo all of the work that we've done to get to this point. So, mahalo.

CHAIR U'U-HODGINS: Thank you very much for your testimony. Members, any clarifying questions? Member Paltin?

COUNCILMEMBER PALTIN: Thank you for your testimony. I just wanted to clarify, you said that if H-3/H-4 gets created, then people might slowly, quietly apply for them over the course of however long. What...why wouldn't...if H-3/H-4 doesn't get created, why wouldn't they do it under H-1/H-2 slowly over however long?

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MR. KIAKONA: I think just because the...the definitions of what constitutes H-1/H-2, and what many hotels fall under are not actively categorized in a lot of these short-term rentals that are potentially being upzoned or transitioned over. So, some of them would not necessarily have the means necessary or even just the functionality within their own complex to justify that H-1 and H-2. But, you know, the fear is also just because we don't know who's going to be in office five, six, eight years from now, and it could be very progressive individuals or people who are highly conservative and want to develop and bring in more revenue. And, you know, that's more so what I'm getting at, because a lot of these things can skirt under our noses if we're not paying attention.

COUNCILMEMBER PALTIN: Good reason to stay engaged. Thanks.

MR. KIAKONA: Yeah.

COUNCILMEMBER PALTIN: Either way.

CHAIR U'U-HODGINS: Thank you, Member Paltin. Any other questions? If not, thank you very much for your testimony.

MR. KIAKONA: Mahalo.

CHAIR U'U-HODGINS: Next testifier, please.

MS. MCKINLEY: Chair, the next testifier is Malama Minn, to be followed by Jackie Keefe on Teams.

MS. MINN: Aloha. Good morning, Chair U'u-Hodgins and Members of the Committee. My name is Malama Minn, and I'm here testifying on behalf of the Realtors Association of Maui. We are in strong support of Bill 88 and the creation of the Hotel-3 and 4 zones in support of the hard work done by the temporary investigative group, and we just hope that the...the...the recommendations are honored and this bill is passed. I was also there at the planning commissions, and it was quite clear that they may not have been as educated as you folks are on the issues, and so we hope that you folks will see that the creation of these...these new zones would help to balance the issues. Many of these properties are not financially feasible as long-term housing, and also they're subject to high maintenance costs. Many of them were built in the 1970s or earlier. They're also...many of them are oceanfront, so they are subject to sea level rise. There's high insurance premiums for many of them because they're in the flood zone, and as we saw with these recent Kona Low storms, many of them were impacted. And so, they have been operating as hotels. You know, if it...if it looks like a duck, it quacks like a duck, it usually is a duck, so we hope that this new legislation will help to balance the issue. And also, I don't think anyone here wants there to be more litigation. Another generation of litigating this issue I don't think is good for anyone. Thank you.

CHAIR U'U-HODGINS: Thank you very much for your testimony. Members, any clarifying questions? Seeing none. Thank you.

MS. MINN: Thank you.

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CHAIR U‘U-HODGINS: Next testifier, please.

MS. MCKINLEY: Chair, the next testifier is Jackie Keefe, to be followed by Jordan Ruidas.

CHAIR U‘U-HODGINS: Aloha, Ms. Keefe. I’m assuming she’s online because I don’t see her in the audience. There you are. Hello.

MS. KEEFE: Aloha, Chair. Yes, I am online. I am arriving frustrated today, frustrated that we have come here so many times that I can’t be there in person because I have lots of actual work to do. I’m frustrated that we sit here and we hear people vaguely threaten litigation. Oh, we don’t want to see more litigation. Cool, then don’t sue. There’s already litigation against Ordinance 5909, and now that is facing a carve-out. I feel frustrated by being told by people who refuse to have civil discourse about this topic why we are wrong. I feel frustrated that they are sitting here and just speaking down towards the Planning Commission, which I would like to remind everyone is an unpaid government position. I feel frustrated hearing the UHERO report get mentioned because they only mention the things that show why the UHERO supports pro...you know, pro Bill 88 versus actually talking about the fact that the UHERO report also states that rental prices and housing prices would go down, which is literally the whole reason that Bill 9 was proposed. I feel frustrated that the planning commissions all recommended denial, and that doesn’t appear to matter here today. I feel frustrated that there’s a *Civil Beat* article in which I saw Councilmember Sugimura quoted saying that these units look like a hotel, walk like a hotel, and talk like a hotel. Well, I would definitely challenge you to please go and walk those properties yourselves, because seeing shopping carts just parked on the properties against the wall is not hotel-level amenities. There are some of these properties, as Paele said, that have operated that way, but let’s not act like they all do. Let’s not act like this is the majority. We do not see that. Financial feasibility is mentioned. Well, let’s be honest. It’s time for us to have a conversation about shoreline setback. It’s not politically viable. It never is. It never has been. It never will be. But it is what the ‘āina needs from us. The ‘āina cannot stand up for itself, and we need to do so. So, I...I’m sorry that I came so hot with my frustration today, but I hope that it will show people that these conversations are nuanced, and we really need to stop pretending that they aren’t, and let’s actually have conversations. So, hopefully that didn’t just cut out . . .(timer sounds). . . when my camera went off. So, mahalo, all of you, for continuing this conversation, and I hope that it can be an actual conversation.

CHAIR U‘U-HODGINS: Thank you for your testimony. Members, any clarifying questions? Seeing none. Thank you. Next testifier. I see Ms. Ruidas is coming down, and then who’s after her again?

MS. MCKINLEY: Cory McKim.

CHAIR U‘U-HODGINS: Cory McKim.

MS. RUIDAS: Aloha, everybody. My name is Jordan Ruidas, testifying on my own behalf today. We conducted on-the-ground research by visiting nearly every property on the Minatoya list. We observed operations firsthand and documented what these properties actually

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look like in practice, and we gave those reports to you guys back in Bill 9. While a small number operate in a resort-style manner, those are the exception. Based on our observations, roughly ten buildings function at a level consistent with hotel operations. We would support targeted upzoning for those specific properties under strict criteria. At the same time, we have always acknowledged that not all Minatoya units are ideal for long-term residential living. We have never taken the position that every unit must be returned to the long-term housing pool. Our approach has always been grounded in balance and realism. In most cases, we observe residential condominium complexes operating as short-term rentals, not legitimate hotels. We did not encounter front desks, consistent staffing, or hotel-like infrastructure. Instead, we saw guests writing license plate numbers on whiteboards and using shopping carts as luggage carriers, clear indicators of residential properties being used for visitor accommodations without meeting hotel standards. Maui condo vacation rental occupancy averages about 40 to 50 percent at a time when local families are struggling to secure housing. Thousands of these units sit unused for much of the year in the midst of a severe housing crisis that is not sustainable. We also need to consider the urgency. FEMA is scheduled to conclude its housing program in less than a year, with hundreds of our families still relying on that support. When it ends, those families will enter an already constrained housing market. There's no shortage of short-term rentals in Maui County, but there is, however, a profound shortage of housing for local residents. We recognize that all properties share the...or all parties share the same goal of stable, thriving community, even if there are differences in the approach. While full consensus may not be possible, it is important to carefully consider the long-term impacts of broad policy decisions. If the Council move...moves forward with H-3 and H-4 zoning, it is critical that any properties considered truly meet hotel-level standards. We support the Planning Department's proposed criteria and urge strict enforcement. Hotel-like standards must include a functioning and staffed lobby for guest reception, dedicated on-site staff including 24 management...24/7 management and security, on-site housekeeping and groundskeeping, on-site laundry or linen operations. This would really create jobs. If a property cannot meet these standards, it should not be classified as a hotel. We believe the County already has the authority to evaluate the limited number of properties that may warrant up-zoning. A broad blanket approach is unnecessary and risks permanently removing residential units from the long-term housing pool forever. We have fought for this for nearly three years and we will continue to hold the line. Our community needs as many units as possible returned to the long-term housing. We respectfully urge the Maui County Council and the Committee to reject this sweeping H-3 and H-4 zoning and instead pursue a targeted . . .*(timer sounds)*. . . evidence-based approach that prioritizes housing for local families. Mahalo.

CHAIR U'U-HODGINS: Thank you. Member Johnson?

MS. RUIDAS: Aloha, Member Johnson.

COUNCILMEMBER JOHNSON: Thank you, Chair. Good morning, Ms. Ruidas.

MS. RUIDAS: Good morning.

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COUNCILMEMBER JOHNSON: I want to clarify your testimony. You said you guys went to almost all of the Minatoya list --

MS. RUIDAS: Correct.

COUNCILMEMBER JOHNSON: -- properties. I too went and did a tour of all of them, went checked all of them out. Do you think it's a good idea for this Council, this body, to do site visits before we take the vote?

MS. RUIDAS: Yes, I agree. Because even after we did our site tours to every property, we were also taken aback by certain things and we learned a lot. And especially, like Jackie said, the *Civil Beat* article, let's talk about what hotels look like, walk like, talk like, quack like. Let's go look if they're actually quacking like ducks and if they actually are ducks.

COUNCILMEMBER JOHNSON: Yeah.

MS. RUIDAS: And like I said, we...we do support roughly ten properties upzoning. We would support it publicly, but again, that's not majority.

COUNCILMEMBER JOHNSON: Thank you. Thank you so much. Thank you, Chair.

CHAIR U'U-HODGINS: Sure. Thank you. Member Cook?

COUNCILMEMBER COOK: Thank you.

MS. RUIDAS: Aloha.

COUNCILMEMBER COOK: My clarifying question. So, you believe that by creating an H-3 and an H-4 zoning category that that's going to undermine everything?

MS. RUIDAS: I think it would open the floodgates for every single property on the Minatoya list to come forward to you guys and ask for that upzoning. And if you guys don't have clear, you know, asks, it's just going to --

COUNCILMEMBER COOK: So...

MS. RUIDAS: -- say, yeah, you guys can all upzone, and then we don't get any housing back. So, what was this all for?

COUNCILMEMBER COOK: So, thank you. I guess my next clarifying question is, as challenging as it is to create a zoning category, I don't...how is it that you see that there's going to be a flood afterwards? It's like every...anybody that comes and applies is going to have to meet certain criteria that was outlined in the TIG. And so, I...I...

MS. RUIDAS: I think just moving forward, it depends who...again, who's in office, how you guys vote, you guys make the final say. And if people are saying, oh, yeah, we do this, we do that, like they're already saying they do and they might not --

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COUNCILMEMBER COOK: So...

MS. RUIDAS: -- rubber stamp all the way through.

COUNCILMEMBER COOK: Okay. So, it's...okay. I hear you're opposed to it. I just...thanks.
I don't . . .*(inaudible)* . . .

MS. RUIDAS: Yeah. And I also just, I really believe that you guys have the authority. You guys could have started the process. You guys could have...you know, you guys could have initiated Maui Eldorado right now. They have had it in their...in their paperwork from the beginning and we support them upzoning. They have ILWU workers. They provide jobs. They are operating like a hotel. So, I really believe that, and I really encourage you guys to just start that process and get some of these properties going.

COUNCILMEMBER COOK: Thank you. That's...we're in...this is part of that process. Thank you for your testimony.

MS. RUIDAS: Mahalo.

CHAIR U'U-HODGINS: My mic is on. Thank you very much. Next testifier, please.

MS. MCKINLEY: Chair, the next testifier is Cory McKim, to be followed by Pamela Tumpap online.

CHAIR U'U-HODGINS: Sounds good.

MR. MCKIM: Good morning, Chair.

CHAIR U'U-HODGINS: Good morning.

MR. MCKIM: Good morning, Land Use Committee Members. Bill 88 is an important step towards creating more clarity and modernization within Maui County Zoning Code regarding long...longstanding lawful visitor accommodation uses. This is a crucial opportunity for the County or the Council to help fix longstanding confusion and inconsistencies within Maui's zoning system, like the need for proper zoning alignment, modernization, and clarity within the Zoning Code, longstanding lawful visitor accommodation uses. It is important that Maui County Zoning Code reflects reality. Have any of you walked around Wailea or Kapalua and said, this is affordable? I respectfully ask the Committee to support Bill 88 as the majority of the Council did during the Bill 9 hearings. Disregarding Bill 88 now would just simply feel like a bait and switch. Thank you for your time. Appreciate it.

CHAIR U'U-HODGINS: Thank you. Members, any clarifying questions? Seeing none. Thank you very much for your testimony.

MR. MCKIM: Okay.

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CHAIR U‘U-HODGINS: Next testifier, please.

MS. MCKINLEY: Next testifier is Pamela Tumpap, to be followed by SK B, both on Teams.

CHAIR U‘U-HODGINS: Okay.

MS. TUMPAP: Aloha, Chair and Members of the Housing and Land Use Committee.

CHAIR U‘U-HODGINS: Aloha.

MS. TUMPAP: I’m Pamela Tumpap, President. Oh, can you hear me?

CHAIR U‘U-HODGINS: Yes, we can.

MS. TUMPAP: Okay. Great. Sorry. Thank you. I’m Pamela Tumpap, President of the Maui Chamber of Commerce, an organization that has long and consistently advocated for attainable housing for local families. We appreciate that the Mayor shared his support of this bill this morning. We were surprised and felt let down, honestly, by the planning commissions’ recommendations to deny Bill 88, given the TIG recommendations and tremendous work done by the Councilmembers to create H-3 and H-4 zoning districts. This bill was supported by Mayor Bissen in advance of that...those meetings, as noted when he signed Bill 9, and by the Planning Department’s recommended approval before the Planning Commission. Bill 88 creates an additional zoning option for property owners. It does not automatically rezone any properties. And yes, I understand. Over time with different players in office, things can change. And as was pointed out, advocacy and continued involvement is critically important always. So, we appreciate those who are coming forward and sharing their thoughts. During the Planning Commission meeting on Maui, commissioners stated that County policies and community plans do not support the creation of a new hotel zoning...of new hotel zoning districts. However, the Department of Planning’s own General Plan consistency analysis included in the transmittal for Bill 88, they found that the measure to be generally consistent with the Maui County General Plan. So, I hope we’ve overcome that. I deeply appreciate Eve Hogan’s comments this morning. Commissioners also raised concerns regarding sea level rise and coastal exposure. We question this rationale in light of the goal of transitioning some of these units into long-term rentals and affordable housing. If these properties are considered vulnerable to future sea level rise, why would we place that burden on local residents instead? Should managed retreat, relocation, or major repairs become necessary, it would be harder on local tenants and home...homeowners there, not transient visitors who live elsewhere and don’t count on it as their full-time...time home. So, we found that interesting. And they would face displacement, housing instability, and significant financial hardship more than those who are using those units for transient vacation rentals. So, it was just an interesting comment and...and rationale that we don’t subscribe to. Throughout the deliberations on Bill 9, many Councilmembers committed to honoring and advancing the recommendations of the temporary investigative group, the TIG report. Bill 88 represents that important and needed part of that work. We respectfully ask that you uphold those commitments and pass Bill 88. And we appreciate your time and attention to this. We all need to move forward, and we need to move forward with solutions and

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options, and we appreciate that. And most importantly, we need to move forward with attainable housing for local families. We are losing too many. And this is a part of a measure, but many more . . . *(timer sounds)*. . . avenues are needed, and we need to get on with it. Mahalo.

CHAIR U‘U-HODGINS: Thank you, Ms. Tumpap. Members, any clarifying questions? Seeing none. Thank you very much for your testimony. Next testifier, please.

MS. TUMPAP: Mahalo nui loa.

CHAIR U‘U-HODGINS: Thank you.

MS. MCKINLEY: Chair, the next testifier is SK B online, to be followed by Jim Sullivan.

MS. SK B: Aloha. Thank you for taking my testimony. I just wanted to bring a couple points to the surface. I do support Bill 88, and thank you for your consideration. I do think that what the TIG did was a lot of quality work, and I do think it’s a good compromise to what Bill 9 ended up becoming. As far as bait-and-switch comments go, I feel like those that support Bill 88 are feeling exactly that sentiment, that we were all led to believe during the Bill 9 conversations that Bill 9 would pass under the...the guise of H-3/H-4 zoning being created...I’m sorry, H-2/H...whatever it is, Bill 88 being...moving forward. I also want to mention or address, you know, future concerns of future who’s in office and what happens with future buildings being accepted into short-term rental use. And I just want to remind everyone that when developments start, there’s a reason there’s a public hearing period, and there’s a reason why those such periods occur, and that’s the time for the public to, you know, object or accept new developments. At one point, these buildings, under all of our declarations, were approved under such uses, and so, therefore, that’s the...that’s the way to address the future ones, too. You...there is a process, a legal government process in place to address those every time a new development comes into play. It’s not a sweep-one-all situation, and nobody’s time is more important than each other’s, so we’ve all invested equal time, valuable time, into this conversation. And I urge the Committee who, unfortunately, it did seem...similar to what Eve Hogan had said, it did seem very apparent in the Planning Commission meeting that there was a lot of misinformation as far as what they were coming together to discuss when this was before them, and it’s unfortunate, but I am happy to see that we’re before you today to try to right some of those wrongs. And again, if you didn’t see or hear some of that confusion, I would also encourage you to watch that meeting. And I also want to mention, you know, the question of what defines a hotel at this very point for Bill 88 is really up for discussion because, you know, shopping carts...a lot of residents appreciate the shopping carts. Who doesn’t want to take a second trip to their car? Okay. So, I do want to, you know, cautiously advise everyone to be very careful about what defines the hotel versus what defines...you know, and...and really leave that up to, number one, what the declarations were issued at for these different properties, but two, what are the risks in not allowing these to continue in STRs because of the carrying costs and the expenses involved in . . . *(inaudible)*. . . them owner-occupied? That is all. I really appreciate . . . *(timer sounds)*. . . everyone’s time. Thank you.

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CHAIR U‘U-HODGINS: Thank you. Members, any clarifying questions? I don’t see Member Johnson. Seeing none. Thank you very much for your testimony. Next testifier, please.

MS. MCKINLEY: Chair, the next testifier is Jim Sullivan, to be followed by Caitlin Miller.

MR. SULLIVAN: Good morning, Chair and Councilmembers. My name is Jim Sullivan. I’ve been blessed to be able to visit Hawai‘i, or Maui particularly, for the last 45 years, and for the last 15 years, my wife and I have owned a...a condominium in...in Wailea, and we’ve rented it out short-term. So, like most of us, we had very strong opinions on Bill...Bill 9. I mean, it was a polarizing bill, and strong opinions both ways, which I respect, you know, both sides of it. The idea of H-3 and H-4, in our opinion, is...is a compromise, and by definition, a compromise never completely satisfies either party, or any compromise, and...and H-3 and H-4 won’t. But it is a fair compromise because it does allow properties that legally were used and were developed as second homes, allowing short-term rentals, which brings tourists in...into the...onto the island, people who can’t really afford to spend a week in a hotel, and it’s...it’s good for the...it’s good for the community. It’s very good for the workers there, and...and it’s...it just makes sense. And it does allow, you know, the other 2,500 units, which are more typical apartment units, to be used for local housing. So, for that sense, I do think it’s fair, and I think it will...you know, there’s already been a couple of lawsuits filed. Without this, there’s going to be more, and there’s going to be, you know, it’s going to be years of litigation, a lot of expense on both sides. And I think this is a way to kind of stop that, and allow everybody to kind of move forward in a fair and meaningful way. I thank you guys for all your work. I know it’s been a very difficult last couple years. You know, the fires were horrible. We feel so bad for all the...the...for the community, what they’ve gone through, and now with the...the floods, it just seems that Maui can’t get a break at times. But I do think this is a very good option, and I hope that the...the...the Members will...will pass it as they talked about it during...during the last testimonies prior to the passage of Bill 9. And thank you very much.

CHAIR U‘U-HODGINS: Thank you very much for your testimony. Members, any clarifying questions? Seeing none. Thank you for your testimony. Next testifier, please.

MS. MCKINLEY: Chair, the next testifier is Caitlin Miller, to be followed by Kathy Fleming.

CHAIR U‘U-HODGINS: Sounds good. Aloha, Ms. Miller.

MS. MILLER: Sorry, Jim’s a lot taller than me. Good morning, Chair U‘u-Hodgins and Members of the Committee. Caitlin Miller on behalf of the Maui Vacation Rental Association in support of Bill 88 as written. My testimony today is intended to bring the focus back to the zoning implementation work that was contemplated throughout the TIG recommendations and Bill 9 process. Bill 88 represents the continuation of that work. The...this legislation is ultimately about modernizing Maui County’s Zoning Code and creating a more internally consistent framework for longstanding visitor accommodation uses without creating broader or unintended rights under the existing H-1 and H-2 zoning districts. These properties occupy unique space within Maui County’s land use framework. They are not traditional hotels, but they are also not

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traditional apartment housing. Bill 88 helps address the longstanding zoning mismatch in a more precise and measured way. Maui absolutely needs housing solutions and those conversations should continue, but Bill 88 is not about expanding visitor accommodation or increasing STR inventory. It is about creating greater clarity, consistency, and alignment within the County's Zoning Code while continuing the implementation work that followed the TIG recommendations. Bill 88 is not about expansion. It's a zoning modernization and correction work. Thank you for your time today.

CHAIR U'U-HODGINS: Thank you for your testimony. Members, any clarifying questions? Seeing none. Thank you. Next testifier, please.

MS. MCKINLEY: Chair, the next testifier is Kathy Fleming, to be followed by Jennifer Stadig on Teams.

