

JEFFREY T. KUWADA
County Clerk



RECEIVED
JESSIE M. SHITA
Deputy County Clerk

2013 SEP -6 PM 2:59

OFFICE OF THE COUNTY CLERK

COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/county/clerk

**OFFICE OF THE
COUNTY COUNCIL**

September 6, 2013

Honorable Donald G. Couch, Jr., Chair
Planning Committee
Council of the County of Maui
Wailuku, Hawaii 96793

Dear Chair Couch:

Respectfully transmitted are copies of the following communications that were referred to your Committee by the Council of the County of Maui at its meeting of September 6, 2013:

COUNTY COMMUNICATIONS:

- No. 13-283 - William Spence, Planning Director
- No. 13-284 - William Spence, Planning Director
- No. 13-285 - William Spence, Planning Director

Respectfully,

A handwritten signature in black ink, appearing to read "Jeffrey T. Kuwada", is written over a circular stamp that is partially obscured by the signature.

JEFFREY T. KUWADA
County Clerk

/jym

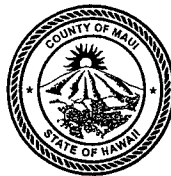
Enclosure

cc: Director of Council Services

ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director



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2013 AUG 19 PM 3:07

COUNTY OF MAUI

OFFICE OF THE MAYOR

DEPARTMENT OF PLANNING

August 19, 2013

Honorable Alan M. Arakawa
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

For Transmittal to:

Honorable Gladys Coelho Baisa, Chair
and Members of the Maui County Council
200 South High Street
Wailuku, Hawaii 96793

Dear Chair Baisa and Members:

**SUBJECT: A BILL FOR AN ORDINANCE AMENDING TITLE 19.10, MAUI
COUNTY CODE, RELATING TO TWO-FAMILY (DUPLEX) DISTRICT**

With the ongoing effort of the Department of Planning (Department) to streamline, update and reformat the zoning code, the proposed amendments to the two-family (duplex) district have recently been reviewed.

The proposed amendments were transmitted to the Maui, Molokai, and Lanai Planning Commissions. The following is a summary of the Commissions' comments:

Commission	Public Hearing Date:	Comments and Recommendations:
Maui	January 24, 2012	Voted to recommend approval of the proposed changes along with the following amendments: include a section on rule making authority; clarify the maximum height of roof top structures be no more than 10 feet above the roof line; note that there be 7,500 sq.ft of land per duplex structure; allow the maxim height for ham radios be 50 feet.
Molokai	February 8, 2012	Voted to recommend approval of the proposed changes as presented.
Lanai	February 15, 2012	Voted to recommend approval of the proposed changes as presented.

RECEIVED
2013 AUG 23 PM
OFFICE OF THE
COUNTY CLERK
APPROVED FOR TRANSMITTAL
Alan Arakawa 8/22/13
Mayor Date

COUNTY COMMUNICATION NO. 13-284

Honorable Alan M. Arakawa, Mayor
For Transmittal to:
Honorable Gladys Coelho Baisa
August 19, 2013
Page 2

Attached for your review are the following documents:

1. Memorandum with Agency Comments from William Spence, Planning Director, to the Maui, Molokai, and Lanai Planning Commissions, dated January 12, 2012;
2. Minutes of the January 24, 2012 Maui Planning Commission meeting;
3. Minutes of the February 8, 2012 Molokai Planning Commission meeting;
4. Minutes of the February 15, 2012 Lanai Planning Commission meeting;
5. Proposed bill.

Thank you for your attention to this matter. Should further clarification be necessary, please contact Administrative Planning Officer Joseph Alueta at Ext. 7743.

Sincerely,



for WILLIAM SPENCE
Planning Director

Attachments

xc: Clayton I. Yoshida, Planning Program Administrator
Joseph W. Alueta, Administrative Planning Officer
Maui Planning Commission
Molokai Planning Commission
Lanai Planning Commission

WRS:JWA:atw

Project File

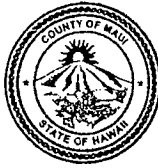
General File

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ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

January 12, 2012

MEMORANDUM

TO: MAUI PLANNING COMMISSION
MOLOKAI PLANNING COMMISSION
LANAI PLANNING COMMISSION

FROM: WILLIAM SPENCE *WRS*
PLANNING DIRECTOR

SUBJECT: PROPOSED BILL FOR AN ORDINANCE AMENDING TITLE 19.10,
MAUI COUNTY CODE, RELATING TO THE TWO-FAMILY (DUPLEX)
DISTRICT

The proposed bill is part of the on-going effort by the Department of Planning (Department) to update, streamline, and standardize Title 19 - Zoning of the Maui County Code. The goal is to resolve conflicts, standardize code format, consolidate and eliminate outdated terms and uses, as well as incorporate user friendly tables and graphics.