MS. FLEMING: Good morning, Committee Members. Thank you for your service. Being here for three years, I've seen how hard this Council works, and I really appreciate it, so thank you. So, I just want to echo the really good testimony that's been given here. Caitlin Miller, Jim Sullivan, Pamela Tumpap, Eve Hogan. I mean, go back and listen to those testimonies. They say it so much better than I could. But I do want to speak to the fact that somehow it's given that the community supported Bill 9 from the first place, which I don't think is true. I spent three years talking to people on this island, and everywhere I heard, even from people that never even vote, but they feel strongly about property rights, and they felt like Bill 9 was unfair. So, I would love to see it on the ballot sometime, so we could let the people vote. But here we are, because H-3/H-4 zoning was not a companion bill with Bill 9. You know, the supporters said, pass it clean, and you can trust us. We're going to get this done later. Well, keep your promises. And I would just also like to bring some sanity to this whole idea of people over profits, and should we support the hotels, or should we support the STR owners? Jim Sullivan, perfect icon of STR owners. We all tend to be pretty old, because it took us a while to save up the money to buy an STR. Had to work a lot of years to make that happen. And we're not oligarchs. We're not billionaire hotel owners. We are the people, and we're not hurting Maui County at all. We help Maui County a lot. Thank you.

CHAIR U'U-HODGINS: Thank you for your testimony. Members, any clarifying questions? Seeing none. Thank you. Next testifier, please.

MS. MCKINLEY: Chair, the next testifier is Jennifer Stadig, to be followed by Stephen West. Jennifer Stadig is online.

CHAIR U'U-HODGINS: Aloha. Oh, we can't hear you just yet. Can you please unmute your mic? It should be on the right-hand corner.

MS. STADIG: Okay. There we go.

CHAIR U'U-HODGINS: Okay. We can hear you now. Perfect.

MS. STADIG: Yeah. . . .*(inaudible)*. . .

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CHAIR U‘U-HODGINS: Thank you.

MS. STADIG: Thank you, Chair. And thank you, Council, for hearing this. This has been a complicated issue and one that is...is...is pretty close to home. I...I am a born and raised Kihei girl and a registered nurse for 15 years. I live...I can see the...I’m in opposition of...of Bill 88. I can look directly at the Minatoya right from my window. I...I walk through them. I walk my dog all through them. These STRs are functioning at such a low level that...that for Hotel zoning, with...with...with these little cards and things, I get it. I hear what the...the previous testifiers have said, that they’re for Maui County, but who is Maui County? Maui is...is us born and raised people who are trying to make a life, people who are...who are professional, that are...are coming home. I...I worked on the mainland for many years, but I came home because it was...this is...this is my kuleana to be here. So, our kuleana is to our residents, and I appreciate that these folks need to make a living with their STRs, but I don’t see any...any businesses or any...any workers. They’re not...they’re not employing people at the many Minatoya next door. So, I’m in opposition of Bill 88, and I appreciate your folks’ time on this. I know it’s a...it’s a hard discussion, and we need to prioritize our residents. Thank you.

CHAIR U‘U-HODGINS: Thank you very much. Members, any clarifying questions? Seeing none. Thank you for your testimony. Next testifier, please.

MS. MCKINLEY: Chair, the next testifier is Stephen West, to be followed by Andrew Church.

CHAIR U‘U-HODGINS: Mr. West, I just saw you, and then you disappeared. Sure, we can move on to the next one, but he’s here. We can move on to the next, and then we’ll call Mr. West.

MS. MCKINLEY: Chair, the next testifier...

CHAIR U‘U-HODGINS: Oh, yeah, he’s on the phone. Yeah.

MS. MCKINLEY: The next testifier is Andrew Church.

MR. CHURCH: Hello. Aloha, Chair and Members of the...Members of the Housing and Land Use Committee. My name is Andy Church. I am a small business owner, and a Maui resident for the past 27 years. My daughter, my...her mother, her grandparents, her great-grandparents, her great-great-grandparents were all born and raised in the Islands of Maui, Molokai, and O‘ahu. I’m not a mainland investor or a second homeowner. Maui...mahalo for the opportunity for my family to testify today in support of...I call it Resolution 25-230. I hear...keep hearing it called Bill 88, so if I say it wrong, I apologize. This resolution is an important step towards creating more clarity and modernization within Maui County’s Zoning Code regarding longstanding, lawful, legal visitor accommodation uses. Right now, there’s simply too much uncertainty, too much confusion surrounding these TIG-appointed exempt...exempt properties. Many of these visitor accommodations have legally operated for decades, paid taxes for decades, have supported local jobs for decades, and have been a part of Maui’s economy and community for generations. Yet today, many owners, residents, businesses, even

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buyers are struggling to understand what the future rules and classifications may look like. It is too important...we have to remember that this is...this hearing is not about individual complexes or development or shopping carts. It is about whether Maui County should create clearer zoning categories that better reflect longstanding existing uses and provide more organized framework moving forward. As someone who works directly with property owners, visitors, renters, contractors, cleaners, and local business and local residents every day, I can tell you that...I can tell you uncertainty creates economic stress and confusion throughout the community. Clear zoning matters, modernized zoning matters, consistency matters. This is a crucial opportunity for the Council to help fix a longstanding confusion and inconsistencies within Maui's zoning system. It is important that Maui County Zoning Code reflects reality. Many of these visitor accommodations were originally built, marketed, sold, financed, and taxed, and operated for transient use for decades. This resolution simply begins the process of creating zoning classifications that acknowledge and organize those longstanding uses in a more transparent and consistent way. I appreciate that the Council has taken the time to carefully evaluate these issues through the public process. I know there are many different opinions on vacation rentals, housing, and tourism, but regardless of those differing opinions, I believe a clear, modern, and legally consistent zoning . . . *(timer sounds)* . . . framework benefits everyone. Again, this resolution is about zoning modernization and proper zoning alignment. It is not about individual complexes. I respectfully ask the Committee to fully support Resolution 25-30 [sic], aka Bill 88, and move forward with continued discussions.

CHAIR U'U-HODGINS: Thank you.

MR. CHURCH: Mahalo for your time and your consideration. Thank you.

CHAIR U'U-HODGINS: Thank you very much. Members, any clarifying questions? Seeing none. Thank you very much for your testimony. Next testifier, please, but please call the next two testifiers.

MS. MCKINLEY: Yes, Chair. The next testifier is Stacey Alapai, to be followed by Julie Adams on Teams.

CHAIR U'U-HODGINS: Sounds good. As Ms. Alapai walks down, I just wanted to note for our Members we do have about six or seven currently people signed up to testify. Please let me know if you need a break. We've been...I mean, it's been like an hour and 15, but we'll be here for a little bit longer. So, let me know. Thank you. Ms. Alapai?

MS. ALAPAI: Aloha, Councilmembers. This is the marathon that never ends, I guess. We have not talked about STRs enough already. I think it's important to respect the process, respect the public's time on this issue. A decision was already made to phase out these STRs in Apartment zones, and I think part of the mistake of the whole creation of the Minatoya list was this blanket these ones can STR, these ones cannot, when a zoning change happened. And so, I think we're at risk of making the same mistakes that got us here, that have taken up years of not just this Council's time, but the Planning Commission's time, the State Legislature's time. And we're at risk now of doing the exact same thing, codifying the Minatoya list with some blanket statement, blanket

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criteria, when we have the time, we spent years on this, to evaluate each one of these properties individually and ensure that they do fit the criteria of what is a hotel and what should be used as transient accommodations, and what is potentially available to become housing today. I'm here for so many new development discussions, and the argument is always like, if it's one more housing for a local family, then it's worth it. Shouldn't we apply that same logic here? If one of these units can stay and be long-term housing for people who live here, then that's worth the time and discussion and the real thought. Like no one's...no one is saying that all of these should be phased out and only for long-term residential. Like we've said multiple times we're willing to compromise, and there are certain properties on here that should be hotels. They function like hotels, they have unionized staff, they are hotels. So, turn them...make them hotels. But we should claw back every single one of these units to be affordable housing. And I think you guys are really miss...misunderstanding that it's the voters that put you here, the full-time residents that live here, that raise our families here, that have roots in this place, that put you in all of these chairs. And as one of you said when this Bill 9 passed, part-time residents don't vote. You don't represent them. You represent us, the voters that put you in these chairs. And it's so important that you do this mindfully with your full attention on each and every property. And I'm just asking you to respect all of our time. This has the capability to kill morale of our whole community. Because so many people out there, I'm talking to voters every day, and they're telling us, what's the point in coming here and asking you for anything? Because you're just going to do what you want anyway. And that is what I'm most scared of with this. I'm going to keep showing up. Sorry. I know some of you don't want to see me anymore. But you're just going to tell people their vote doesn't matter . . . (timer sounds). . . their voice doesn't matter. Please don't do this.

CHAIR U'U-HODGINS: Thank you, Ms. Alapai. My mic is on. Thank you, Ms. Alapai. Members, any...any clarifying questions? Seeing none. Thank you very much for your testimony. Next testifier, please.

MS. MCKINLEY: Chair, the next testifier is Julisa Adams, and Jeffery Gilbert, both on Teams.

CHAIR U'U-HODGINS: Can you please call them again?

MS. MCKINLEY: Julisa Adams, it's your turn to testify.

MS. ADAMS: I'm sorry. I was having trouble figuring out how to unmute. Thank you very much for giving me a moment to speak here. I did very much enjoy living in Maui and running my condo here. And when I tried to move was the exact same day that Bill 9 was put into force in May of 2024. I was moving back to the mainland, and I wanted to sell. And I've gone on the market. I'm now on the market for the third time in two years. And I've lowered the price of the condo from 875 to 650. We're now taking a loss if we can get a buyer. That's \$225,000 we've lowered the price. And we have never at any point had any contact from a local who was interested in buying it. We have had contacts from other people from other places. But one of the things about Maui Kamaole, which is where I am, is there's only one parking spot. And the amount of...I had somebody, a Canadian, interested in buying and asking me about another parking spot...it's prohibitively expensive. I have a local Maui-raised cleaner who's half

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Hawaiian, half Filipino. She said...I said, I'm giving people a thousand bucks if they'll bring me a buyer. Do you know anybody? And she said, no, this isn't what anybody like her wants. There's various reasons, I imagine you guys know them. But what's actually happening is, we're losing...this...we bought it with money from our...the equity of our house. And we're...we've already lost \$225,000, and we don't have a buyer. If there was a local who wanted to live here, I would be happy to be part of the Maui 'ohana and help make that possible. But there...there's one parking spot, and these places aren't set up for people to live here. I lived here during COVID, and it's...it's just really not set up as housing, and it wasn't built that way. And everybody in the real estate community is just saying, well, the price is just going to drop until locals can buy them. And that's going to mean that on the backs of all of us, we just lose money on the whole thing. And people think we're making money. We haven't...I haven't made anything for two years. I put a lot of energy into trying to support people's experience here and give them the aloha and give them the tips. I don't make any money at all. I'm from Boulder, Colorado. We have six different affordable housing programs that have all been voted for by people like me for many, many years. There's all kinds of different programs where there's money provided, certain places that were built to be affordable, different kinds of loan programs. It's a wonderful program. It works beautifully. People can live in Boulder where they work. But it...it can't be just put on the backs of people who are losing their retirement because we made the mistake of investing in a place that we were in love with and thinking that running a business here would be a great way to have Maui in our lives. I really studied aloha and tried to contribute in every way I could, including when the fire happened. No...I put it on all the lists. Nobody . . . (timer sounds) . . . contacted me after the fire to stay here, not one person.

CHAIR U'U-HODGINS: Thank you, Ms. Adams.

MS. ADAMS: Thank you very much.

CHAIR U'U-HODGINS: Members, any clarifying questions? Seeing none. Thank you. Next testifier, please.

MS. MCKINLEY: Chair, the next testifier is Jeffery Gilbert, to be followed by Brian Banks, both on Teams.

MR. GILBERT: Good morning. I'm one of the evil STR owners, but...but for some mistake, I don't really make a whole lot of money off this thing. In fact, our goal as an STR owner is to make property a vacation stay in Maui, something that I'd like to be at for about 2 or \$300 a night, not the 400 to 600 that...that the hotels we're talking about here typically charge. So, we...we have...we try to create an environment for our guests that are economical and families can actually come and stay and enjoy Maui. I do want...there...I do want to talk about two things. First, the history. The history that was presented here was omitted. The key...key parts of history are in July 2019, we almost were burned out at Kihei, but nobody seemed to learn anything from that. And so, four years later on, I...I had to suffer much worse than we did in Kihei. If I were in the Maui County government, I would frankly be embarrassed that that kind of thing could happen four years later, and there was not...there were not preparations for that. But in the spirit of never let a crisis go to waste, suddenly, short-term rentals, which

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had been in existence for decades and decades, were now the housing problem. No, the housing problem is the choice of Maui and Maui government entirely. Take a thousand acres, zone it R-7--what I would call R-7--and your housing issue is gone. Just provide the land for people to stay. You don't have to expand very much, just a small portion of the island, and that would work fine. But that doesn't allow for the opportunity, I guess, to seize people's property, which is what you're talking about here...to essentially take...take property that has been longstanding usage, rezone it, and take it for your...for purposes you want. I...I hear the term "compromise," and it's ludicrous. That's how deep do you want to cut in? How much...how much do you want to take away? There's no compromise here. If you want to do the right thing, my suggestion is either, A, drop this whole effort, leave things the way they are, or convert all of the STRs to H-3/H-4, and call it a done. Now you've incorporated them in the way you want in the zoning. Then...and make another thousand acres available for...for land...for...for housing, and...and develop that properly and appropriately. That seems like it's a pretty...pretty simple choice to do. Instead of...and you wouldn't...in this process, you wouldn't have eight years before housing would come on stream. Anyway, that's about all I have to say. Thank you for your time. Good luck.

CHAIR U'U-HODGINS: Thank you. Members, any clarifying questions? Seeing none. Thank you for your testimony. Next testifier, please.

MS. MCKINLEY: Chair, the next testifier is Brian Banks, to be followed by Rob Bence, both on Teams.

CHAIR U'U-HODGINS: Okay. Oh, you're muted, Mr. Banks. If you would like to unmute yourself on the top...there we go. We can see you now. We can hear you now.

MR. BANKS: Thank you. Aloha. My name is Brian Banks. Thank you for the opportunity to testify. I'm testifying in support of Bill 88. I appreciate the careful work the TIG did as a groundwork for this bill. I appreciate the work that went into creating Bill 88, and I very much appreciate the testimony of our Mayor earlier today. It is very consistent with his initial position. Our Mayor was the first person who used the, if it walks like a duck expression, that many people used after him. This bill brings clarity, and it's a good compromise that serves the community. I hope you eventually pass Bill 88. Thank you very much for the work that you have been putting into this. I know it's very difficult, and it has been a long time. I hope with the passing of Bill 88 this comes to a nice conclusion that serves the entire community. Mahalo for your time.

CHAIR U'U-HODGINS: Thank you for your testimony. Members, any clarifying questions? Seeing none. Thank you. Next testifier, please.

MS. MCKINLEY: Chair, the next testifier is Rob Bence on Teams, to be followed by Lauryn Rego.

MR. BENCE: Aloha, Council. This is Rob Bence from Kula, in strong, strong opposition to Bill 88. The...the short-term rentals, they talk about the commitments that they say the Councilmembers made, but there's a big difference between now and then. All of the planning...planning commissions, they all said they no can. And when this was first

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introduced, I know a lot of people, local people, like previous testifiers mentioned, we might not testify, and not...we're lucky if we listen and get a chance to testify, but we're taking a huge amount off of the list, and then adding new zoning, and then having more Hotel zoning, like the other one that was testifying in opposition that lives over by it. This is affecting our whole community. I'm...they...unfortunately, they invested in something, and it should have been workforce housing in the beginning with the Minatoya decision. So, some of these are already in Hotel zoning, and they operate with hotel everything. So, those ones, fine. But I am very, very, very in opposition to creating this new H-3 because that could also open up a new rabbit hole of hotels everywhere. But even if it was just taking like half of this off the list was what it was discussed before the Planning Commission opposed it, but that was bad enough. But I'm hoping that with the Planning Commission, I believe it was all the planning commissions said this was bad. I hope that the Councilmembers recommend to not have this. So, I'm in strong opposition of this. So, maybe even it's going to court, no matter what, have them sort 'em out in court, what is happening, or wait for the next election cycle. This is very bad for the locals, but the people that have money, they definitely going to make 'em to these things to testify, but they're not the voters. So, I appreciate you. I know it's all hard. You know, I feel bad for the...the thing is, nobody's going to be able to go against the...the big hotels. So, there's a lot of originally . . .*(timer sounds)*. . . set for workforce housing that should return to workforce housing. Mahalo.

CHAIR U'U-HODGINS: Thank you very much for your testimony. Members, any clarifying questions? Seeing none. Thank you. Ms. Rego is next, and then do we have anybody else? If not, we're going to call Mr. West after her.

MS. MCKINLEY: We do have one more after --

CHAIR U'U-HODGINS: Okay.

MS. MCKINLEY: -- Lurn Rego, Pani *(phonetic)* on Teams.

CHAIR U'U-HODGINS: Sounds good. Thank you. Aloha, Ms. Rego.

MS. REGO: Aloha, Councilmembers. I'm Lauryn Rego, Maui organizing manager for Our Hawai'i. In that capacity I work closely with Lahaina Strong, and I'm here to share updated Minatoya property analysis. Copies are being handed out. When Bill 9 was debated, Lahaina Strong spent over a year studying what the so-called Minatoya list actually represented beyond just a list of names. Quick refresher. The opposition says these were never meant for housing, but DCCA filings and County records prove that some complexes saw a 40 to 60 percent decline in owner occupancy in just ten years. STR owners would have you believe that these were always built to be STR, but the original documents and declarations for the properties told a different story. The majority of properties included no mention of transient visitor hotel or commercial activity in their original documents, reinforcing their intended use as long-term housing. And last but not least, we conducted in-person site visits to over 100 Maui properties on the list, and what we found was illuminating. As Jordan testified, only a small handful resembled hotel operations with front desks, staff presence, and guest services...the overwhelming majority did not. These are not hotels. And this brings us

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to today. The bill before you asked the planning commissions to create new H-3/H-4 Hotel zoning, and they all rejected it because there's no broad justification for doing so. From our work on the ground, we know firsthand that the Minatoya list is not a one-size-fits-all list, and a one-size-fits-all solution is hardly ideal. On one end of the spectrum, you have full-blown hotels like MKV and Maui Eldorado. On the other end of the spectrum, you have properties like the Hudcovic family home on Halama Street, whereas the neighborhood change doing STR was the only way to keep the home in the family under the pressures of gentrification. In either of these cases, there is no housing to gain from either the hotels or the single-owner parcels. We have always supported upzoning or permitting to keep these properties in compliance, but these are the outliers...the exceptions, not the rule. The vast majority of these A-1/A-2 properties were built as residential condominium apartments. They were not built as hotels. They've not operated as hotels, and they should not now be converted into Hotel zoning to allow them to bypass the intent of Bill 9. If any property believes it legitimately functions as a hotel, the Council and the Planning Department already have the authority to evaluate those claims on a case-by-case basis under existing processes, and we would support that. For the single-owner parcels, we would support permitting to allow the continued use. If new hotel zoning designation is considered at all, it must be limited, case-specific, and tied to clear, enforceable hotel-level standards, such as staffing, 24-hour security, on-site laundry facilities, et cetera. Blanket zoning and blanket community plan amendments are a slippery slope. No community plan has ever said Mā'alaea should be Hotel-zoned. No community plan has . . . *(timer sounds)* . . . ever said all of Honokōwai should be Hotel-zoned. Neither the original development plans for Kihei nor the current South Maui Community Plan supports blanket rezoning. Maui's Apartment Districts are planned as places for people to live, not as individually managed commercial businesses. Mahalo.

CHAIR U'U-HODGINS: Thank you, Ms. Rego. Any clarifying questions? Member Rawlins-Fernandez? Thank you very much for your colorful flyer.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Ms. Rego. Mahalo for your testimony this morning. You mentioned looking at the declarations and the intended uses of the properties, and that some said transient. And so, initially, the zoning...Apartment zoning, had included motel, and motel was different than hotel because it was meant for workers, commuters, not tourists. But transient is so much broader. When looking at the declarations, did it kind of describe what they meant as transient or give any clues as to its alignment with what motel was intended and not hotel?

MS. REGO: That's a good question. In our previous report that we submitted when we were talking about Bill 9, we kind of got into a lot of the examples of that language. There were very few that actually it was clear from like the gate that that was going to be primarily tourists, and like one of those would have been MKV that had a variance from the '60s. One of them is like Maui Schooner that was always planned to be timeshare. So, there's like a small handful that were really clear. Then there's more than half that don't have any mention, but on all of those documents, you had to check whether it's residential or whether it was commercial, and they don't check commercial. And then there's the vague ones that it always...the ones that did mention it, always, in every

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case, mentioned it as a secondary usage, so it was never the primary usage. And then it would say things like transient from time to time, or use of the...of their...I'm trying to remember because it's been months, right, but like their guests or their...their servants even, you know, right? Like their housekeepers. Like it was not...it was never to be a commercial business, you know, in a majority of the cases, there were outliers.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo for that. And then you attended the Planning Commission meeting here.

MS. REGO: I did.

COUNCILMEMBER RAWLINS-FERNANDEZ: And then...so to clarify, did you...was it your understanding that the planning commissioners were...misunderstood what was said when they explained that passing the 8...Bill 88 could increase the number of short-term rentals, vacation rentals here?

MS. REGO: Good question. My recollection of that meeting is...is actually it was the Planning Department that provided the information that it was possibly going to create more short-term rentals. And I know we...when we met with the Planning Department, we...we asked them. I'm still very unclear on it, so I'm not surprised that previous testifiers were also unclear on...on that, but it came from the Planning Department.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo for...again, for your testimony. Mahalo, Chair.

CHAIR U'U-HODGINS: Thank you. Members, any other clarifying questions? Seeing none. Thank you very much, Ms. Rego. We're going to go to Mr. West, and then we have more testifiers after him? Okay. Mr. West, if you could please come down.

MR. WEST: Good morning, Councilmembers. Stephen West, ILWU. We do support this bill, but it must have caveats. Caveats must be that there must be security, housekeeping, front desk. There needs to be staff on site. If it's going to walk like a hotel, talk like a hotel, then it needs to operate like a hotel. It needs to have sustainable wages that take care of those people. Our...our properties have wages, pension, medical, and now retirement medical for our members that work over five years and retire at 65. So, that's a hotel. So, we do support it, but with those caveats. And I did submit testimony. I'm not going to go and link to it. Thank you for your time today, but that's it. Thank you.

CHAIR U'U-HODGINS: I have a question for you, if Members don't have any other questions. Okay. Thank you. I guess I'll use some sort of writing paper. So, your ILWU employees are at which properties? Do you mind listing some?

MR. WEST: It's closest to this, Eldorado. Okay. We have Wailea Ekahi, but then --

CHAIR U'U-HODGINS: Wailea Ekahi.

MR. WEST: -- we have the rest of the hotels. We have 5,500 members Maui Countywide, so please forgive me if I don't give you everything.

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CHAIR U'U-HODGINS: Sure. I was just wondering, yeah, if there were --

MR. WEST: We have...

CHAIR U'U-HODGINS: -- Bill 9 affected and potentially on consideration in the future. So, I just wanted your --

MR. WEST: Yeah.

CHAIR U'U-HODGINS: -- thoughts. Okay.

MR. WEST: And I think we're in the exhibits. Our...our properties are in the exhibit.

CHAIR U'U-HODGINS: Okay.

MR. WEST: So, yeah, if you --

CHAIR U'U-HODGINS: Okay.

MR. WEST: -- refer to the exhibit, we're...we're good with that.

CHAIR U'U-HODGINS: Sounds great.

MR. WEST: We initially testified against it at Planning Commission, but with this...with these caveats, we will...we will support.

CHAIR U'U-HODGINS: Members, any other clarifying questions? Member Cook?

MR. WEST: Mr. Cook.

COUNCILMEMBER COOK: Thank you, Mr. West. So, it sound like...it sounds reasonable. I'm just curious, that...where's the partition as far as like size? Because the consequence, if somebody has a small operation, but they do have this type of criteria, but it's not...but it's a handful of people. I'm just trying to get clarity for --

MR. WEST: I think that's where it comes down to...

COUNCILMEMBER COOK: -- how we slice and dice.

MR. WEST: Yeah, I think that comes down to you guys, you know, figuring that out. I think the properties in...on the exhibit, like Wailea Ekahi, Eldorado, they're...they're not big operations. Now, if...you say size. If we're talking, you know, 25 rooms, I think you're going to need at least a residential manager on site that's going to act as security. And preferably, you're going to have employees that are employees of, not employees that...that get 1099'd, employees of that operation. Because we want the connectivity to the property. We want...I mean, if you want me to go further detail, use the MIT wage calculator that's tied to the cost of living here on Maui.

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COUNCILMEMBER COOK: No, thank you for that --

MR. WEST: Yeah.

COUNCILMEMBER COOK: -- clarification, because I...I understand that. Thank you.

MR. WEST: Sure.

CHAIR U'U-HODGINS: Members, any clarifying questions? Oh, go ahead, Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. Nice to see you here, Steve.

MR. WEST: Good morning.

COUNCILMEMBER SUGIMURA: So, did you say there's a...you want the property to be connected to, did you say MIT? Or what...

MR. WEST: There's a MIT wage calculator.

COUNCILMEMBER SUGIMURA: What does that stand for?

MR. WEST: You can go online, and I can send you the data if you want it.

COUNCILMEMBER SUGIMURA: What does that stand for?

MR. WEST: It's...you know, the University of, you know, MIT?

COUNCILMEMBER SUGIMURA: Uh-huh.

MR. WEST: Yeah, they have a...a program that basically calculates out everything. We use it in our negotiations, because it...it...it identifies the cost of living here on Maui. It's up to date. They update it. We're using it in negotiations that we're in right now.

COUNCILMEMBER SUGIMURA: Oh, I see. Massachusetts Institute of Technology.

MR. WEST: Yeah.

COUNCILMEMBER SUGIMURA: Wow. Okay. Thanks.

MR. WEST: Real facts. Unfortunately, the gas prices don't quite keep up, but that's it.

CHAIR U'U-HODGINS: For real, I had to put gas yesterday. Members, any other clarifying questions? Seeing none. Thank you very much for your testimony.

MR. WEST: Thank you.

CHAIR U'U-HODGINS: Next testifier, please.

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MS. MCKINLEY: Chair, the next testifier is Bonnie on Teams, to be followed by Tom Croly on Teams.

MS. BONNIE: Hello. Can you hear me?

CHAIR U‘U-HODGINS: We can hear you.

MS. BONNIE: Great. Thank you, Chair and Committee. My name is Bonnie. I appreciate your hearing my testimony in favor of Bill 88, as was voted in Council last December, which goes a long way to help Maui find a proper zoning alignment, modernization, and clarity within the Zoning Code. Once that recognizes...it is one that recognizes that it is economically essential to balance the needs of Maui’s residents with the tourist industry, and continue to limit any increase in buildings allowed to offer TVRs. Before April 20th, 1989, transient vacation rental use was an approved use in all Apartment districts on Maui. But in ’89, recognition of a serious shortage of long-term rentals, the County Council voted in Ordinance 1797 to ban short-term rentals in Apartment zoning districts. But in that same measure, the Council exempted any property that already had its entitlements, such as building permit, SMA permit, or planned unit development approved prior to April 20th, 1989. Ordinance 1797 recognized original zoning for these properties allowed short-term rentals in certain areas designated as resort zones meant for tourists. There were already hotels in this area, but Planning recognized the need to provide short-term rentals in a more relaxed atmosphere. They didn’t want everything to look like O’ahu. When passed, Bill 9 eliminated the right to do vacation rentals in A-1/A-2 zoning districts. Permitting was not an option in these areas. To continue to operate as legal rentals, this left only upzoning to H-1/H-2. But that zoning is not appropriate around apartment areas and would allow these properties to bring in nightclubs, build higher buildings, et cetera, not things welcomed in low-rise areas...hence the idea for H-3/H-4 pulling in the A-1/A-2 requirements. Criteria like shoreline rise, parking, et cetera, should be considered. But as was determined earlier discussions, it should be applied to all zones that are oceanfront and not just one zone. It’s not appropriate just to add it to one zone. Thank you for listening to my support of this necessary addition to zoning options on Maui.

CHAIR U‘U-HODGINS: Thank you very much for your testimony. Members, any clarifying questions? Seeing none. Thank you. Next testifier, please.

MS. MCKINLEY: Chair, the next testifier is Tom Croly on Teams, to be followed by Kelsey M on Teams.

MR. CROLY: Aloha, Committee. Tom Croly, testifying on my own behalf. Upzoning from Apartment to H-1/H-2 zoning has never happened in Maui County and would likely prove impossible for all of these properties since it would require current compliance with building codes, water requirements, fire codes, infrastructure codes. And since all the properties we are discussing here were built prior to 1989 when codes were different, there is no possibility, forget the idea, that anyone would be able to...to upzone to H-1 or H-2 zoning. So, put that aside. But I do want to point out a parallel issue to creating this...these zoning districts that was made by the Council in an action that it took back

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in 2011 when it created R...RU-2, RU-5, and RU-10 Rural zoning districts. The reason for these new Rural zoning districts was to rezone Agricultural zoned subdivisions that had been functioning as rural housing and kind of make a duck a duck, right? But in the 15 years since that legislation was passed, I don't believe any properties were ever moved from Agricultural into R-2, R-5, or R-10 zoning. Why? Because this change requires consistency with community plan, just as the change that...that...that would require going from H...from A...A-1/H...A-2 to H-3/H-4 will require consistency with...with community plan. And that will be the time to have a lot of the discussion that people are trying to have today, whether it's appropriate to put these...these properties into these zonings. So, keep that in mind historically as to what's happened. I appreciate the support from the Mayor and the Planning Department for the creation of these new zoning districts, and you have my support as well. But it's important to...to recognize that neither Bill 9 nor this Bill 88 forbids any of these properties from being used as local housing. They can be used as local housing today. They would be able to be used as local housing even if the...the...they went into H-3/H-4 zoning. So, the reality is, most of these properties, whether you do this or not, are going to remain as second homes for people. That is the market for most of these. A few of them will...will transfer to local housing by people who...who have that need and have the...the availability. But let's not kid ourselves. The value is not going to drop to 200,000, 500,000 for these properties, and they would immediately turn into local housing whether or not you pass this or not. So, just giving you some...some things for thought. I think a lot of discussion needs to take place today about what the criteria might be to . . . *(timer sounds)* . . . put these people into this zoning. And let's keep in mind, these are not hotels. They were never hotels. The discussion about them having to meet hotel requirements is silly. It's...that's not what's on the table. We're talking about residential units that were built specifically as second homes and...and the use of them as...as short-term rentals. But they're not hotels, so that...that's a waste of your time to discuss that. Thank you for the...the opportunity, Chair.

CHAIR U'U-HODGINS: Thank you, Mr. Croly. Any clarifying questions? Member Paltin?

COUNCILMEMBER PALTIN: Thank you, Mr. Croly. I just wanted to clarify. You said that they're not hotels, are there...but there are properties already zoned H-1/H-2 that aren't hotels as well, right?

MR. CROLY: There are properties in the H-1/H-2 zoning districts that are not hotels, but those properties became part of that district when they were just raw land, when nothing was built on them. And someone would be able to build a hotel on them but didn't build a hotel. Like in some cases, they build it...they built a condo there. But...but the idea that...that a property that was built back before 1989 could be rezoned into Hotel without knocking that building down to...to...to comply with all building standards, that's not going to happen.

COUNCILMEMBER PALTIN: Thank you.

MR. CROLY: Yeah.

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CHAIR U‘U-HODGINS: Thank you. Members, any other clarifying questions? Seeing none. Thank you, Mr. Croly. Next...do you have a question?

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

CHAIR U‘U-HODGINS: Okay. One second. Let me...let me see where we’re at. And then if...one...two...three...four...five. We have five more testifiers. Do you guys want to take a bio break? If not, Member Cook, you...you can excuse yourself if you want to, but we can take a quick break. I was kind of hoping to do them before lunch, then do a quick discussion before we take the lunch and then come back, but...

COUNCILMEMBER COOK: I’ll be right back.

CHAIR U‘U-HODGINS: Okay. Thank you. Thank you. Thank you, Member Cook. Okay. Let’s continue.

MS. MCKINLEY: Chair, the next testifier is Kelsey M., on Teams, to be followed by Junya Nakoa on Teams.

CHAIR U‘U-HODGINS: Aloha, Kelsey.

MS. MAPA: Aloha. Can you hear me?

CHAIR U‘U-HODGINS: We can.

MS. MAPA: Okay. Aloha, everyone. My name is Kelsey Mapa. I’m a resident of Pukalani, and I am joining you today in opposition to Bill 88. Like many other testifiers who testified in opposition to Bill 88, I’m frustrated with this process and that we have had to come here so many times to rehash the same issue. I don’t have a lot to share beyond what the others have already said. I support what the other testifiers in opposition have shared as a compromise and solution, which is to rezone on a case-by-case basis. And I would like to express an invitation for those who testified with claims that property rights are being threatened by Bill 9 and also those who asked us to consider history. Please consider that your property is stolen land, land that was part of the sovereign nation of Hawai‘i that is currently occupied illegally by the United States. I hope that you allow this process to help you develop empathy for people whose ‘āina has been taken from them and that it inspires you to become more engaged in the Hawaiian sovereignty and general land-backed movements. Anyways, thank you again for the opportunity to testify. I hope that you choose to take the recommendations of the Planning Department and shut down Bill 9...Bill 88, sorry. Mahalo.

CHAIR U‘U-HODGINS: Thank you. Members, any other...any questions? Seeing none. Thank you very much for your testimony. Before I call the next testifier, I would like to recognize Chair Lee. Good morning.

COUNCILMEMBER LEE: Good morning, Chair. I’m here in my workspace alone, looking forward to the meeting.

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CHAIR U‘U-HODGINS: Thank you. Next testifier, please.

MS. MCKINLEY: Chair, the next testifier is Junya Nakoa on Teams, to be followed by Karen S. on Teams.

CHAIR U‘U-HODGINS: Okay.

MR. NAKOA: Good morning.

CHAIR U‘U-HODGINS: Good morning.

MR. NAKOA: You guys can hear me?

CHAIR U‘U-HODGINS: Yep.

MR. NAKOA: Yessah, you can hear me. Okay. Yeah. Here we go again, for nothing. For here we go, wasting our time. Well, the maker of this bill, yeah, he...why he never come to the community that really affect...this...this bill going to affect, yeah? Like, hey, his...his...his community, come Lahaina, come talk to us, you know what I mean? You guys got to learn to come talk story with the community, so we...we no more only three minutes for hurry up and talk story. We can tell you guys our three...our true feelings and passion, and I can give you a whole history of this Minatoya listing, the...the North Kā‘anapali being...being built with the promise of this workforce housing here in Kā‘anapali...here in Honokōwai, yeah, that is now short-term rentals, yeah, and all of this stuff. This kind of stuff is one that hurts us, yeah? And then now we finally went...you know, went get through this bill...Bill 9, not going to go over that damn thing all over again, but here we are because you guys like make it longer, make us waste our time again, and then come up with one H-3/H-4, where you guys...the...all these so-called complexes or whatever, hotel, motels, whatever the hell you want to call it nowadays, they can go ahead and apply for getting to this Hotel zoning and whatnot. It’s always there, yeah? Here we’re going, they...what’s to stop the next maker of another bill--and I’m pretty much going to be the same guy again--going make one H-5...H-5 and H-6 later on? And we’re going to keep on going and keep on going, and then guess what? People have been talking about compromise. You know, us Hawaiians, we’re tired compromise. That’s what got us into trouble because we the ones who always is compromising with ourselves. We...we end up giving in to ourselves, and then we jam up, okay? I pau already compromise. I think it’s time for us to take action and just stick with what we get, okay? We got here, we got this far, let this bill go through, Bill 9, let it going through, okay? The thing not even going to come into effect before a couple years, right? Let it go da kine, and then...and then after that, you buggahs come back and change ‘em. No change ‘em before the buggah even go into effect. No go change ‘em just before . . . *(timer sounds)*. . . we even try the damn thing, okay? And then yeah, one real quick one. I going pau, I going finish ‘em. Your guys’ Planning Commission was appointed by you guys. I hope you guys listening to them about how they all went deny ‘em, yeah, deny the...this bill, okay? Yeah, because you guys tend to listen to them when they pass other projects, yeah? And remember now, they not paid. They work hard. You guys went put ‘em in there for...in that seat. Please listen to them. Shoots.

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CHAIR U‘U-HODGINS: Thank you, Mr. Nakoa. Any clarifying questions? Seeing none. Thank you very much. Next testifier, please.

MS. MCKINLEY: Chair, the next testifier is Karen S. on Teams, to be followed by Kai Nishiki on Teams.

CHAIR U‘U-HODGINS: Okay.

MS. SMART: Aloha. My name is Karen Smart, and I’m here speaking in support of Bill 88 regarding the H-3/H-4 zoning. This Bill 88 is not a surprise. It was a promise when Bill 9 passed with a TIG list attached. It’s a like-for-like A-1/A-2 to A-3/A-4...I mean H-3/H-4, not a new additional zoning. There were promises that this was going to go through after Bill 9 passed, which pushed a couple people to vote for that bill with the promise attached. “I feel committed to pass the H-3/H-4 legislation. I feel committed to those TIG parcels.” That’s Tamara Paltin. “Forthcoming...forthcoming legislation, companion legislation that will continue short-term uses in the new zoning areas,” was from Sinenci. And then, of course, Hodgins said she’ll work hard with the other Councilmembers to ensure the TIG recommendations are implemented. Everybody thought that everybody was on the same page, but sounds like they were not, and everyone is shocked that there’s this Bill...Bill 88 they don’t know anything about. So, the TIG was not simply an effort to preserve short-term rentals. The TIG reviewed properties individually and attempted to identify which Minatoya list units were to...were more or less likely to realistically contribute to long-term housing goals. It’s not about making it look like hotels. There was a whole criteria. You guys know all that. You went through all of it. Just kind of recapping. I also just want to mention all these things that are being built right now, all these 880 units from 2023 to 2025, 2,839 units in the next five years from 2026 to 2030, and the new...the new one that they’re talking about, Bill 163 and 164, 16...1,608 new affordable units. It seems like an awful lot to also try to attack this other promised companion bill. So, I’m just bringing that up just for you guys to digest. Of course, we’ve been talking about this for a long time, and you know all...everything. I just wanted to kind of throw that out there that we’re going to have an abundance of housing, and we...we were...you know, people promised other people on the Council to do this companion bill. So, I...I encourage...I encourage Council today to focus on follow-through, transparency, and honoring commitments made publicly during prior deliberations, and I appreciate all your work. Thank you for your time. Aloha.

CHAIR U‘U-HODGINS: Thank you. Members, any clarifying questions? Seeing none. Thank you for your testimony. Next testifier, please.

MS. MCKINLEY: Chair, the next testifier is Kai Nishiki on Teams, to be followed by Pete Rusker (*phonetic*) on Teams.

CHAIR U‘U-HODGINS: Aloha, Ms. Nishiki.

MS. NISHIKI: Aloha, Chair and Members. I want to focus my testimony specifically on the need to address sea level rise, shoreline erosion, and the long-term future of Maui’s coastlines within this proposal. Zoning is not just a technical designation. Zoning is

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the implementation mechanism of our community plans and our long-term vision for Maui County. The decisions made today shape not just housing policy, but the future condition of our shorelines, our economy, and our public trust resources for generations. I respectfully urge the Committee to consider requiring a sunset provision for any H-3/H-4 zoning applied to properties affected by the officially adopted erosion hazard line, and this would affect approximately 2,000 units on the shoreline, most of them in West Maui. At some point in the future, when coastal hazard thresholds are reached, those properties should refer to open space, conservation, or Park zoning rather than continue intensive shoreline development indefinitely. Why is this important? Because we already know what is happening to many of these coastlines. Beaches are narrowing. Shorelines are migrating inland. Infrastructure is becoming exposed. Emergency shoreline hardening requests are increasing. Public beaches and access are being lost, and yet we continue to make land use decisions as though these shorelines will remain stable forever. We should not create zoning frameworks that unintentionally encourage long-term reinvestment in highly vulnerable shoreline areas without also planning for eventual transition of those lands. To use coastal properties as justification to continue STR use without putting any protections on them is irresponsible. A sunset or reversion mechanism would help protect the long-term health of our coastlines, support the natural landward migration of beaches, reduce future public liability, and provide clarity to property owners, residents, and future decision makers. Most importantly, it aligns zoning with physical reality. Our environment is our economy. Maui's beaches, reefs, and shorelines are not just scenic amenities. They are the foundation of our tourism economy, our cultural identity, and our natural protection from coastal hazards. If our shorelines become armored coastlines lined with seawalls, emergency revetments, collapsing infrastructure, we all lose economically, environmentally, and culturally. I ask the Committee to carefully consider whether these shoreline parcels are truly appropriate for long-term housing. Some may only be suitable for time-limited occupancy under a managed transition strategy. Planning for retreat does not mean abandonment. It means being honest, proactive, and responsible about the future we know is coming and is already here. We have an opportunity right now to create zoning that supports both housing needs and long-term coastal resilience. I urge the Committee to think not just about the next five or ten years . . . *(timer sounds)* . . . but about the next generation of Maui residents and the coastlines they will inherit. If we want housing in West Maui, the County can easily fast-track permitting on already entitled projects in West Maui safely outside the coastal hazard zone, and we don't need to wait, you know, many years. Construction can happen very quickly. We...we've already seen that with the teacher housing built in West Maui. Mahalo nui.

CHAIR U'U-HODGINS: My mic is on. Thank you, Ms. Nishiki. Anybody have any clarifying questions? Seeing none. Thank you very much for your testimony. Next testifier, please.

MS. MCKINLEY: Chair, it appears that Pete...Pete Rusiger *(phonetic)* dropped off on Teams, so our next testifier and currently the last person signed up is C. Rose Reilly in the Chamber.

CHAIR U'U-HODGINS: Okay. Ms. Reilly?

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MS. REILLY: Aloha.

CHAIR U‘U-HODGINS: Aloha.

MS. REILLY: Aloha. So, I was thinking back historically in order to be able to testify today because we’ve talked about this so much, and I feel like the details are so eloquent in what we can be in true assessment. And so, our true assessment is of this historical Native intelligence that has guided this archipelago to such abundance to be called the paradise of earth and all of these things that everyone is so wanting to come here and take. And so, this building was established in giving, and that is what it means to have something here in this archipelago so isolated from everything else, is to give to this place in order for it to give back. Because it is its own self-sustaining and very, you know, needing to be, will not be, there is no price point on shipping in water. And the water points for me are the...like, I mean, it’s the glaring elephant in the room. Like if there’s no water here for these things, that is real planning. What is our investments in water? Do you know that that is a possibility that we can invest in our future water that is being built and accumulated like you consider wealth in a bank account? This is what we’re really facing. And so, you know, I mean, I...I come to all of these things about...like it seems like it’s just a choice, you know? And there’s this new movie, it’s called Awakening. It’s about glyphosate blackouts. And so, I’m thinking back to my beginning in Maui County with our, you know, trying to get just accountability for the chemical testing, and our entire galley shouting, shame on Yuki, as she blocked us from our international success against big chemical companies. And then I think back to my friend asking me, you know, who is Alice Lee? And I’m like, well, she did say she really wants to hear what Keanu Sai has to say. So, I think we should give her a chance, because independence and sovereignty is the only thing that will save this archipelago. And so, you know, last week, my niece was abducted in a gas station. A guy ran up, grabbed her, threw her in the car. He pulled up at another stop after beating her for how long, and then this other guy tried to help her. He almost beat that guy to death, stole her again, you know, pistol whipped her in the car, and then committed suicide doing 90 on the highway. And these are the kinds of things that are on the other side of it’s this choice or that choice. My friend, who is raised in Kilo (*phonetic*) in this indigenous wisdom, has the same weight of vote as this woman who just came here. She’s been here for how long, and what is her investment in reality? Not only for herself and what she brings to creation of our communities . . .(*timer sounds*). . . but here as well. Mahalo.

CHAIR U‘U-HODGINS: Thank you, Miss Reilly. Any clarifying questions? Seeing none. Thank you very much. Next testifier, please.

MS. MCKINLEY: Chair, we have Christopher Salem on Teams, who’s currently the last person signed up.

CHAIR U‘U-HODGINS: Okay.

MR. SALEM: Well, I guess it’s still morning. Good morning, Councilmembers.

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CHAIR U‘U-HODGINS: Good morning.

MR. SALEM: I appreciate, you know, all of the testimony of, my gosh, so many citizens and so many perspectives on what’s in play here today. I’m not sure if everybody is in the same position that I am, that I am so confused by what the end goal of all of this is. I can speak for the record that I’ve developed large apartment complexes. I’ve developed condominium projects. I’ve developed single-family homes. I’ve developed infrastructure underground with civil engineers, land planners, et cetera, et cetera. I understand the process indepthly [sic]. I don’t understand what we’re doing here. We’re doing it again, just like we did in Nāpili, where we have a Hotel District, wherein we call it zoning for what can be built on the individual parcels. But that’s an overlay. You peel back the onion and each parcel, you can build certain things by law. Ms. Nishiki, you spoke very well about that. Which one takes precedence, community plans, alleged zoning? Greg Brown, for example, is not zoned Hotel H-1. The structure is built Hotel H-1. It’s 45 feet high. You get on the elevator, it says ground floor, first floor, second floor, all the way up to the third floor that has a kitchen and everything on it. What is it by law? By rule? So, everyone asks the question, why does all this end up in litigation? I just gave you the answer. It’s because there’s no investigation by this Council to clarify what do our ordinances speak to specifically as allowable usages or structures. Guaranteed, no matter what you do today, this will end up in litigation one way or the other. But I’m going to finish with this vision for West Maui, where I have a family with an 85-year-old kūpuna, my wife, two children. No, I’m not going to be able to go down to Honokōwai and live in one of those units, let alone spend 3 or \$4,000 a month. My issue is this. Where’s all the money from all the new Westin’s and everything from the Hyatt to the Pink Palace? Look mauka, anybody see workforce housing? Anybody see an overpass? Anybody see a farmer’s market at each train station that could take people living in wonderful . . . (timer sounds). . . villages or--I will finish--rental units that they can walk to work? Where’s the honor of the people who actually work in these resorts? And where did all the money go when those thousands of units were developed? Why don’t you investigate that before you mess around with all of this? Thank you so much.

CHAIR U‘U-HODGINS: Thank you for your testimony. Members, any clarifying questions? Seeing none. Thank you. Next testifier, please.

MS. MCKINLEY: Chair, no one else has signed up to testify, so proceeding with the last call. If anyone in the audience or on Teams would like to testify, please come up to the mic and begin your testimony. Here’s a brief countdown...three, two, one. Seeing no one, Chair. No one has...else has indicated they would like to testify.

CHAIR U‘U-HODGINS: Thank you. Members, seeing there are no individuals wishing to testify, without objection, I will now close oral testimony for this item.

COUNCILMEMBERS: No objections.

. . . CLOSE PUBLIC TESTIMONY FOR ITEM HLU-16 . . .

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CHAIR U'U-HODGINS: Thank you. And as a reminder, written testimony will continue to be accepted. My plan, Members, is to do a quick discussion and take a lunch, and then come back after that. And then we can have a very...I'm hoping a robust discussion this afternoon. If you don't mind, I'm going to have Member Cook begin our discussion as the introducer of this bill. So, Member Cook, please begin your discussion.

COUNCILMEMBER COOK: Thank you, Chair. This morning's testimony was very vibrant. I'm looking forward to our discussion this afternoon, and I'm hoping that all the testifiers will follow along. I think that there is a combination of misunderstanding, fear, concern, very strong passion about the need for housing, the pathway for housing. The thing that I think a little bit is missing is the...the economic aspect of our community that is...basically supports the housing and supports the infrastructure for it. So, I'm looking forward to this...this afternoon's discussion, and I'm grateful to everybody who came and gave testimony today, Chair.

CHAIR U'U-HODGINS: Thank you. Is that sufficient? Just double-checking.

MR. KRUEGER: Chair, maybe if there could just be maybe one question or anything.

CHAIR U'U-HODGINS: Do...do you have a question --

COUNCILMEMBER COOK: I have a...I have a --

CHAIR U'U-HODGINS: -- or does anybody --

COUNCILMEMBER COOK: -- a question for Planning.

CHAIR U'U-HODGINS: -- have a question? And then I'll go to Member Paltin just to be super safe.

COUNCILMEMBER COOK: One of the testifiers commented that the Planning Department, during the Planning Commission hearings, stated that this H-3/H-4 planning...zoning category could potentially add to the STR inventory. Could you comment to that?

CHAIR U'U-HODGINS: Please.

MR. PFOST: Yes, thank you for the question. I don't recall that occurring or indicating from the Planning Department itself. I think there was some discussion from the Planning Commission at the end of their deliberation, specifically the Maui Planning Commission, that was talking about consistency with General Plan policy on whether or not this would increase units because Bill 9 had already passed, but there...I cannot recall anything from the Planning Department indicating such.

COUNCILMEMBER COOK: So, I guess my question is...

CHAIR U'U-HODGINS: Oh, three minutes, by the way. Thank you. Go ahead.

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COUNCILMEMBER COOK: So, the Planning Department's position, is this going to potentially increase what...how do you feel about whether it's going to increase it or not?

MR. PFOST: Well, it...it would not increase anything more than what we have today. Bill 9 naturally removed TVR from the Apartment districts. So, it depends on how you look at it, right? If you're now putting some of those Bill 9 units back, then is that an increase or not? I don't know. It's just more or less looking at Bill 9 and...and kind of...kind of trying to figure all that out. So, I don't think it necessarily increases anything more than what we have today.

COUNCILMEMBER COOK: No, thank you. Because I think that you put your finger on it. Thank you very much. That's all of my questions, Chair.

CHAIR U'U-HODGINS: Okay. Thank you. Thank you, Member Cook. Member Paltin, I'll have you ask your question, then we'll take a lunch break.

COUNCILMEMBER PALTIN: Thank you, Chair. And that's probably a good plan, because I think my question is for Corp. Counsel. And --

CHAIR U'U-HODGINS: Okay.

COUNCILMEMBER PALTIN: -- and I don't know if they need time to research it to get back to me. But --

CHAIR U'U-HODGINS: Okay.

COUNCILMEMBER PALTIN: -- one of the testifiers said like having the condition or the...in the zoning, require either 24/7 security or...or staff on site and housekeeping. And so, the question is, is that something that could be legally worked into the criteria of H-3/H-4 zoning?

MR. NUNOKAWA: Sure, did you want me to answer that now? I have a general answer to your question. If you wanted to add them as conditions, they would need to be authorized by the property. They'd need to agree to the conditions. And so, it would require...any conditional zoning would require sort of individual determinations, because the...

COUNCILMEMBER PALTIN: So, kind of like it's too early. It should...because to create an H-3/H-4 zoning, it's not going to make a unilateral agreement. It's when we move a property to the H-3/H-4 zoning, then we would put the conditions?

MR. NUNOKAWA: Yeah.

COUNCILMEMBER PALTIN: So, it's not at this step or...

MR. NUNOKAWA: Not necessarily. If you wanted to do it as...as conditions, that is the appropriate route...it would be to do it after zoning.

COUNCILMEMBER PALTIN: Even if it were not conditions, but criteria?

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MR. NUNOKAWA: It would depend on the criteria, if you had additional specifications for what qualifies as these transient uses, but I couldn't tell you hypothetically. I'd need to know sort of what you were looking to do to give you a answer based on what you were looking to do, whether it was something we could implement or not.

COUNCILMEMBER PALTIN: Okay. So, I guess I got work to do during the break, not you then. Thank you.

CHAIR U'U-HODGINS: Thank you. Members, do you guys have any burning questions? I see Member Rawlins-Fernandez. Go ahead.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Yeah, just a question for the Planning Department over the lunch break, if possible...the number and which properties exceed 35 feet? That would be in the A-4, I guess.

CHAIR U'U-HODGINS: A-2.

MR. PFOST: The number of...I'm sorry, the number of existing properties exceed 35 feet in the Apartment districts? I do not have the answer to that. We'd have to research all the different buildings.

COUNCILMEMBER RAWLINS-FERNANDEZ: Can you do that over lunch?

MR. PFOST: No, that would be impossible. No. Even...even to look at some of the...we'd have to pull building permits for each of these apartment buildings, and some of them are quite old, so you'd have to...whether or not they even indicated a height would be interesting on the building permit itself. So, I'm not sure we would even have all of that information without actually going out to each site visit and actually trying to shoot or scale the...the height of each building.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Thanks. And the reason I'm asking is --

CHAIR U'U-HODGINS: Sure.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- because of the maximum building height in the...in Bill 88. And so, I'm just trying to understand where that number came from. And...

MR. PFOST: Yeah. The maximum building height in Bill 88 is...directly comes from the A-1/A-2 --

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah, I understand.

MR. PFOST: -- so there may be Apartment District buildings currently that are nonconforming to building height in the A-1/A-2 they would continue to be nonconforming to the building height within H-3/H-4. So, does that make sense? Does that help?

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COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah. Well...so, it's, you know, currently in the Apartment District until it's phased out, so...yeah. Because it's proposed to be 35, and then 60.

MR. PFOST: That is correct. And that's exactly the building height that is in the A-1 and A-2 --

COUNCILMEMBER RAWLINS-FERNANDEZ: Right.

MR. PFOST: -- to match that.

COUNCILMEMBER RAWLINS-FERNANDEZ: And that's why I'm asking like where did the numbers come from for it to be in the Apartment Zone. Is it because it was pre-existing, or that was...

MR. PFOST: Originally, when...I'd have to go back when the...and have to look at when the Apartment Zoning district...so way back in the '60s, the Apartment District changed quite a bit to A-1, A-2, A-3, and back and forth. I'd have to go back to those to see when the...the building height was created, but I assume it was created back at that time, sometime in the '60s, maybe. So, I'd have to go back at that legislation and look at that...when it was established at that building height.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo. Mahalo, Chair.

CHAIR U'U-HODGINS: Of course. Thank you. Any other questions you would like to be researched over lunch, since apparently that's what we're doing right now? If not, it is 12:53...I'm sorry, 11:53. It is not 12:53. And we are going to take a lunch, to return at...what time do you guys want to come back? 1:30, our standard 1:30? Okay. Okay. Then we will reconvene at 1:30. It is 11:53. See you folks back at 1:30. We are now on lunch recess. . . .*(gavel)*. . .

RECESS: 11:53 a.m.

RECONVENE: 1:41 p.m.

CHAIR U'U-HODGINS: . . .*(gavel)*. . . Good afternoon, Members. Will the HLU meeting please reconvene. It is 11...I'm sorry. Why do I keep messing up the times? It is 1:41 p.m., and we left off before lunch in the middle of discussion, so we're going to continue with discussion. Each Member will have three minutes apiece, and we will go until hopefully our questions are exhausted. I do have two Committee Members with a hard out at 5:00, so if we could finish by then, I would...and they would appreciate it. You too? You have a hard out? Okay. So, we have three Committee...Committee Members with a hard out at 5:00. And we will again pick up deliberations where we left off. Please raise your hands if you have any questions. I know we all asked either Planning Department or Corp. Counsel some questions before lunch, so Member Rawlins-Fernandez, I know you were asking them some questions. Do you want to ask them?

COUNCILMEMBER RAWLINS-FERNANDEZ: Sure. Mahalo, Chair.

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CHAIR U‘U-HODGINS: Okay. Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Okay. Okay. So, in following up with some of the questions that we received during testimony, why could we not just do the Change in Zoning with H-1/H-2, and create a new H-3/H-4 zoning?

CHAIR U‘U-HODGINS: I’m sorry. My mic was off. Did you want Planning to answer that?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yes.

CHAIR U‘U-HODGINS: Okay. Great. Planning, if you don’t mind.

MS. LILLIS: Thank you, Chair. And thank you for the question. So, in that regard, we did try to look at the Title 19 audit because it does state very clearly that it is best practice not to rely on conditioning a zone change request to address potential negative impacts. So, for us, that means that to the degree possible, we should try to address any limitations on impact and development standards in the zoning district itself and not the conditions.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo for that. So, if...if we were to add on...I mean, I don’t know. I guess I’ll...I’ll wait for a proposal to get to that question. Okay. And then I guess...I don’t know how to ask this question. We’re...we’re kind of talking about in the Planning Commission meeting where there was a new complex, a 24-unit complex that was added to the Minatoya list. My question was, how was that able to be done under the existing conditions in the Apartment Zone under Subsection G, where the complex would have...need to have been legally conducted in any lawful...lawfully existing dwelling unit within the building or structure prior to September 24, 2020, as determined by RPT class or payment of General Excise Tax and Transient Accommodation Tax, and C, the number of room or units allowed for transient vacation rental use may not increase beyond the allowed uses as of January 7, 2022. So, the question about how...are we adding TVRs to the list, and then the question about whether there would be more TVRs in creating the . . . *(timer sounds)*. . . H-3/H-4.

MR. PFOST: Thank you. So, as we discussed back in Bill 9 and we discussed the Minatoya list to some extent, and the Minatoya list had a list of, I think, around 7,100 units on that list...in addition, when we were discussing Bill 9 and then also in the H-3/H-4 when we discussed this with the planning commissions as well, I noted that there’s a list of...there...there are other properties within the Apartment zoning district that were constructed prior to 1989 that the Finance Department had made us aware of during the Bill 9 discussion. That was about 1,700 units. Those did not...those units did not...were not on the Minatoya list, or are not on the Minatoya list, but they are in the Apartment zoning district and they were built prior to 1989. And that’s one of the main criteria of being able to operate transient vacation rental in the Apartment District is, you have to be built prior to 1989. So, there was a property and...that you’re indicating it was Kihei...Kihei Villas, I believe. It was a 24-unit project that came to the Department sometime around ‘23, 20...2023-’24 because I was in the Department, and they requested to be able to be put on the Minatoya list because they felt that they met all

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the criteria that were listed under the Apartment zoning district of meeting that criteria to be...to operate legally TVR. Subsequently, they submitted all the information they needed to submit. We checked it and verified...also with the Finance Department, verified that they indeed...that they did meet all the requirements within the Apartment District to operate TVR use. So, subsequently they were added to the Minatoya list. So, there may be other units in those 1,700 units that we don't know whether or not they were...whether or not they currently meet or do not meet the requirements of...of the Apartment zoning district Subsection G. Importantly, the Finance Department indicated that those 1,700 units are currently...currently have a...I believe a Non-Owner-Occupied tax rate. So, it doesn't appear that they're operating that way, but we...we don't know. So, I don't think the...the H-3/H-4 doesn't add any additional units by doing what we're doing with the H-3/H-4. We're talking about all those units...all those units that meet the requirements of the A-1/A-2 to operate as transient vacation rental units. Those are the units that we would be putting into H-3 and H-4. And with the Department's recommendation of moving that Subsection G over into the H-3/H-4, that would then secure that it's only those units. We want to make sure it's only those units in the A-1/A-2, not any more units. We just don't have a finite number of what that number of units are that meet that criteria because of those extra units in the Apartment District that we don't know, right? So, that's...does that help explain the situation?

MS. LILLIS: And if I could add, so H-3/H-4 would not make any new Minatoya properties. It would just be a zoning district that people can qualify for, but regardless of Bill 88, those properties would still qualify if they met the criteria regardless.

COUNCILMEMBER RAWLINS-FERNANDEZ: So, just a quick follow-up. The 1,700...well, minus 24, so 1,676 potentially could be...could have...could apply for the H-3/H-4 zoning, even though they weren't recognized on the Minatoya list?

MR. PFOST: Yes, if they met the criteria in Subsection G. So, that would have to be verified as well, that they met all that criteria. I'm not sure if they do or do not. We just know that there's 1,700 roughly units that are in the Apartment District within buildings that were built prior to 1990. That's what we know. And so, that was more or less one of the qualifiers in Subsection G of the Apartment District. So, if it met that criteria...if it meets all the other criteria, I don't know. We'd have to verify that. But yes, if they did meet all that criteria, then yes, they could apply to be in an H-3/H-4 zoning district, yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. And...but only the units that were operating before 2022?

MR. PFOST: That is...that is correct because that's one of the criteria in Subsection G.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo, Mr. Pfof. Mahalo, Chair.

CHAIR U'U-HODGINS: Of course. Thank you. Member Cook? And then I saw Chair Lee moved her microphone to her face earlier. Did you have any questions after?

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COUNCILMEMBER LEE: That was only because I was hiding the candy I was eating.

CHAIR U‘U-HODGINS: Oh, okay. Okay. Fair. Fair. Member Cook?

COUNCILMEMBER COOK: Thank you. So, for Planning, will the H-3...creating H-3 and H-4 category, will that have any impact on your ability to monitor and regulate transient vacation rentals?

MS. LILLIS: For us...thank you for the question. We do think that it would make it easier to have clear zoning districts where people don't have to prove to us each time we knock on their door after we see their ad online that, hey, are you operating? Do you have the criteria, et cetera? It makes it very clear after the sunset date of Ordinance 5909 that if you're not in that district, that you can't be conducting that use. So, we do think that it would streamline and create a lot of...more transparency.

COUNCILMEMBER COOK: As my next question, the implementation of this, like creating this category, H-3/H-4, doesn't necessarily rezone anything. But it creates a...a category that the...whether it's Exhibit "2" or whether it's just the Minatoya list, whatever, that it gives you a...there's a process. Will this help the process facilitate? Not...I don't...I'm not necessarily meaning it easier, I'm just saying is it more straightforward for the Department to basically be able to address these requests, and is part of that going to be meeting certain criteria, and that certain criteria, will it potentially filter out a lot?

MS. LILLIS: Thank you for the question. And yes, this zoning district will be extremely helpful for the Department to implement correct zoning, clear zoning. Because heavily-conditioned zoning, a lot can happen throughout the years. We've seen a lot of issues with it administratively or just in general, public confusion over what a zoning district means. And zoning classification does matter. I...I bet you most people thought that Apartment District could only be long-term rental, and that wasn't the case. And so, this is that further effort of clarification and really, you know, transparent zoning for everyone to understand what these properties can do, that they can't expand, and that they have the correct zoning to conduct the lawful use.

COUNCILMEMBER COOK: Thank you. That's all my questions for now.

CHAIR U‘U-HODGINS: Thank you. Member Paltin?

COUNCILMEMBER PALTIN: Thank you. My question...first question would be for Planning. Are you aware of any Minatoya properties, A-1/A-2, that are nonconforming right now in terms of the like minimum lot size, 10,000 square feet, maximum building height, 35 in A-1, 60 in A-2? And if there are Minatoya properties that are existing nonconforming in A-1/A-2, it doesn't automatically be able to go into H-3/H-4 because they would be nonconforming. Is that your understanding?

MR. PFOST: Thank you. First...first question is, I'm not sure we're aware specifically of properties that were...that are maybe nonconforming, but considering that many of these properties were built...like many of them were built in the '60s and '70s, the...and Code has changed over the time, there definitely could be some that are nonconforming.

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But just because they're nonconforming, moving in the H-3/H-4, they just still will retain their nonconformity because they are still not meeting that same setback. If we...if we move the same development standards over and the same uses over, they will just still remain as nonconforming. So, if they wanted to rebuild or are significantly damaged and want to rebuild, they have to comply with our nonconforming ordinance, which would actually bring them into conformance with the Code. So, does that help answer that question?

COUNCILMEMBER PALTIN: So, like the whole reason that I'm for H-3/H-4 is because like say you have an A-2 building that's on a 10,000-square-foot lot, that's the minimum size lot, and say they...the height is like 50 feet, it wouldn't clearly fit into H-1. Maybe their floor area ratio is 80 percent, still wouldn't clearly fit into H-1. Minimum lot width is 70, that doesn't fit in any of H-1, H-M, H-2. And then the max lot coverage is 35 percent, so that would only fit into H-2, but that doesn't...it doesn't align. And so, the reason why I'm for it is because I don't...the nonconformity is a problem with me, that we're going to take this huge swath of things that are nonconforming and shove them in like a square peg into a round hole. That's kind of my problem with not doing H-3/H-4. And so, I don't want to continue on a nonconformity. So, it's not clear to me that if an A-1 or A-2 is nonconforming, that it would automatically be...slide into H-3/H-4.

MS. LILLIS: Thank you for the question, or thank you for the...those comments. And yes, that would be an issue to continue, you know, a nonconformity . . . *(timer sounds)* . . . in that manner, but it is our understanding that the existing properties are in conformance and do fit into these zoning categories, and so we wouldn't be perpetuating that issue.

COUNCILMEMBER PALTIN: Oh, okay. Okay. And then, Chair, I just had a clarification for you, I think for all of us.

CHAIR U'U-HODGINS: Yes.

COUNCILMEMBER PALTIN: Are we working off of the bill Member Cook proposed, or the recommendation that the Planning Department added to the bill when the Planning Commission took it up? And if they could repeat that, because I didn't...I'm not...

CHAIR U'U-HODGINS: Sure. I think, one, it was in their slide. For right now, it's just Bill 88, and then if we...

COUNCILMEMBER PALTIN: Without their recommendation.

CHAIR U'U-HODGINS: Without their recommendation, because that's what was discussed. And then if you wanted to make that recommendation, if anybody wanted to support their changes, then we can discuss that on the floor. It was a little bit difficult because we didn't have recommendations from the Planning Commission, so we just went...we started from scratch.

COUNCILMEMBER PALTIN: We had recommendations, but it was not to do this.

CHAIR U'U-HODGINS: Yes, it's not to do what we're doing, so I figured we start from scratch.

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And then we can hear what their proposal is and discuss that again, because that wasn't necessarily something we discussed previously, so I wanted to have that conversation fresh.

COUNCILMEMBER PALTIN: And...and I...I would imagine we could tweak their proposal to address what Member Rawlins-Fernandez was saying about like creating more. Like if we take their proposal, whatever it was, I don't remember the exact wording, but we don't...if you weren't doing TVR as of now, I wouldn't want them to go and --

CHAIR U'U-HODGINS: Right.

COUNCILMEMBER PALTIN: -- do it in the future.

CHAIR U'U-HODGINS: Right.

COUNCILMEMBER PALTIN: And...and I guess if...if...if this had been a nonconforming usage and they stopped doing it for a year, then they couldn't go back and pick it up, but because it was codified, that's why.

CHAIR U'U-HODGINS: Uh-huh.

COUNCILMEMBER PALTIN: Okay. I used up way over my time, so I'll stop talking now.

CHAIR U'U-HODGINS: Okay.

COUNCILMEMBER PALTIN: Yield.

CHAIR U'U-HODGINS: And then we can...we can discuss that, their recommendations. We can pull it back up on the screen when we start voting. Okay. Member Sugimura?

COUNCILMEMBER SUGIMURA: Thank you. Thank you very much. So, I wanted to revisit the 7,100 Minatoya list and the additional 1,700 that's not on the list. Can you explain that again? So, what will happen if these 17...can these 1,700 homeowners or landowners, whatever, units, can decide that they want to be part of H-3/H-4?

MS. LILLIS: They need to meet the criteria, and so they cannot...they could not have conducted the use today, for instance, and signed up for H-3/H-4. That wouldn't be...they...they would not meet the criteria, even if they were built prior to 1989.

COUNCILMEMBER SUGIMURA: Okay. So, is there a deadline --

MS. LILLIS: Yes.

COUNCILMEMBER SUGIMURA: -- that they can or cannot?

MR. PFOST: Yes, and that's the...that's the exact criteria that's currently listed in our Apartment District. So, our Apartment District right now says, hey, you can operate TVR use in the Apartment District, provided you meet this certain criteria. One of the

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criteria is that your structure had to be built or permitted prior to 1989. Another one is that the transient vacation rental use was legally conducted in any lawfully existing dwelling unit within the building or structures prior to September 24, 2020. So, they had...they must...they must prove that as well. And...and so, provided that you meet this criteria and any of those...those other 1,700 units, if they meet this criteria, then yes, they could request. So, those are the kind of unknown ones that we're not aware of.

COUNCILMEMBER SUGIMURA: Interesting. So, the TIG, which took whatever recommended units that came with the bill, you're saying that in addition to whatever was in the bill, this may then qualify? Or no?

MR. PFOST: What the...what the TIG looked at was basically the Minatoya list and those units that are on the Minatoya list, those units that we are aware of that we know are in the Apartment District and...and for...for the most part, we believe meet this criteria. So, that's what the TIG used as their base. There may be some additional units is what I'm indicating that we...we don't know of that...that may qualify as the same criteria.

COUNCILMEMBER SUGIMURA: And so...

MR. PFOST: Go ahead.

COUNCILMEMBER SUGIMURA: Thank you. So, how do they get approved? So, let's say I'm one of them that are part of the 1,700, and I think that I should be part of this and eligible for H-3/H-4. I prove it, I meet all your criteria, then how does that happen?

MR. PFOST: So, they would need to get approval...just like any of these properties, they need approval of a Change in Zoning and possibly a community plan amendment, most likely a community plan amendment as well. So, that can be either initiated by the Council or it could be initiated by the property owner itself. So, that's...and they would have to get approval of that. That Change in Zoning and community plan amendment has to go before the respective planning commission and then approved eventually by the Council.

CHAIR U'U-HODGINS: But before we go too far, we're not talking about a Change in Zoning today.

COUNCILMEMBER SUGIMURA: Okay.

CHAIR U'U-HODGINS: Okay. Just the new potential category of zoning.

COUNCILMEMBER SUGIMURA: Okay.

CHAIR U'U-HODGINS: Yeah.

COUNCILMEMBER SUGIMURA: Thanks for that clarification. So, then people...testifiers were talking about litigation, and . . .(timer sounds). . . can we talk about that? Because it came up in discussion.

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CHAIR U‘U-HODGINS: You can ask your question, sure.

COUNCILMEMBER SUGIMURA: Yeah.

CHAIR U‘U-HODGINS: If we have to go into executive session, I’m going to have to take a recess and find some notes to do so, but please feel free to ask, and then we can figure that out.

COUNCILMEMBER SUGIMURA: Okay. We may or may not. I just want to know if we still have litigation, because haven’t heard...

CHAIR U‘U-HODGINS: Yes, but not as it relates to H-3 and H-4.

COUNCILMEMBER SUGIMURA: Okay. So, the answer is yes.

CHAIR U‘U-HODGINS: I mean, I’m not the lawyer, but the answer is yes. But not as it relates to this bill in front of us today.

COUNCILMEMBER SUGIMURA: Do we have to get...

CHAIR U‘U-HODGINS: Yeah? Nāhulu, do you want to confirm?

MR. NUNOKAWA: I’m not actively involved in the litigation side. So --

COUNCILMEMBER RAWLINS-FERNANDEZ: Point of order.

MR. NUNOKAWA: -- I...I...I...

COUNCILMEMBER RAWLINS-FERNANDEZ: I think you’re right the first time, Chair.

MR. NUNOKAWA: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: This is not on the agenda.

COUNCILMEMBER SUGIMURA: Well, this is part of discussion. I was just asking --

COUNCILMEMBER RAWLINS-FERNANDEZ: No, it’s not.

COUNCILMEMBER SUGIMURA: -- based upon...based upon what the testifiers asked.

CHAIR U‘U-HODGINS: Okay.

COUNCILMEMBER SUGIMURA: So...but thank you.

CHAIR U‘U-HODGINS: Thank you. Chair Lee, followed by Member Sinenci.

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COUNCILMEMBER LEE: Thank you. I just wanted to ask Deputy Director Ana Lillis, you talked about the additional 1,700 units that weren't considered. So, can you repeat again? And you mentioned one of them...your colleague there mentioned one of them was Kihei Villas. Yeah, that was a 24...that is a 24-unit condominium, and I should know because I...I was the manager over there when I first got married.

CHAIR U'U-HODGINS: Oh.

COUNCILMEMBER SUGIMURA: Oh.

COUNCILMEMBER LEE: Yeah. Those were the days...when four cars went by in one hour, that was busy in Kihei. Really bad. Anyway, okay. Getting back to the 1,700 units. What did you say again, how these are going to be handled? Do...do you just expect people to know to apply for the correct zoning?

MS. LILLIS: Thank you, Chair. And essentially, what is very difficult in land use planning in general is, if you don't know your rights, you may not have any in a way. And so, you know, the Department does not anticipate doing outreach to these apartments to ask them if they would like to apply for H-3 and H-4. And so, if they would like to avail themselves of a use that they were lawfully conducting prior to 2020, then that seems reasonable that they would be aware enough to come to us for a Change in Zoning to continue said use.

COUNCILMEMBER LEE: Okay. So, maybe not outreach, but then enforcement?

MS. LILLIS: So, if they are...let's...let's...exactly, we'll take that example. So, if you were lawfully built prior to 1989, you were conducting the use prior to 2020, and we discover one of your ads online, then we would, you know, send you a notice of warning, you know, indicating that, hey, we don't have you on our books as being allowed to do this. And they would be given the opportunity to prove that they were lawfully conducting and met all of the criteria.

COUNCILMEMBER LEE: Okay. Thank you.

CHAIR U'U-HODGINS: Thank you, Chair. Member Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. Just for clarity, Deputy Lillis, so H-3 and H-4 is just being created for the Apartment-1 and Apartment-2...no other structures, just these...the structures that are in this zoning, correct?

MS. LILLIS: In the zoning district, correct. The only properties that would be applicable or able to apply would have to have A...A-1 and A-2, yes.

COUNCILMEMBER SINENCI: Okay. And you mentioned nonconforming...they would all be nonconforming. Should they be...apply for this new upzoning? Can you explain that?

MR. PFOST: I think the discussion regarding nonconformity is that some of these properties may be nonconforming, for example, to building height or setbacks, not meeting them

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because maybe at the time when they were permitted, they met those setbacks, but now the Code has changed and they do not. Moving into H-3/H-4 doesn't affect their nonconformity. They would still remain as nonconforming because the idea is to transfer the same development standards from the A-1/A-2 to the H-3/H-4, so if they're in H-3/H-4, they're still nonconforming, right? They're still nonconforming to whatever the building height and setbacks are, so they retain their nonconformity. It's just based on they're nonconforming due to setbacks.

COUNCILMEMBER SINENCI: Okay. And Mr. Pfof, what would be the...the options for the apartment...buildings in Apartment-1 and Apartment-2 to...to upzone to H-3 and H-4?

MR. PFOF: In...in order to do that, in order to go into the H-3 or H-4, you need to meet that certain criteria that's already in the A-1/A-2 that allowed you to do transient vacation rental use. So, in our...in our existing A-1 and A-2 zones right now, today, prior to Bill 9, you were allowed to do TVR if you met certain criteria. So, as long as you meet that criteria, then you can go into the H-3/H-4, and you were in either the A-1 or A-2. So, if you meet that criteria, that means you can continue doing transient vacation rental use.

COUNCILMEMBER SINENCI: Okay. But...but they are not zoned H-3 and H-4 just yet, so there would be upcoming legislation. They could be...they could move...they could apply for it through the Planning Commission. They could be supported with Council...Council legislation. Those are some of the --

MR. PFOF: That is...

COUNCILMEMBER SINENCI: -- the steps to get --

MR. PFOF: That is correct. So...

COUNCILMEMBER SINENCI: -- to move into this new zoning.

MR. PFOF: Sorry to interrupt you. That is correct. Not only do you have to meet that criteria to go into H-3/H-4, but you also have to get a Change in Zoning and a...and a community plan amendment in order to do that. And those are public hearing items that have to go before...the respective planning commission has to approve that, as well as the Council has to approve that. So, that's the final step they would have to do.

COUNCILMEMBER SINENCI: Okay. Thank you.

CHAIR U'U-HODGINS: Thank you, Member Sinenci. I want to call on Member Johnson to see if he has any questions. I have questions, but I'm going to hold and make sure all the Members get to ask first.

COUNCILMEMBER JOHNSON: Thank you, Chair. I guess my question would be for you today.

CHAIR U'U-HODGINS: Sure.

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COUNCILMEMBER JOHNSON: Do you plan action today, or are you open to deferring this item?

CHAIR U‘U-HODGINS: I would like to take action on it today.

COUNCILMEMBER JOHNSON: Okay. You know, I went in August and July of 2024, and I visited every property on the Minatoya list. It took me that long to check them all out. Because I wasn't on the TIG, and to have this discussion of not ever seeing these places or just driving by these places, I wanted to see them, and I think that is something this Council should...I suggest you should do as well. You know, folks that live in West Maui and South Maui, you guys know your district, of course, but it's important for us to know exactly what these properties...what they look like and what they function, just like what Lahaina Strong was saying. For me, H-3/H-4 reminds me of a bit of a carve-out, right? And if we're going to do a carve-out, I would prefer a scalpel and not a hatchet. That's me. And H-3/H-4, the...the beginning word is hotel, and I remember as I was one of the votes to have a hotel moratorium, because I don't think this...these islands need more hotel rooms. So, I...I think, for me, trying to find some kind of compromise where we...if there is parcels that function like a hotel, got...you know, union members, I get that, but the list is way longer than that, and that's just my concerns today. And I understand what you're saying, Chair, you want action today, but I would strongly urge our Members, and I would also strongly urge our Department of Housing to jump in the OCS van with us and drive around and look at these units. And maybe the County could be sincere in purchasing up homes with willing buyers, units with willing buyers, and then we have...increasing our affordable housing stock. That's what I would...would prefer the course of action, but I might be the only person, or I...I don't know. I just think the...the idea of purchasing the whole buildings, and then now, how long does it take? And you guys remember the presentation from the Administration, how long does it take to get new...new units, new buildings online? It's our grandkids that will be benefiting from this. So, it's just something that, you know, I...I won't want to end it there, but that's really how I feel, Chair, and I appreciate you giving me this time to speak. Thank you.

CHAIR U‘U-HODGINS: Of course. Thank you, Member Johnson. I did...at least more South Maui and some of West Maui, take a drive and look at all of this. And I think to your point, when and if we move properties to this zoning category, it would be beneficial for people to do that homework. I don't know if we'll be able to organize field trips, but even though I like a good field trip, I did go and look at some, and we had some discussion about some in particular that kind of meet the criterias [sic] that we were discussing. But thank you very much. I wanted to make sure you had the opportunity to say your piece and ask questions. You're not here in person. So, thanks. I'm going to ask a couple questions, if you folks don't mind...at least try to address some of the concerns we heard in testimony. For...I guess, Planning, because Finance...Finance isn't here, maybe even Corp. Counsel, but those of us on the TIG, we had this conversation quite at length, so I'm going to try to state the question so that we can answer it, and even if it may be a statement, because I don't know how to ask sometimes questions. Even if we moved these H-1...I'm sorry, A-2...A-1 and A-2 properties into H-3 and H-4, the units are billed individually. So, even if there is an owner-occupied space

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in the unit, they will not be affected by taxes with this lateral move. Can you please confirm?

MS. LILLIS: Yes, that is our understanding that individuals that would qualify for a Long-Term rate or classification or Homeowner rate...category would still be able to get that classification and that lower tax rate, typically. Yeah.

CHAIR U‘U-HODGINS: Right. Unlike the large hotels that are owned by a singular entity, these are individually-owned units and therefore billed separately. I think that’s really important. That’s a question I asked in TIG, and I heard somebody ask that today. And I think that’s important to recognize that even though this is a lateral move to a hotel zoning, because these are right now operating as hotels, so they’re going to be appropriately zoned as hotels, their taxes won’t be affected. What else did I hear? I heard...we...we spent a lot of time right now talking about existing nonconforming as they relate to the structures, but I find this a very interesting conversation because in my head, the Minatoya list codified existing nonconforming. And so, I know you read your updates to Title 19 to Member Rawlins-Fernandez, and so this is somewhat of a cleanup in my head. But, you know, I...I understand that people don’t necessarily feel that way. When we had a time where we would either issue a variance or it was just an allowed use in apartment building, and that was their primary use. Maybe not for everyone, but that was some people’s primary uses. And so, what we had was existing nonconforming, and by doing a lateral move to move them into Hotel, do you think that this is still an existing nonconforming use and not necessarily just structure?

MS. LILLIS: I think that this would be codifying that the use can be relied upon in perpetuity to the degree that zoning can allow something to continue and...and change in the future. But this gives those owners assurance that they won’t be phased out because of Ordinance 5909 . . . *(timer sounds)*. . . and their maybe nonconforming use is being codified as a allowable use.

CHAIR U‘U-HODGINS: Okay. I have more questions, but if anybody else has more questions, please feel free to raise your hand. I’ll go to Member Cook, and then Chair Lee.

COUNCILMEMBER COOK: Thank you. So, we...providing H-3 and H-4 passes and becomes a new zoning category, the next step for people who want to continue to have a TVR would have to apply...either a Council-initiated or a owner-initiated. Could you kind of...it’s a thing, I need people to...I’d like to have a thumbnail sketch. I’ve heard avalanche, different words that indicate that like this is going to open the floodgate that all of a sudden the...the people that are now on a three- to five-year clock are going to be like, we...we do this, and it’s like, well, that just erased what happened. Could you kind of clarify the process? Because I believe it’s kind of intense still, correct?

MS. LILLIS: Yes. So, this Bill 88 does not create any sort of expedited pathway forward for any property to receive a Change in Zoning, and it is up to Council, the applicant, or the Planning Department to initiate that zoning change. And so, people are...would be able to do that on their own basis, and then there are certain other benefits to having it Council-initiated, but that would be the next step. Apologies if I missed your question.

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COUNCILMEMBER COOK: I think...no, you are, but if someone is going to come, whether it be Council-initiated or Planning Department-initiated or owner-initiated, there is a list of criterias [sic] that they have to do. I mean, could you kind of thumbnail sketch, just...because it's not an easy process.

MS. LILLIS: Correct. The...the Change in Zoning application process is outlined in Title 19, and it is very robust. And the requirements have to do with public...notification of their neighbors, you know, a robust list of studies and analysis that we would request from them, whereas if it's Council-initiated, we, Planning, receive that resolution and work with the...we try to get in touch with the applicant and get as much information as we can from them, but we are on that shot clock to provide you folks back with our report and analysis from the relevant commission.

COUNCILMEMBER COOK: Okay. And I guess, maybe for Chair, but I believe that the TIG's recommendation for Exhibit "2" was that there's a list of criteria to qualify. So, if Council is initiated, there's still a list of things that they have to...like their zone...their deeds, surveys, tax records, all of this data to get them to qualify to be sponsored.

MS. LILLIS: Yes. So, the . . .(timer sounds). . . that criteria could be further established in Bill 88 as it's before you today, so, you know, there's definitely a few suggestions made in the testimony. But in terms of what Council would ultimately put forward in terms of their recommendation would ultimately be under your purview, but the Planning Department would be in charge then of making sure that all those criteria are actually hit. And so, those can be further outlined in Bill 88 or could just be relied upon for Council's initiation.

COUNCILMEMBER COOK: Was that the bell?

UNIDENTIFIED SPEAKER: Yes.

COUNCILMEMBER COOK: Okay.

CHAIR U'U-HODGINS: I'm going to go to Chair Lee, and then I see Member Paltin's hand's up.

COUNCILMEMBER LEE: Deputy Director, did you...did your Department approve of the TIG's recommendations?

MR. PFOST: The Department was recommending approval of the TIG's recommendation to do the H-3/H-4 to the Planning Commission, so the Department supports that TIG recommendation, just the H-3...4...H-3/H-4. We have not evaluated at all their recommendation 2, which would be the Exhibit "2" list or those list of properties. We haven't evaluated that at all. Just...just today, the H-3/H-4, we recommended approval of that.

COUNCILMEMBER LEE: Oh, I...I was under the impression that your Department helped them create that list that...on Exhibit "2."

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MR. PFOST: I know the Department made itself available to the TIG to answer any questions that the TIG may have, but we did not create that list.

COUNCILMEMBER LEE: Okay. So, you don't take any particular stance on whether those...whether the next step, provided this is created, this H-3/H-4 is created, that the next step of CIZ, Change in Zoning, be done individually, or can it still be done en masse?

MR. PFOST: It...it can be done en masse. It's a policy question for the Council on whether or not you want to initiate a Code amendment and Change in Zoning and a...and a community plan amendment for whichever properties the Council desires. So, that...that's how they would be done en masse.

COUNCILMEMBER LEE: Okay. Because it's still possible. When I spoke to your previous Planning Director, I asked how many Change in Zonings do you process a year? She said about four or five. We're talking thousands here, yeah? So, until the end of time, you're talking about if we do it one by one, right?

MR. PFOST: It's property-based, so it would be...it would be a process, a long process, yes.

COUNCILMEMBER LEE: Yeah. Okay. And then the other thing is, usually the units are taxed highest and best use. So, that would be...they would have to individually get exemptions or applications in to the Finance Department. Because the...the buildings have the...the same TMK, right?

MR. PFOST: Yes.

COUNCILMEMBER LEE: Right.

MR. PFOST: Yes, they would have to get exemptions for Owner-Occupied or Long-Term Rental, yes, currently as they do today.

MS. LILLIS: I believe that the individual condo owners have their own TMK, and there is a master TMK for the entire parcel.

COUNCILMEMBER LEE: Oh, they have individual. Okay.

MS. LILLIS: Correct.

COUNCILMEMBER LEE: All right. Thank you.

CHAIR U'U-HODGINS: Thank you, Chair Lee. Member Paltin?

COUNCILMEMBER PALTIN: Thank you. I just wanted to clarify a couple of the testifiers. One asked what's wrong with the H-1/H-2 zoning, and then another said they don't think that any of the Minatoya properties would fit into the H-1/H-2 zoning. So, there's...is it true there's currently three hotel zonings, H-1, H-M, and H-2? So, H-1 minimum lot size is 10,000 square feet, H-M is 15,000, and H-2 is 20,000, whereas both A-1 and A-2

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minimum lot size is 10,000 square feet. Max building height for H-1 is 35, which aligns with A-1, but there's nothing that aligns with A-2, which is 60 feet, unless you go H-M is 90 feet, H-2 is 160 feet. The max floor-to-area ratio for H-1 is 50 percent, H-M is 100 percent, and H-2 is 150 percent, but A-1 is 40 percent for more than three acres, or 50 percent for lots less than three acres, whereas A-2 is 90 percent. And like minimum lot width for H-1 is 75, H-M is 85, H-2 is 100, whereas A-1 and A-2 are both 70. Maximum lot coverage for H-1 is 25 percent, H-M is 30 percent, H-2 is 35 percent, whereas H-1...A-1 is 25 percent, and A-2 is 35 percent. And then you go into like front, rear yard setbacks, and side yard setbacks...and so, like none of the A-1 would fit squarely into any of those three categories. And to me, that is the problem. And that's not even going into additional use, accessory uses, this is just where it fits. And I think that's why Mr. Croly was saying that none of the A-1/A-2 on that criteria of just the building alone or the lot size or the setbacks meets H-1, H-M, or H-2, and I just wanted to hear what your thoughts are on that.

MS. LILLIS: We haven't done a extensive analysis into that, but that is our general assumption from looking at even just briefly the properties, that they don't fit into the Hotel District, and that is why the Department's recommendation, from a development...development standards aspect...and so that's why the Department would recommend against further conflating existing zoning districts by placing heavy conditions on them to not allow further uses, not allow . . . *(timer sounds)*. . . the exact zoning set...setbacks that they have in the Apartment District. So, that one-for-one is the cleanest, most simplest *[sic]*, transparent way to do zoning that we could think of, and we didn't want to "even be lazy" and just, you know, make a bunch of conditions that we want to call a duck a duck, like...like everyone has been saying today. So, that's part of that effort.

COUNCILMEMBER PALTIN: Just for anyone watching, I...I...I made this quick and dirty thing, and then Chair Lee is like, did you make one for all of us? And then I...I looked at the bill, I think it's on page 5 of the bill where it shows all of that stuff. So, if anybody didn't write down all the things I said, it's on...it starts on page 5 of the bill, just the standards and stuff like that. But I...I made mine from the Code, existing Code.

CHAIR U'U-HODGINS: Thank you, Member Paltin. You have any other...or your bell rang, do you have --

COUNCILMEMBER PALTIN: My bell rang.

CHAIR U'U-HODGINS: -- anything else, if not...okay.

COUNCILMEMBER PALTIN: I think that was...I mean, I hope that addresses Mr. Greg, I don't know how to say his last name very well, question.

CHAIR U'U-HODGINS: No, that...Resinsky *(phonetic)* maybe --

COUNCILMEMBER PALTIN: Rylsky. He was like, what...what's the --

CHAIR U'U-HODGINS: Yeah.

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COUNCILMEMBER PALTIN: -- problem with H-1/H-2?

CHAIR U'U-HODGINS: Yeah, that's what I was trying to answer his question.

COUNCILMEMBER PALTIN: And to me, that's the problem, is it...it doesn't fit. And I'm not...I'm not a process, like have to have it fit, but just...or I guess I'm getting into discussion, and I'll just save it.

CHAIR U'U-HODGINS: Thank you. Member Rawlins-Fernandez, go ahead.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. And so, that was the line of questions that I was asking before we took our lunch break, right? Where did the A-1/A-2 numbers come from, what...what happens if...so you...the Planning Department has not done an analysis to see if all the properties on A-1/A-2 that could qualify to be rezoned H-3/H-4 would fit within the design standards, or the development standards of a maximum building height because those would need to be taken on a case-by-case, no one's...have you even verified the list? . . .*(laughing)*. . .

MR. PFOST: Yeah. As...as I mentioned before, it's...it's really basically impossible to determine whether or not all the apartment buildings meet the existing standards in the A-1/A-2, and it's just these existing standards in the A-1/A-2 that are moving to the H-3/H-4. So, we're not coming up with new standards, they're the exact same standards that were in the A-1 and A-2. Those standards in the A-1 and A-2 were...actually, I did look at that, I think, to answer your question, back in, actually, in the 1960s, for example, in the...in the Apartment District, there was actually a 50-foot building height requirement in the '60s...that changed over time to 35 feet we have today. I don't...I couldn't tell you exactly when that changed, but my guess is there were buildings that were probably created in the '60s, in the Apartment District, that might be 50 feet, they're subsequently nonconforming. But that's okay, they'll be nonconforming in the H-3/H-4 as well, if that's adopted. So, the same standards in A-1/A-2 are just being replicated in the H-3/H-4.

COUNCILMEMBER RAWLINS-FERNANDEZ: So, you think that's where the 60 max building height may have come from, if like initially, the apartment zone allowed for a 55-foot height?

MR. PFOST: It could have been...I'm sorry to interrupt you. It could have been. Back then, in 1966, I think I'm looking at, is there was only one apartment zoning district, and not A-1 and A-2, that was subsequently changed later, and that one Apartment District had a 50-foot. So, we have...you know, now we have A-1/A-2 as a 35-foot and a 60-foot, so things changed over time. But what we have being proposed today in this bill replicates exactly what's in the A-1/A-2 today.

COUNCILMEMBER RAWLINS-FERNANDEZ: Right. I understand that, but I also heard that there has not been an analysis on all the properties, so what happens if a property wants to rezone to H-3/H-4, and already nonconforming in Apartment zone? So, in the Apartment zone, they're already nonconforming, they may exceed the minimum lot width, or maximum building height, or one of those things.

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COUNCILMEMBER PALTIN: Are you asking them or the lawyer?

COUNCILMEMBER RAWLINS-FERNANDEZ: Well, they're advocating for properties to fit into the square hole, so...so . . .*(laughing)*. . . --

COUNCILMEMBER PALTIN: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- if we're trying to make them all like comply...

COUNCILMEMBER PALTIN: I thought they already said it could, like the nonconforming could continue as existing nonconforming, but --

MR. PFOST: That's correct.

COUNCILMEMBER PALTIN: -- we already heard that. But I wanted . . .*(timer sounds)*. . . I wanted...

COUNCILMEMBER RAWLINS-FERNANDEZ: But I...I...I thought that was one of the arguments for creating H-3/H-4 and not doing H-1/H-2 is because we wanted to move away from nonconforming.

MR. PFOST: I think going into the H-1 or H-2, you're creating possibly more nonconformities because the...because the development standards don't match. You see what I'm saying? So, in the A-1, for example, if we had a building in the A-1 District that is 40-foot tall, that would be existing nonconforming to its existing 35-foot height. Moving that into now the H-3 designation, which still would retain the 35-foot height limit, it just retains that nonconformity. And so, if that building ever gets rebuilt, they have to meet our nonconforming standards, which would then require that building to be lowered and a new building built to the 35-foot. That's all that happens with the nonconformity. But by moving it to the...trying to figure out, or trying to put it into either the H-1 or H-2, we have other building heights that are...that are different. And...and so, trying to...trying to fit that into one of the H-1s...well, the H-1...H-1 has a 30-foot height...building height, so it might meet that standard. But...so, we would probably want to put that property into an H-1 if we were going down that direction. But it doesn't meet the H-2, which has a 160-foot building height, or the...or the H-M, which has a 90-foot building height. So, by doing the H-3/H-4, it's kind of the cleanest way to continue that nonconformity into what...what...they're getting nothing more than what they had today. So, they're retaining their same nonconformity at 35 feet.

COUNCILMEMBER RAWLINS-FERNANDEZ: I understand what you are explaining. I just...one of the reasons to not do H-1/H-2, you're saying, is because of nonconformity, and that would still exist in H-3/H-4. So, it just...it kind of undercuts that argument, I guess. Because even below that, the percentages and all that, like for maximum lot coverage, maximum floor area ratio, et cetera, it doesn't clean it up like...like you're saying it would, but nonconformity would still exist.

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MR. PFOST: That's...that's correct. But say...let's take...maybe provide another example. In the A-2, and the same under the H-4 if you look at that table on page 6, you have a building height of 60 feet. And so, for a property that has...and so it has a...currently a building height at 60 feet. So, the question then becomes when...

COUNCILMEMBER RAWLINS-FERNANDEZ: Do...do H-1, H-3, because they're more alike.

MR. PFOST: Exactly. H-1, H-3 is kind of like the example I just mentioned. It would...it would actually be the same building height, so...so you're right. An H-1 possibly could work the same for an H-3. You are correct there.

COUNCILMEMBER RAWLINS-FERNANDEZ: So, it's mostly with the H-4 and H-2 and H-M.

MR. PFOST: That is true. And it's also the land uses, which I think are...are actually, to me, more of the significant component of the wide variety of land uses that are allowed in the H-1/H-2, H...H...H-M.

COUNCILMEMBER RAWLINS-FERNANDEZ: Which could be limited if the conditional use was added to that changing zone.

MR. PFOST: There could be a conditional permit and adding conditions that restrict that, that is correct. But that's more of the concern, yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo, Mr. Pfoست.

CHAIR U'U-HODGINS: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR U'U-HODGINS: Yeah, of course. Member Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. One of the testifier's concerns was actually being able to expand the property once they move to H-3 and H-4...should they move to H-3 and H-4. Does it allow them to expand their properties?

MS. LILLIS: Yeah. So, Subsection G says that the number of room or units allowed for transient vacation rental use may not increase beyond those allowed for such use as of January 7th, 2022. Existing transient vacation rentals may be reconstructed, renovated, or expanded if no new rooms or transient vacation rental units are added. So, they would not be able to add room or units, no. Their development standards would essentially be what they have today, just moving them over. So, if they could...couldn't make new transient vacation rental units with H-3 and H-4.

COUNCILMEMBER SINENCI: Okay. Thank you for that clarification. And then, you know, should...should the Council consider Council-initiated properties to rezone and...and to address the community plans, would they still be able to, again, expand, or would we see a...kind of like a construction boom if we're...if we're just changing the community plans?

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MS. LILLIS: No. We don't anticipate any sort of construction boom or a higher intensification of uses if properties were moved into H-3 and H-4.

COUNCILMEMBER SINENCI: Okay. All right. Thank you for that clarification.

CHAIR U'U-HODGINS: Thank you. The use should remain the same. What is existing will remain. If they meet the qualifications to change zoning, and if not, then those who are doing TVRs in the Apartment zone will no longer be able to do so. But those who eventually, when we do change, will continue their...their use. But this provides, as we all said, the mechanism to hopefully cleanly move into a different type of apartment...I mean, I'm sorry, hotel use. Member Paltin, you have your hand up again. Go ahead, please.

COUNCILMEMBER PALTIN: Thanks. I wanted to ask the same question that we were asking to them, to the lawyers, either Ms. Nakata or Mr. Nunokawa. If there's an A-1 or A-2 nonconforming, like by the building standards, would it then be easily able to change its zoning to an H-3/H-4 and thus continue its nonconformity? Or how would that occur?

MR. NUNOKAWA: Thank you for the question. It's hard to say without knowing the nonconformity.

COUNCILMEMBER PALTIN: The specifics.

MR. NUNOKAWA: Yeah. But generally, if it hit the other components, it probably would be able to move over relatively the same. The...the thing with the nonconformity in...if it was nonconforming in H-3/H-4, the theory behind it, based on what I know of the intent, is that the nonconformity would be that it was in excess of the allowed height or boundaries. And so, it would be restricted by its nonconformity. It couldn't expand beyond that, rather than if you switched it into the current zoning designations, H-1/H-2, it might be smaller in footprint than what's allowed, which could allow for expansion. And that was one of the considerations. Department, please correct me if I'm misstating anything.

MS. LILLIS: That's correct.

COUNCILMEMBER PALTIN: And then like sometimes in nonconforming uses, if they want to make improvements, it's difficult until they come into conformity. But if your nonconformity is like your side yard setback, or your floor area ratio, or your max lot coverage, your minimum lot width, how does that play into it? You're not going to...like say you want to fix your roof, and you can't change your floor area ratio without like say tearing down what you got, or how does that work?

MR. NUNOKAWA: Thanks for the question. I'm not the best resource for that question.

COUNCILMEMBER PALTIN: Who do you think would be the best?

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MR. NUNOKAWA: Public Works would probably be able to answer better, because that has to do with approval of permits when you have a nonconformity. So, I'm not exactly sure how they process that, but they should be able to answer that question better than I can.

COUNCILMEMBER PALTIN: Okay.

CHAIR U'U-HODGINS: Planning, would you mind taking a stab at that question too, please?

MR. PFOST: Typically a nonconforming structure...so a nonconforming section within Title 19, the Zoning Code, would allow you to retain those, and as long as you're not doing anything that exacerbates the nonconformity. So, you can retain your setback, but you can't . . . *(timer sounds)* . . . build up into that same setback that's nonconforming. You wouldn't be able to do that. Changing your roof, yes. So, sometimes there's...and I'll have to go back to the nonconforming section, whether or not there's a limitation on how much you can do. Usually it's a 50 percent rule. I have to go back on that. So, as long as you're not basically recreating a new structure, you can retain your nonconformity --

COUNCILMEMBER PALTIN: So, like if the...

MR. PFOST: -- and make improvements.

COUNCILMEMBER PALTIN: Sorry, follow up?

CHAIR U'U-HODGINS: Go ahead, please.

COUNCILMEMBER PALTIN: Like, you know, this might have been a silly question in 2022, but if the entirety of the building burnt down and it was a nonconforming existing, they would have to rebuild it to be conforming?

MR. PFOST: That's correct.

COUNCILMEMBER PALTIN: Okay. Or any other thing, like tidal wave, hurricane, or...

MR. PFOST: Yeah.

COUNCILMEMBER PALTIN: Okay. Thanks.

CHAIR U'U-HODGINS: Thank you. Any other questions? Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Sorry. How many properties do you think are on the Minatoya list and...and not...not units? I know we talked about there being 7,000-plus units and potentially another 1,700 units not on the list, but as far as like the parcels.

MR. PFOST: There's actually 104 projects or so to speak.

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UNIDENTIFIED SPEAKER: Properties.

MR. PFOST: Ten of those are one to two units, believe it or not, that are in the Apartment District, just one or two units. So, really, 94 projects or multiple units...94.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. I think...are those the...the ones that are like houses? In the...in testimony from Ms. Rego, we received a list of some of them that are either like houses, or just like a duplex or something.

MR. PFOST: Yeah, those...

COUNCILMEMBER PALTIN: I think they called it single ownership.

UNIDENTIFIED SPEAKER: Property.

COUNCILMEMBER RAWLINS-FERNANDEZ: Single-owner properties. I wasn't sure if that's what the Planning Department called it.

COUNCILMEMBER PALTIN: Some of the single-owner properties have like up to ten units, I think.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah, but some of them are just like one single-family dwelling.

CHAIR U'U-HODGINS: Yeah, there's a couple ones and twosies.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah. Okay. So, 96?

MR. PFOST: 94.

CHAIR U'U-HODGINS: 94.

COUNCILMEMBER RAWLINS-FERNANDEZ: 94. Okay. All right. I just wanted to clarify the record that it wouldn't be thousands of change in zonings that you would take up. It would potentially be 94. And that's on the list. That's not including the 1,700 out in the wild?

MR. PFOST: That's correct. That's on the Minatoya list.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo, Mr. Pfo. Mahalo, Chair.

CHAIR U'U-HODGINS: Yes, 94 if all converted, which I don't think that's what we're going to do. Oh, is her camera not on? Oh, now it is.

COUNCILMEMBER RAWLINS-FERNANDEZ: The Internet has been kind of...

CHAIR U'U-HODGINS: Shaky. Just like everyone's. Like just FYI, Member Johnson, we heard everything you said, but it was a little shaky. But...and at least now on my computer,

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he's not moving, but I see he's moving there. Chair Lee has had the same motion on my computer. She --

COUNCILMEMBER RAWLINS-FERNANDEZ: Mine too.

CHAIR U'U-HODGINS: -- hasn't moved in a while, even though on that one, it's moved. So, just FYI, it's a little rocky.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah. I'm going to go on my...

CHAIR U'U-HODGINS: You're moving. I see you in real life, just on my camera --

COUNCILMEMBER RAWLINS-FERNANDEZ: You're not frozen in real life.

CHAIR U'U-HODGINS: -- you're doing this. You're not frozen in real life. Go ahead, Chair Lee.

COUNCILMEMBER LEE: So, I wondered what you meant about but we're not going to do all of them. What do you mean by that?

CHAIR U'U-HODGINS: Oh. To Member Rawlins-Fernandez's point, there are 94 properties that are Bill 9 affected on the Minatoya list, which, of course, we're not necessarily discussing all 94 properties now. But in the future...

COUNCILMEMBER PALTIN: Or 104 actually.

CHAIR U'U-HODGINS: Yeah, 104, besides the 10 onesie-twosies. In the future, we would have the opportunity, if...if we so choose to do so, which I probably will, just FYI, to rezone those properties. But my intention, and I don't think the TIG's intention, was to rezone all 94 of those ones that are Bill 9 affected, of...94 of those properties that are Bill 9 affected.

COUNCILMEMBER LEE: But you seem to have over half, right? 4,500...

CHAIR U'U-HODGINS: On Exhibit "2"...

COUNCILMEMBER LEE: 4,500?

CHAIR U'U-HODGINS: Yeah, ish...ish, yeah, for various reasons. But again, they're not all...they're not all the Bill 9 affected properties.

COUNCILMEMBER LEE: They're not all. Okay.

CHAIR U'U-HODGINS: They're not all of them, right? We have a significant portion, but not all 94 properties, yes.

COUNCILMEMBER LEE: Right, right.

CHAIR U'U-HODGINS: Yes.

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COUNCILMEMBER LEE: A significant...yeah, because --

CHAIR U'U-HODGINS: Yes.

COUNCILMEMBER LEE: -- it's three...three-fourths, almost.

CHAIR U'U-HODGINS: Almost. But again, we did include the onesie-twosies, and again, I don't want to get ahead of myself because that's not what's in front of us now, and some other criteria, but we will talk about that when we talk about that. Go ahead, Member Cook.

COUNCILMEMBER COOK: Thank you, Chair. So, I guess for Planning, the concept of this process, either with H-3/H-4, Phase I, this doesn't create any more hotel units. It's not creating anything. It's enabling us to have another zoning category.

MS. LILLIS: Correct. It wouldn't create any new ones, but the ones that are slated for phase out, if they are selected and approved by Council to continue the use, they would continue on, so it wouldn't be creating any new one. No. Yeah.

COUNCILMEMBER COOK: So, it's a path. I just want to...Chair, I just want to kind of like personally keep focusing on that, that creating H-3/H-4 is part of the cleanup from the disconnect of all of this, and it doesn't do anything other than enable the conversation to be more logical and more structured. And conditions can be put on...will and be put on when the different properties are being looked at, when the properties are being discussed, community plan changes. There is a long list of issues that need to be addressed that I'm hopeful that we collectively, as the entire community, can address the concerns, the hopes, and move forward to end up at the end of this with a clear, comprehensive Planning Department, Public Works, tax office, realtors...everybody have a better understanding of what's allowed and what is. I want to lobby for a minute. Okay.

CHAIR U'U-HODGINS: Go ahead.

COUNCILMEMBER COOK: That's not good. I want to lobby for a minute. My district has a lot of these units, and I have gone and visit with a lot of units, and I've talked with employees, and I've talked with business owners in the proximity. And I'm just asking people to sort of pause in their judgment as far as like, is it going to make housing? Is it affordable? Is it desirable? All of those things to me, I'm hoping, are a real and more granular assessment instead of just this theory. Because it's impacting our community a lot, our tax base to be able to do infrastructure and afford housing and manage all the different categories that we fund with property taxes. So, anyway, I'm hoping that the H-3/H-4 issue that we're addressing today, that's the focus. I know that's on the agenda, but hopefully people aren't...anyway... . . .*(timer sounds)*. . . Thank you.

CHAIR U'U-HODGINS: Thank you. Does anybody else have any other questions? If not, I'm going to take a quick recess if...but I want to make sure I've exhausted everyone's discussion. Go ahead, Member Paltin.

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COUNCILMEMBER PALTIN: Just the one about their recommendation.

CHAIR U'U-HODGINS: That's what I was going to take --

COUNCILMEMBER PALTIN: Oh, okay.

CHAIR U'U-HODGINS: -- a recess for so that they could kind of get that to us in writing, and then when we come back, maybe we could have that in front of us. But I wanted to make sure that we've exhausted everyone's questions. Chair Lee, did you have anything else you wanted to say?

COUNCILMEMBER LEE: Who's they?

CHAIR U'U-HODGINS: What you mean? Them. Oh, Planning.

COUNCILMEMBER LEE: Planning. Oh, okay.

CHAIR U'U-HODGINS: Planning in the beginning of their meeting...I'm sorry, you weren't here. I should...I should say that. My bad. In the beginning of the meeting, they did have some recommendations for some language change that we didn't include initially. And so, I wanted to have Planning--I should have said Planning instead of they--print it up so we could have a hard copy to --

COUNCILMEMBER LEE: Okay.

CHAIR U'U-HODGINS: -- distribute when we come back in and we can use that as discussion.

COUNCILMEMBER LEE: Okay. Thank you.

CHAIR U'U-HODGINS: Thank you. Any other discussion before we take a quick recess? Any other questions? Go ahead, Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR U'U-HODGINS: Of course.

COUNCILMEMBER RAWLINS-FERNANDEZ: I have to look through my notes. But if I have additional questions when we get back, I can ask my question, yeah?

CHAIR U'U-HODGINS: Yes, of course. For sure.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, okay. And then...

CHAIR U'U-HODGINS: We have a hard out at 5:00-ish. So, we do have a little bit. But Member Sinenci has a doctor's appointment. I think Member Paltin needs to go. Member Sugimura needs to go. So, we're going to...it's just going to be us.

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COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. I'm supportive of that. I have a flight at 7:45.

CHAIR U'U-HODGINS: Okay. Great.

COUNCILMEMBER RAWLINS-FERNANDEZ: If I could get home earlier, that would be even better.

CHAIR U'U-HODGINS: That would be great.

COUNCILMEMBER RAWLINS-FERNANDEZ: But when we were talking about the 94 projects that are like more of the complexes.

CHAIR U'U-HODGINS: Okay. Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: And you said that your intention...well, right now isn't to rezone all 94, but eventually?

CHAIR U'U-HODGINS: No.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

CHAIR U'U-HODGINS: No, that was my point. I'm sorry. I didn't want to confuse anybody. That's definitely not what we're talking about now, but because we were talking about that, I think people assume like all of them are going to move over. And that's just what I was trying to say, that's not my intention is to move all of them over, even though that's not what we're talking about today.

COUNCILMEMBER RAWLINS-FERNANDEZ: Right.

CHAIR U'U-HODGINS: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: I just wanted to clarify that.

CHAIR U'U-HODGINS: Yes. Thank you for making that very clear. It's been a long month and a half.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. I support going...taking a recess now. I'll also ask the Department for the...where to include the recommendation from the Molokai Planning Commission. I have a couple ideas that I can consult with you folks that if this is going to pass, I just want to be prepared to have an amendment to exclude Molokai, which is...which --

CHAIR U'U-HODGINS: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- was the request from the Molokai Planning Commission.

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CHAIR U'U-HODGINS: Yeah. I was going to take a recess until about 3:00. Does that work for you?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah.

CHAIR U'U-HODGINS: Okay. Then it is 2:47 right now. And we're going to take a recess to reconvene at 3:00. See you back at 3:00, folks. . . .*(gavel)*. . .

RECESS: 2:47 p.m.

RECONVENE: 3:09 p.m.

CHAIR U'U-HODGINS: . . .*(gavel)*. . . Good afternoon, gang. It is 3:09 p.m., and will the HLU meeting please reconvene. Thank you. We have HLU Staff passing out hard copies of Planning Department's recommendation. But before we do that, I am going to make sure that we don't have any other discussion to add before I move on to my recommendation. But I'll give...I'll give OCS Staff a second. Thank you. Does anybody have any other discussion? Can we...I...can I also confirm that we emailed it over to Member Johnson? Member Johnson, just making sure you got...not yet? Okay. We just hit --

COUNCILMEMBER JOHNSON: Still waiting, Chair.

CHAIR U'U-HODGINS: -- they just hit send. Okay. You might want to refresh it and then it'll magically appear hopefully. But...

COUNCILMEMBER JOHNSON: Okay. We got it. Thank you so much.

CHAIR U'U-HODGINS: Okay. Good. Good, good. Any other discussion before we...before I move on? Okay. Thank you so much. Members, seeing no further discussion, I will entertain a motion to recommend passage of Bill 88 (2026), on first reading, incorporating any nonsubstantive revisions.

COUNCILMEMBER COOK: So move.

COUNCILMEMBER LEE: Second.

CHAIR U'U-HODGINS: Thank you. I have a motion made by Member Cook and a second by Chair Lee. We do have a couple recommendations to discuss as well. Amendments. Member Paltin?

COUNCILMEMBER PALTIN: I'm...I'd like to move to amend the bill as per the Department's recommendation.

COUNCILMEMBER SUGIMURA: Second.

COUNCILMEMBER PALTIN: Oh, do you want me to read it?

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CHAIR U‘U-HODGINS: Sure, we’ll...we’ll go into that. So, I have a motion by Member Paltin, and a second by Member Sugimura to incorporate Planning Department’s recommended changes. And yes, for discussion, you’re welcome to read it.

COUNCILMEMBER PALTIN: Sure. So, this recommendation is to clarify that only those properties that met the criteria to operate TVR use in the Apartment districts are permitted in the H-3 and H-4 Districts. So, as follows: Adding a B, the following uses are permitted in the H-3 and H-4 Districts. One, any use permitted in Residential and Apartment Districts. Two, transient vacation rentals in buildings and structures meeting all of the following criteria: A, the building or structure received a building permit, special management area use permit, or planned development approval that was lawfully issued by and was valid or is otherwise confirmed to have been lawfully existing on April 20th, 1989; B, transient vacation rental use was legally conducted in any lawfully existing dwelling unit within the building or structure prior to September 24th, 2020, as determined by real property tax class or payment of General Excise Tax and Transient Accommodation Tax; C, the number of rooms or units allowed for transient vacation rental use may not increase beyond those allowed for such use as of January 7th, 2022. Existing transient vacation rentals may be reconstructed, renovated, or expanded if no rooms...no new rooms or transient vacation rental units are added; D, the property owner or operator holds General Excise Tax and Transient Accommodation Tax licenses and is current in payment of State and County taxes, fines, or penalties assessed in relation to their transient vacation rental. And I wanted to add a E to address the 1,700 that are floating out there to say that the property must have...be doing existing transient vacation rentals as of the time of this bill passing...so that if they weren’t doing it, it’s not like you can pick it up from somewhere else. And then minor change on page 6 of the ordinance, side should read 10 feet for the portion of the building, 35 feet or less in height, and bracket out 20 and put 15 feet for the portion of the building taller than 35 feet.

CHAIR U‘U-HODGINS: Thank you. Did you want Staff or Planning Department to wordsmith your condition E?

COUNCILMEMBER PALTIN: Sure. Yeah.

CHAIR U‘U-HODGINS: Okay.

COUNCILMEMBER PALTIN: Legislative intent.

CHAIR U‘U-HODGINS: Yes. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Okay. So, B is TVR use was legally conducted prior to September 24, 2020. So, for the new E that you’re being...that you’re proposing, Member Paltin, how does that differ? I mean, besides for that being 2020 and this being 2026.

COUNCILMEMBER PALTIN: If it’s not going on now...like they said they discovered one, that 1,700 floating on there. They won’t be able to...they’re not doing it right now, they can’t do it future. So, we’re not creating...

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COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, B already prohibits them from qualifying. I mean, we can ask the Department, but that was what I understood --

CHAIR U‘U-HODGINS: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- When we were asking questions.

COUNCILMEMBER PALTIN: How did that one pick it up?

MS. LILLIS: They established that they did meet the criteria, but just didn’t raise...they didn’t notify the Department prior to that date.

CHAIR U‘U-HODGINS: In 2020.

COUNCILMEMBER PALTIN: So, I guess the wordsmithing would be, they would have had to have notified us by the time this bill passes. Oh, to B. Yeah. Legislative intent to B, that they can’t just pick it up.

MS. LILLIS: Something along the lines of...and, you know, we’ll talk more internally, but something along the lines of notified the Department and the Department confirmed their...the allowed use by that date, would be more ideal.

COUNCILMEMBER PALTIN: By the date this bill passes, add that to B.

COUNCILMEMBER RAWLINS-FERNANDEZ: Can we add that to...to B?

COUNCILMEMBER PALTIN: In...in...that would be my legislative intent is what they said. By the time this bill passes, if they...they would have had to have notified the Department and have the Department confirm by the time this passes in order to pick up that use. So, we’re not creating more STR than currently exists legally. I’ll yield.

CHAIR U‘U-HODGINS: Okay. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. So, could that be added to...to B since it already...if they weren’t conducting --

CHAIR U‘U-HODGINS: I think so.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- lawful, and then just add, the confirmed with the Planning Department.

CHAIR U‘U-HODGINS: Just to solidify the language?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah. Of September 24, 2020.

MS. LILLIS: I think at that stage, we might just be able to rely on the new language and no longer need the date of 2020. Because if the Department affirmed it prior to this

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ordinance passing, then we would just use the list that we have on record at this time, or by the time the ordinance passes. But I think that it would be wise to give people the opportunity to inform us. Yeah. Or they could have informed us at any time, of course.

CHAIR U‘U-HODGINS: Okay. So, we’re going to add Member Paltin’s suggested language, however we decide to say it, to item or letter B, to confirm that we are operating on the existing list that we have been operating on, and the others...because we know the list isn’t comprehensive and exhausted [sic]. We’ll need to reach out to you immediately or pau?

MS. LILLIS: You know, on further deliberation with Mr. Pfof, you know, we’ll recommend that we keep the date that’s existed in terms of the September 24th, 2020, and that the Planning Department...sorry.

MR. PFOF: I...I’d put in at the end of Subsection B with it, and the property must have notified the Department prior to the date of passing of this ordinance.

CHAIR U‘U-HODGINS: Okay. Thank you.

MR. PFOF: And/or indicate the date of this ordinance, would be preferable, actually.

CHAIR U‘U-HODGINS: Okay.

COUNCILMEMBER PALTIN: Notified and the Department confirmed.

MR. PFOF: And the Department confirmed. That’d be fine, yeah.

CHAIR U‘U-HODGINS: Okay. That’s clean. On the date of the ordinance passing? Okay.

MR. PFOF: Yes, and listing the date.

CHAIR U‘U-HODGINS: Okay. Any discussion? Member Cook, and then Chair Lee.

COUNCILMEMBER COOK: Thank you. So, just for clarification, what we’re striving to do is not have any outliers [sic] piggyback on this and be able to change their zoning to H-3 and H-4. It seems like the criteria already, A, B, C, D, spells out and limits who would qualify. And I’m super supportive of that. I’m just saying, do we need to add anything to it? Or it’s just like, whether...if they’re one of the 1,700, five of them say, oh, well...they’re kind of going to recognize or not recognize that when they’re applying for a...a new zoning category, they’re going to have to come forward with all their information. It seems like...I’m just...it seems like this covers it. I also do not want people coming out of the woodwork and all of a sudden being able to capitalize on this and be that. We have a large number of these that we’re striving to get from A-1 to A-2 into compliance. We’re going to filter a whole lot of those out that don’t meet the criteria. The ones that do meet the criteria are going to have the opportunity to go through the system. Does that satisfy the desire for the...to insulate the 7...not get the 1,700 to be able to...

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COUNCILMEMBER PALTIN: Yeah. I guess, you know, from the example that they gave where there's some potential Minatoya properties out there, and I'm not sure how that...what they said was Kihei Villas or something. I'm not sure how that meets the criteria. Because if they were paying Short-Term Rental tax rates or TAT to the County, then we would know that they were operating as a Minatoya property. But somehow, otherwise, they were able to pick it up. And I think what this bill is trying to do is clarify things. And I wanted to clarify if they're not doing that use right now, they haven't been confirmed by the Planning Department to do that use right now, sorry, you missed the boat because we're here trying to clarify things and you're not doing it right now. We're not trying to create or allow or have a loophole door open for people to say, hey, I'm an A-1/A-2 property. Hey, I was doing this, I was doing that. It's like, where have you been the last three years, you know, when we've been discussing it? Now is not the time to, like, convert to STR. Now is the time to create other housing or whatever.

COUNCILMEMBER COOK: So, yeah. I'm in...I'm in concurrence. Does...is part of the...is part of the measuring of establishment is that they've been paying their taxes and they're on record?

COUNCILMEMBER PALTIN: Well, that's what B does say, I think. No, wait...yeah. Structure prior to September 24, 2020, as determined by real property tax class or payment of General Excise Tax and Transient Accommodation Tax. So, all of these criteria have to be met. So, if they're not doing that, they should...they shouldn't. Just, you know, clarifying. We don't want, like people popping out of the woodwork that are not doing short-term rental lawfully to say, hey, what about me? You know, because we've been going at this for quite a while.

CHAIR U'U-HODGINS: Did that answer your question, Member Cook?

COUNCILMEMBER COOK: Kind of. So, I wanted to ask Planning. Having heard that, does this...do we need to add anything, or does this basically clarify the criteria?

CHAIR U'U-HODGINS: Would you like to read what the language you suggested earlier to add into Section B that kind of just clarifies?

MR. PFOST: Yes. The additional language would be just adding it to the end, and the property...and the...sorry, the property must have notified...the property owner must have notified the Department prior to the date of the ordinance. So, I guess it's kind of a...it's kind of a policy question because it's...it's the question of there are properties...there may be properties out there that may have already met this criteria and may be operating a TVR that we just don't know about, right? That may want to switch to H-3/H-4, and they just don't know about it. I don't know why, but then this...what this would be doing was...would be, I assume, restricting them from doing that if they did not notify us prior to the adoption of this ordinance. So, it does create a...kind of a threshold of like, hey, yeah, you were operating legally in A-1/A-2, but we're not going to let you go into H-3/H-4 because you did not...you did not notify the Department. So, it's kind of a policy question of how...how are we treating the additional 1,700 units...which I don't know how many are in there that may or may not be able to

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convert that are meeting this criteria...I don't know. And so, it may allow some or not. It's really kind of a policy issue.

CHAIR U'U-HODGINS: Member Cook?

COUNCILMEMBER COOK: Well, I agree. I mean, if someone's in the 1,700, they're not on the Minatoya list, they've been doing it. They're in compliance. We want them to be H-3 or H-4. We don't want any more A-1/A-2 transient vacation rentals, the kind of bottom line, and so, because it's...that's cleaning it up. So, if someone is A-1 or A-2, and they're, quote, "not compliant," they need to change. And so, we want them to be able to change, but they're going to have to change by a certain date because a year from now, or at some point in time, they're going to be...they're going to lose their right. Is that correct? In three years to five years, if...if somebody is doing that now --

MR. PFOST: They would not...

COUNCILMEMBER COOK: -- and they don't come forward, they're going to lose their...that previous entitlement.

MR. PFOST: That's correct. They would not be able to change. But...

CHAIR U'U-HODGINS: Can I...can I add something real quick? I don't mean to...I feel like we've...we've been going back and forth. We, the County, had sent out letters after Bill 9 to let the property owners know you're going to be Bill 9 affected. So, if there's a possibility...like Kihei Villas, which clearly they already flagged themselves for us to now have this discussion. If there's another property out there that's completely unaware of what we're doing, that we have been doing for the last, I don't know how long, I wish to be that oblivious.

COUNCILMEMBER PALTIN: Can you repeat that?

CHAIR U'U-HODGINS: . . .*(laughing)*. . . All I'm saying is, is that in the Kihei Villas instance, which is why we're having this discussion, they came to us and they're like, hey, we somehow...we're not on this list. As Planning said, in the very beginning of Bill 9 discussions, this list is probably not completely exhaustive. We probably have missed some. And I think throughout the year and a half that our lives have been consumed with this discussion, they should be well aware that they are going to be Bill 9 affected, and should have absolutely contacted us. And like Kihei Villas, and like others already have. And we also sent out letters from Finance to let people know that they're going to be Bill 9 affected. And so, they should have contacted us. This...I don't have any issue with this language because it does just solidify that we are going to work off what we have been working off of, that list. Because then if not, this is just a never-ending discussion in my head.

COUNCILMEMBER RAWLINS-FERNANDEZ: Member John...Member Johnson has his hand up.

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CHAIR U‘U-HODGINS: Member Johnson, and then I’ll call on you, Member Rawlins-Fernandez, if you have any discussion. I saw Member Sugimura. Member Johnson, go ahead.

COUNCILMEMBER JOHNSON: Thank you, Chair. I don’t...I want to respect everybody’s time, but I have a 3:30, so I’ll be --

CHAIR U‘U-HODGINS: Okay.

COUNCILMEMBER JOHNSON: -- dropping off the call. But I just wanted to inform you. Thank you for allowing me to be excused.

CHAIR U‘U-HODGINS: Okay. Sounds good. Thank you. Thank you --

MS. NAKATA: Chair?

CHAIR U‘U-HODGINS: -- Member Johnson. Yes.

MS. NAKATA: Oh, Chair --

CHAIR U‘U-HODGINS: Yes.

MS. NAKATA: -- could Staff just clarify, I think when Mr. Pfof read the language most recently, it didn’t have the phrase about the Department having to confirm the use. Is that part of the provision?

MR. PFOF: Yes, it should have been confirmed as well. Thank you.

MS. NAKATA: And this would be before the effective date of Bill 88 as opposed to Ordinance 5909, right?

MR. PFOF: That’s correct.

MS. NAKATA: Okay. So, what Staff has is, adding on to the end of B, the property owner, and should it also say or operator, or is it just owner?

MR. PFOF: It should be the owner.

MS. NAKATA: Okay. The property owner must have notified the Department of the transient vacation rental use, and the Department must have confirmed the use before the effective date of this ordinance.

MR. PFOF: Yeah, that’s fine by the Department.

CHAIR U‘U-HODGINS: Okay. Member Sugimura?

COUNCILMEMBER SUGIMURA: Thank you. So, I support this. So, the...the thought that I have for the Department is of the 1,700 units, and we all talk about the TIG’s great

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report and work, right, that came up with this H-3/H-4, and that list, Exhibit "2." So, are these 1,700 units, any of them are properties that are on the Exhibit "2" list, or is it brand new?

MR. PFOST: No, they are not on the Exhibit "2" list, because the Exhibit "2" list was taken strictly from the Minatoya list, so these 1,700 properties are not on the Minatoya list.

COUNCILMEMBER SUGIMURA: So, if they qualify based upon what this says, they can still proceed, but they will not be in the Council-initiated Change of Zoning that we've been talking about? So, it's going to be completely separate?

MR. PFOST: No, they would need to...they would need to proceed --

COUNCILMEMBER SUGIMURA: Go through the process.

MR. PFOST: -- and notify the Department prior to the adoption of this bill. And so, if they do not do that, then they are not allowed to move into the H-3 --

COUNCILMEMBER SUGIMURA: Right.

MR. PFOST: -- or H-4 District.

COUNCILMEMBER SUGIMURA: Right. But in order to get their Change of Zoning recognized in the next step...this is like step one, so next step, they wouldn't be included in the Council-initiated Change of Zoning? That...

MR. PFOST: That's correct, and nor would they be included in a property owner request for Change in Zoning either if this language is placed in, because this...this language would...would exclude them from being within the H-3/H-4, because they did not let the Department know and the Department confirmed their use.

COUNCILMEMBER SUGIMURA: If they did not.

MR. PFOST: So, they would not be able to...to either...do that either. So, you're basically excluding the 1,700 properties.

COUNCILMEMBER PALTIN: Except for that one that already came forward with...that talked to you.

CHAIR U'U-HODGINS: Yes. Kihei Villas.

MR. PFOST: Kihei Villas? They're actually on the Minatoya list now, so they were added in...2024, I think it was, they were added on there.

COUNCILMEMBER PALTIN: Okay.

CHAIR U'U-HODGINS: Okay. You have any other questions, Member --

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COUNCILMEMBER SUGIMURA: No.

CHAIR U‘U-HODGINS: -- Sugimura?

COUNCILMEMBER SUGIMURA: Done. Thanks.

CHAIR U‘U-HODGINS: Okay. Is there any other discussion on the amendment? I know we have another amendment, but if you will allow, let’s do them one at a time, please. Any other discussion on the amendment? Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. And then to reconfirm one more time that if they were not operating as a TVR by January 7, 2022, even if they meet the other criteria, they wouldn’t qualify?

MR. PFOST: Yeah, that’s correct.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo. I will be supporting this amendment, but I will not be supporting the bill. Mahalo, Chair.

CHAIR U‘U-HODGINS: Okay. Sounds good. Then for this amendment, then we can just do a raise-your-hand vote, and then when we do the main motion, I will do a roll call for sure. So, all those in favor of this amendment, please raise your hand and say “aye.”

COUNCILMEMBERS: Aye.

MR. KRUEGER: Chair, you have seven “ayes,” no “noes,” two excused, Members Batangan and Johnson.

VOTE: AYES: Chair U‘u-Hodgins, and Councilmembers Cook, Lee, Paltin, Rawlins-Fernandez, Sinenci, and Sugimura.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Vice-Chair Batangan and Councilmember Johnson.

MOTION CARRIED.

ACTION: APPROVE amendment.

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CHAIR U‘U-HODGINS: Thank you very much. Member Rawlins-Fernandez, did you have an amendment as well?

COUNCILMEMBER RAWLINS-FERNANDEZ: I do. Mahalo.

CHAIR U‘U-HODGINS: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. All right. On page 4 of Member Cook’s bill, purpose and intent, Section 19.14.010, B...oh, shucks, Member Johnson’s not here. Okay. I move to amend Subsection B to read as follows: hotel districts include the following: H-1, H-M, H-2, Hotel--and this is the new section--and except the Island of Molokai, H-3 and H-4.

COUNCILMEMBER LEE: Second.

CHAIR U‘U-HODGINS: Thank you. I have a motion made by Member Rawlins-Fernandez and a second by Chair Lee to add the language “except for the Island of Molokai” on page 4, on the online version page 3, on the printed version in Section 19.14.10, purpose and intent, in letter B.

COUNCILMEMBER RAWLINS-FERNANDEZ: Correct.

CHAIR U‘U-HODGINS: Any other discussion? Go ahead, Member Rawlins-Fernandez, please.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. And this is the recommendation from the Molokai Planning Commission to exempt Molokai if this bill does pass. So, I’m not sure if the bill is going to pass or not, but in case it does, putting the amendment in now. We also discussed the Island of Lāna‘i, including, but Member Johnson is not here right now. The Lāna‘i Planning Commission did not request to be exempted, but there are no properties in the A-1/A-2 that operate as short-term rentals or TVRs on Lāna‘i, so I guess it would, you know, be up to them. We can include them later if they’d like to be. It’s just a zoning that wouldn’t exist there, but they are not exempted from it. I don’t know. . . .*(laughing)*. . .

CHAIR U‘U-HODGINS: They’re not affected.

COUNCILMEMBER RAWLINS-FERNANDEZ: There will never be an H-3 and H-4 property on Lāna‘i.

CHAIR U‘U-HODGINS: Yeah, they’re not going to be affected. Any other discussion? Go ahead, Member Cook.

COUNCILMEMBER COOK: I have a question. Is there any concern about where people are going to stay? I mean, you got...

COUNCILMEMBER RAWLINS-FERNANDEZ: We have enough TVR units on Molokai.

COUNCILMEMBER COOK: Okay. Thank you. That was my only question.

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COUNCILMEMBER RAWLINS-FERNANDEZ: And you need permission to come to Molokai anyway, so...

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

COUNCILMEMBER RAWLINS-FERNANDEZ: You got to check with our chief, Zhantell Lindo.

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

COUNCILMEMBER RAWLINS-FERNANDEZ: And in addition...mahalo, Member Cook, for that. I was going to say this in my overall comments, but on Molokai, on the...one of the complexes that's on the Minatoya list in Mana'e have actually went the opposite direction. There are more residents that live in that complex, and they want community. They want to have neighbors and not be surrounded by tourists. And so, they've met with my office and advocated for the phase-out so that they can have a community there. Yeah.

CHAIR U'U-HODGINS: Thank you. Do you have any other questions? Does anybody need a roll call? Okay. If not, if that's the case, all those in favor, please raise your hand and say "aye."

COUNCILMEMBERS: Aye.

MR. KRUEGER: Chair, you have seven "ayes," no "noes," two excused, Members Batangan and Johnson.

VOTE: AYES: Chair U'u-Hodgins, and Councilmembers Cook, Lee, Paltin, Rawlins-Fernandez, Sinenci, and Sugimura.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Vice-Chair Batangan and Councilmember Johnson.

MOTION CARRIED.

ACTION: APPROVE amendment.

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CHAIR U‘U-HODGINS: Okay. Thank you. Members, and now we’re at the main motion as amendment...as amended twice at this point. Does anybody have any further discussion? Anybody have any further discussion?

MS. NAKATA: Chair?

CHAIR U‘U-HODGINS: This is lovely. Yes.

MS. NAKATA: Could Staff just ask for the body’s permission to amend the last paragraph of Section 1 to incorporate the Molokai amendment, the amendments being made today?

CHAIR U‘U-HODGINS: Yes. Yeah, please make it consistent with the amendments, if that’s okay. Yes, go ahead, Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. And Ms. Nakata is referring to Section 1. This ordinance purpose is to approve the changes to the Comprehensive Zoning Ordinance proposed by Resolution 25-230, FD1, and recommended by the Bill 9 Temporary Investigative Group. And so, this also includes the recommendation from the Molokai Planning Commission.

CHAIR U‘U-HODGINS: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: And then if we do add Lāna‘i, then we can make that additional amendment --

CHAIR U‘U-HODGINS: Sure.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- at that time.

CHAIR U‘U-HODGINS: Sounds good.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

CHAIR U‘U-HODGINS: Okay. Yes, go ahead.

MR. NUNOKAWA: Could I briefly confer with Staff about amendment 1, whether there’s a more understandable way to implement it?

CHAIR U‘U-HODGINS: Sure. Do you need a recess?

MR. NUNOKAWA: Just a quick one.

CHAIR U‘U-HODGINS: Okay. Let’s take a five-minute recess. I’m not going to do the math. See you in five. . . .*(gavel)*. . .

RECESS: 3:37 p.m.

RECONVENE: 3:45 p.m.

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CHAIR U‘U-HODGINS: . . .*(gavel)*. . . Welcome back, HLU Committee. It is 3:45, and we left so Corp. Counsel and Planning can confirm that the language that we had voted on the amendment is good to go, and it is good to go. Nāhulu, will you state for the record that we’re good to continue on to the main motion as amended?

MR. NUNOKAWA: We are good to continue on to the main motion as amended.

CHAIR U‘U-HODGINS: Thank you. Any further discussion? Member Sinenci.

COUNCILMEMBER SINENCI: Mahalo, Chair. For my...and this is on the main motion, yeah?

CHAIR U‘U-HODGINS: Yes, it is. Thank you.

COUNCILMEMBER SINENCI: Okay. Thank you for my opportunity. You know, Chair, Bill 9 was a landmark legislation and, you know, it took a lot of things to get to that point. I always remember Member Paltin at the very beginning in 2018, she always brought up the Minatoya list and how it was, you know, unjustified. And...and so, you know, Bill 9 was able to address that...that issue from...from years gone by. And I was happy to...to support Bill 9. However, with that support...that sweeping legislation, it did leave, you know, some areas, Apartment zones in East Maui that...that was affected. And I know...I know Bill 9 was to create more housings, particularly in Lahaina after the wildfires, but I’m...I’m not too sure how many residents would want to move. I’m sure maybe a couple would want to move to East Maui, but...but that was not the intent. So, it had some consequences for me in my district. And so, that said, I did...I did support Bill 9, but with the caveat that...that legislation like Bill 88 would...would soon come so that I could help to upzone the properties in...in East Maui. The properties wouldn’t qualify for Hotel zoning. It’s on a...on a steep slope near the ocean, and it wouldn’t be able to pass any ADA, those types of things. So, that’s why I’m supporting Bill 88 today. But with...and...and I get it, this is just to create a new zone for any other properties, not necessarily for...for East Maui. But I’m supportive of that. And mahalo for all the testifiers that came and...and spoke to Bill 88 this morning. However, I...I need...if...if I am going to move forward, I need a...I need a zoning to upzone to. And so, Bill 88 provides that opportunity for...for people like in...in my community that was...was affected by this sweeping legislation to move forward. That said, I did...I do, however, moving forward, support Ms. Rego’s process. And mahalo for all the discussion today with the...with the Planning Department here. I...and...and just going with...like with a fine-tooth comb to go through some of these properties and not necessarily just create, you know, massive...moving all of these properties through. And I...and I’m open to visiting a lot of these properties, too. I keep saying at the very beginning, when...when this kind of legislation affects East Maui, hey, can it...can it be sent to the Hāna Advisory Committee? Hey, can I...can I get my community to weigh in? Can I get my community to say, you know, what...what they want, what they feel? And...and all the time, it’s, oh, we no more time. We no more time for...for take ‘em to East Maui. It’s...you know. So, we’re at this point today. And my vote today is...is to support my community. Thank you.

CHAIR U‘U-HODGINS: Thank you, Member Sinenci. Does anybody else have any discussion? Chair Lee, followed by Member Paltin.

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COUNCILMEMBER LEE: I will support this motion. I believe this is the step that should have preceded passing Bill 9. So, the real test will come not with this vote, but the next vote on whether or not it makes sense to move many properties into the correct zoning district and with...without...without a lot of pain and trauma. Because, you know, these...these are uses that were in place already, so... But for today, I support the creation of H-3 and H-4. Thank you.

CHAIR U‘U-HODGINS: Thank you. Member Paltin, then followed by Member Sugimura. Okay. Member Sugimura? Whoever wants to go first, you’re welcome to.

COUNCILMEMBER SUGIMURA: Oh, she’s getting it together in her mind, she said.

CHAIR U‘U-HODGINS: Okay.

COUNCILMEMBER SUGIMURA: So, I will. Thank you. So, I...I support this. And congratulations to the TIG members for coming up with this solution. We were anxiously awaiting to see what you were going to come up with, Chair of the TIG and...and your members. And I think this is a great solution. And I agree with Chair Lee that this should have probably happened before Bill 9 was introduced to not cause all this chaos, really, in the community. And unfortunately, for the amount of people who have lived this and who we’ve heard from...I’ve got a lot of emails. And we had a huge amount of testimony when Tasha Kama was chairing this Committee and seeing this bill through. So, it’s...you know, it gives it some dating. But I appreciate what you have accomplished, Chair of the TIG, and how you have moved this in the community. And I believe that what you expressed is the communication that was needed and to kind of calm the community down. So, I appreciate that a lot with your members that you accomplished. And thank you very much, Planning Department, because this has been a grind for you too. I look forward to us doing the next phase of seeing these properties through so that we can, you know, continue this use. So, thank you very much.

CHAIR U‘U-HODGINS: Thank you. Thank you very much. Member Paltin?

COUNCILMEMBER PALTIN: Thank you. I’m supporting this because it’s...it’s a cleaner way to do things. You know, prior to becoming on the Council in 2019, I had no idea what zoning and land use entailed whatsoever. And then I ended up...you know, I tried to be on the Planning Commission, but I never was nominated or whatever. And then I...I first chaired was planning...planning and land use. And it was like a crash course into zoning and land use. And the way that I kind of learned it was that we operate in this structure, that we agree to a framework of criteria and whatnot. And I understand that there could possibly be some parcels in A-1 and A-2 that are nonconforming existing. But I...it...it does make sense to me that to create these, there would be less, and that we shouldn’t try to force something into a zoning that doesn’t fit it. And so, if we’re...if we’re talking about moving the ones that are timeshare over, because that’s what the lawyer said we had to do against my best wishes, or the ones that truly operate as hotels, or the onesy-twosy single ownership ones or whatever, it just makes sense to me to put it into a category that fits it better. It...it doesn’t...so many times we look at legislation from 20, 40 years ago, and like, what were they thinking, you know? And I don’t want

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that to be what they're looking at 20 to 40 years from now. Like, what are they thinking? This doesn't align at all with H-3...or sorry, H-2 or H-M or whatever it is, that it fits the use that we're...if we are going to move stuff, that it fits the zoning designation. If it matters, it matters. If it doesn't matter, it doesn't matter. And maybe there will still be some existing nonconforming, but significantly less, and not due to us not trying to better make it fit. And so, that's why I'm doing it. Like, I don't want a future planner or whoever to look at it and say, this doesn't fit. Like, what am I doing? It's...it's just not logical to do it a different way. It's logical to make a category that it fits, that can be moved to. So, I did read a lot of the testimony. I did speak with one of the lawyers about tying it to housekeepers making a living wage. But that would be so difficult to have zoning align with the MIT living wage calculator, because as the economics change, and them...their wages be tied to zoning, it could flip in and out of being in conformance with zoning. And how are they going to enforce it if there's not an application for a permit? And what's the definition of a front desk? I mean, potentially, it could be done when there is a Change in Zoning. I don't know about the living wage part still. But I don't think that this juncture is the juncture where we can put those kind of conditions on the creation of a new zoning district. So, that's the reason why I'm in support of this. It better aligns with the existing building spec criterias [sic] and accessory uses. As Mr. Pfost said, the accessory uses to him are the bigger thing. But the existing building not fitting in with the existing criteria is also a big thing to me. Like I'm looking at it, and I'm looking at the criteria, and it doesn't match. It's like a...it's hard for me to do something like that where the existing building doesn't match the criteria when we can do something where the existing building should match the criteria. And then the accessory uses, of course, are also a big part of it. So, that's the reason why I'm going to support it. Thank you.

CHAIR U'U-HODGINS: Thank you, Member Paltin. Member Rawlins-Fernandez, and then Member Cook.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Okay. I guess this is a question, I don't know, for...for someone to answer. Okay. So, I thought we're...so we have the criteria that's currently in the Apartment zone that's being proposed to be moved to H-3/H-4. And then we...we, you know, we keep talking about hotels being ducks. And we haven't...what is the right...when is the right time--and maybe the attorney--that we would clarify for this Council, for the public, for future councils, what the criteria is for properties being zoned for...to...into H-3/H-4? Like at what point? Like not...not now? Not in...in this? And so, case by case, or...

CHAIR U'U-HODGINS: Go ahead, Nāhulu.

MR. NUNOKAWA: So, when...when you say clarify, do you mean sort of the creation of another list of properties that would be able to rezone into this, or...

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah, like we heard in testimony over and over again. Like what does the quack sound like? I mean, at what point are we...

CHAIR U'U-HODGINS: Qualifying a duck.

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COUNCILMEMBER RAWLINS-FERNANDEZ: Yes.

CHAIR U‘U-HODGINS: I was told it was when we do Exhibit “2,” and when...oh, I’m sorry, when we do the legislation, when we discuss Exhibit “2,” and to not put too much of that criteria in here, because this just establishes the new criteria, as we’ve heard several times. And then when we do the forthcoming legislation to kind of discuss how they qualify, how each property qualifies into like our TIG recommendations. It was in the TIG report. But Nāhulu, you’re welcome to...because we’ve had this conversation several times.

MR. NUNOKAWA: Yeah, it’s...because this is creating a zoning designation, it’s hard to say...it’s hard to recommend creating a bunch of restrictions on future legislation. It’s meant to be a standards of zoning that if you hit these criteria, then we will review these things, and you potentially can be rezoned into this district. So, things like looking at which properties you’d like in that district is better suited for the actual rezoning, and things like setbacks, et cetera, are better in the zoning district itself. Does...I’m not sure, does that help with your question?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah. My question was at what point...I wasn’t sure. There was a lot of discussion about those qualifications being in this bill. And so, I was kind of expecting it to be in this bill, but...so it could be consistent, and it could not be consistent moving forward.

MR. NUNOKAWA: It’s...a lot of that has to do with policy determinations. It’s hard to say what types of restrictions should be put in here without having proposed restrictions in front of me. For...for the most part, restrictions themselves are better done through the rezoning. And so, it’s...it’s hard to address criteria without having proposals.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So, Hotel is still pretty elusive until we have a hotel...have a property claiming to be Hotel before us.

CHAIR U‘U-HODGINS: Kind of.

MR. NUNOKAWA: It still would be restricted to the criteria that you’ve put. So, for H-3 and H-4, in order to continue transient use, it would still have to meet the criteria of having a established transient use. But generally, yes, it...it would come down to when it came before you, either as an application or brought by Council as rezoning, to determine at that point whether this is something that Council believes should be rezoned into that zoning district.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo. Mahalo, Chair.

CHAIR U‘U-HODGINS: Thank you. Member Cook?

COUNCILMEMBER COOK: Thank you, Chair. Well, I’m supportive, and this is just the first step. The H-3/H-4 is basically, as during the TIG, in like-for-like in alignment with A-1 and A-2. It’s pretty structured. The criteria for someone to be able to qualify to change from A-1 to A-2 into these new districts is...will be looked at thoroughly, and there’s

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this...some structure. I wanted to thank the Administration, and I wanted to thank the Planning Department for all the work that's been done over the last...through the TIG and before, and my colleagues. It hasn't been easy for anybody. This is giving us a...giving you a tool, a point of reference that we can do further work on...and without this, it's kind of hard to do anything. Anyway, thank you, everybody.

CHAIR U'U-HODGINS: Thank you, Member Cook. Member Rawlins-Fernandez, go ahead.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I will be voting against the main motion. All three planning commissions voted to recommend denial of this bill. It was kind of offensive. It was offensive to hear the comments and testimony patronizing the...our volunteer planning commissioners, and I think Commissioner Deakos submitted written testimony via email, and he explained that when it came before the Maui Planning Commission, it became increasingly clear that Staff intended for the proposed H-3 and H-4 Hotel Districts to be evaluated...evaluated independently from Bill 9 itself. If that is the framework, then the proposal must stand on its own merits as long-term land use policy decisions that establishes two entirely new categories of transient accommodation zoning. Viewed independently of Bill 9, I believe the proposal is significantly inconsistent with Maui County's adopted plans and policies, and that is ultimately what the Planning Commission decided on with only one dissenting vote. While broad economic policies generally recognize the importance of the visitor industry, the County's land use, housing, shoreline, and climate policies repeatedly emphasize limiting growth in visitor accommodations, protecting residential communities, preserving the long-term housing inventory, maintaining a resident-to-visitor balance, and discouraging additional shoreline entitlements. The policy direction across the General Plan, Maui Island Plan, and community plans is overwhelmingly toward management, limitation, and reduction of visitor accommodation impacts, not creation of new transient accommodation zoning categories. And then he goes on to cite the...the different Countywide policy plans, Maui Island Plan objectives, and different community plan action items. And I'll save you all the time and...and not read all of those, and I hope you all had an opportunity to read Commissioner Deakos' testimony, because I...I think it's well thought through, and, you know, I'm proud to have those with the qualifications to be able to provide this type of decision-making on our Planning Commission. Bill 9 attempted to correct the system with tourism industry, like the fires that we experienced, consumed the housing and made it out of reach for our residents. In the report that we received by Ms. Rego, one of them points out the Indo Lotus Beach House, which sold for a little over 400,000 in 2016, and is now valued at 4.2 million. Initial zoning discussions planned for balance in the late...in the late '50s, early '60s. Single-family residents, multifamily residents, apartment, and within the apartment was...motel use was allowed, and it was meant to provide a discount transient housing for commuters, workers, auto tourists, I think those are like the ones that stay in the car or something like that. I don't know, there's a lot of older terms that I'm not sure, auto courts, and so that...that's what was meant by motel, not hotel resort. That was why they distinguished it. And then when councils realized, you know, that it was going beyond the intention of motel into hotel resort, they tried to rein that in, which is how we ended up with the Minatoya list. And I appreciate that Council at the time trying to rein that industry in and removing motel use from Apartment Zone District, because it tried to save what it could of our...our community, especially in those areas. And I know

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community is often used loosely, and we don't know what anyone necessarily is meaning when they mean community...and when I say community, I mean our residents. I mean the people who celebrate with us in times of triumph, those who share grief in times of sorrow, those that are...are here with us that create the richness that people have come to love Maui for. You and I moderated a tourism management panel...panel for WIR, and one of the questions came from a resident of Arizona. And in Arizona, the state preempts the...the counties...the cities and counties from regulating short-term rentals. And I wanted to be able to tell him to advocate...you know, tell the neighborhoods to reach out to their elected officials, to have the voters reach out to the elected officials. But in some neighborhoods, it's all TVRs. There is no community there. There are no residents. And that...that's what we're trying to prevent. We're trying to have community. So, I'll be...I'll be voting against this, and, you know, whatever units that were sold when it was residential use, and were scooped up and commodified, and decreased our...our housing supply, I do look forward to being able to claw those back as much as possible. And, you know, that's...that's what we're trying to correct and provide for our community here. Mahalo, Chair.

CHAIR U'U-HODGINS: Thank you, Member Rawlins-Fernandez. Since everybody had their opportunity, I'll...I'll share some thoughts, and then we'll do a roll call vote. I define community very similarly to you, Member Rawlins-Fernandez. I don't disagree. I like the way you said that. I'm going to be supporting this today. I do feel like this will allow the existing properties that operate as a hotel to have a space that fits best for them and for us. In my head, I know we said upzoning, and it feels a little bit like upzoning because the words change, except the use is continuous. The use is the same. We go from Apartment that allowed motel, as described by Member Rawlins-Fernandez, to Hotel zoning, so the use will remain the same. In our TIG, we actively discussed where to put the...the ducks, apparently, that's what we're calling them, the hotels that operate as hotels that are in this space now, and we couldn't really find any place that's currently existing. In fact, Member Cook decided to go, how about we do A-3/A-4, but then it kind of took away the opportunity for it to be zoned appropriately, and so we did H-3 and H-4 to allow the ones that operate as hotels to continue to operate as hotels, and the ones that didn't hit our primary objective of Bill 9 to have the opportunity to transition. Furthermore, we heard from certain property owners that are in a weird--and from our Planning Department--are in a weird multi-zoned area, and they have a variance. And, you know, they're allowed to operate, which would mean they're continued...they can continue to operate. We have a couple of those, as well as the Eldorado that was discussed earlier. In the community plan, I believe they are designated as Hotel, but that's not necessarily the case, and so this affords us the opportunity to do a little bit of cleanup. Our zoning laws are quite outdated. I don't know when the last time we created a new zoning category is, so I do not blame anyone for being very confused, because this is a lot of information to take in. I do respect the opinions of the planning commissions. I do not at all disregard their opinion. This is a very difficult space for all of us to be in. They get to view this bill, Bill 9, independently, just as it relates to planning. Our job is to do what we do here, to incorporate what we do in budget, to incorporate what we do in all the other committees that we have, and so we have to blend fiscal responsibility with continual apartment uses in Apartment Districts and hotel uses in Hotel Districts. So, I do also want to thank, before we end, all you folks for coming in on a noncommittee day and spending all day with us. Thank

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you very much for accommodating me and this HLU Committee. Thank you to Planning and...and Nāhulu and Corp. Counsel for not only spending the day with us today, but going back and forth with us as we navigated this process and in our TIG. And to HLU Staff, thank you for being so flexible with all the changes. So, that's the end of my speech. I try to keep...you want to make it really quick, because I was going to call for the vote.

COUNCILMEMBER SUGIMURA: So, I just wanted to also thank the Mayor for coming down --

CHAIR U'U-HODGINS: Yeah.

COUNCILMEMBER SUGIMURA: -- and starting this process, and kind of explain my question. Because as I'm out there in the community, people are asking, well, how many people are local that are buying these units, right? So, that's what I was trying to get to based upon his opening comments, because I think that was the objective as it was presented by Bill 9. So, I was trying to get that information. And I'll ask others --

CHAIR U'U-HODGINS: Okay.

COUNCILMEMBER SUGIMURA: -- or when you send the question, maybe they --

CHAIR U'U-HODGINS: Sure, we can follow up with him.

COUNCILMEMBER SUGIMURA: -- do have that answer. So, thank you for letting me explain that.

CHAIR U'U-HODGINS: Thank you. I do appreciate the Mayor and Administration also. Thank you, Member Sugimura.

COUNCILMEMBER SUGIMURA: Yeah.

CHAIR U'U-HODGINS: Can we please do roll call?

MS. MCKINLEY: Chair, proceeding with the roll call vote. Chair Lee.

COUNCILMEMBER LEE: Aye.

MS. MCKINLEY: Councilmember Sugimura.

COUNCILMEMBER SUGIMURA: Aye.

MS. MCKINLEY: Councilmember Paltin.

COUNCILMEMBER PALTIN: Aye.

MS. MCKINLEY: Councilmember Johnson.

CHAIR U'U-HODGINS: Excused.

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CHAIR U‘U-HODGINS: Thank you. Members, this will move on to full Council for its consideration. Thank you again for all the time you spent with us today. This concludes the HLU meeting. Thank you. It is 4:15 p.m., and this HLU meeting is finally adjourned. . . .*(gavel)*. . .

ADJOURN: 4:15 p.m.

hlu:min:260526min:ds

Transcribed by: Daniel Schoenbeck

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CERTIFICATION

I, Daniel Schoenbeck, hereby certify that pages 1 through 91 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 25th day of June 2026, in Wailuku, Hawai'i



Daniel Schoenbeck