The proposed bill (Exhibit 1) will update and simplify the Two-Family (Duplex) District (MCC 19.10). A summary of the proposed changes and rationale are as follows:

Page and Line #	Summary of change	Rationale
1.17 -23	Changes outline of title sections	Establishes a standard outline throughout Title 19
1.26	Changes "General" to "Purpose and Intent"	Standard change to be consistent with rest of code.
1.30	Changes "Use regulation" to "Permitted uses"	Standard change to be consistent with rest of code.
1.31	Changes "A-2" to "Duplex"	Amends code to remove confusion with Apartment district.
2.3-2.4	Updates section and adds Accessory Use section	Clarifies what uses are allowed as accessory to allowed uses.
2.10	Establishes Special Use section	Keeps with standardize format and allows for uses that require review
3.1-4.7	Deletes height regulation and establishes Development Standards table	Consolidates all development standards into one area. Establishes a two development or zonings, D-1 and D-2.

The proposed bill was reviewed by the general planning staff. Staff was supportive of the overall structure and continued uses of tables.

250 SOUTH HIGH STREET, WAILUKU, MAUI, HAWAII 96793
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Under Accessory uses, "Energy systems, small scale" was added to 19.10. This is an existing definition and use that has been added to other districts. Energy systems, small scale *"means energy production facilities which are incidental and subordinate to a principal use which is established on the property. These systems include but are not limited to solar, wind, hydrologic, and biomass systems."*

The proposed ordinance was transmitted to various agencies for review and comments. The following is a summary of their comments:

Agency	Date	Summary Comments	Exhibit
Fire and Public Safety	9/2/11	No comments	2
Department of Water Supply	9/20/11	No comments	3
Police Department	9/26/11	Recommend environmental design strategies to reduce crime.	4
Department of Housing and Human Concerns	10/5/11	No comments	5
Department of Health, Honolulu	9/14/11	No comments at this time.	6
Department of Health, Maui	9/23/11	Areas applicable to Individual Wastewater Systems shall meet all the requirements of HAR, Chapter 11-62, Wastewater Systems.	7
Department of Transportation	9/27/11	Does not impact their land use review process. Wishes to continue to be consulted on all land developments	8
Department of Land and Natural Resources, Land Division	9/29/11	No objections	9A-C

Recommendation and Options

The Department is recommending approval of the proposed bill. The commission has the following options:

1. Recommend approval of the proposed bill to the Maui County Council.
2. Recommend approval of the proposed bill with amendments to the Maui County Council.
3. Recommend denial of the proposed bill to the Maui County Council.
4. Vote to defer action on the proposed bill in order to gather specific additional information.

Attachments

S:\ALL\APO\19.10 Duplex\memoreport19.10.doc

ORDINANCE NO. _____
Draft 12/10/11

BILL NO. _____ (2011)

A BILL FOR AN ORDINANCE AMENDING TITLE 19.10, MAUI COUNTY CODE,
RELATING TO TWO-FAMILY (DUPLEX) DISTRICT

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Chapter 19.10, Maui County Code, is amended by adding a
appropriately designated and to read as follows:

Chapter 19.10

TWO-FAMILY (DUPLEX) DISTRICT

Sections:

19.10.010 Generally. Purpose and Intent
19.10.020 Use regulation Permitted uses.
19.10.030 Height regulations. Accessory uses and structures
19.10.040 Area regulations. Special Uses
19.10.050 Yards. Development Standards
19.10.060 Rule making authority.

19.10.010 Generally. Purpose and Intent

A duplex district shall provide most of the desirable residential characteristics attributed to single-family districts. It has useful applications as a buffer zone along major streets and bordering neighborhood shopping centers.

(Prior code § 8-1.5(a))

19.10.020 Use regulation Permitted uses.

Within the ~~A-2 Duplex~~ district, no building, structure or premises shall be used and no building or structure shall hereafter be erected, structurally altered, replaced, or enlarged except for one or more of the following uses:

A. Any use permitted and as regulated in the R-1, R-2 and R-3 single-family districts;

B. Two-family dwelling (duplex).

EXHIBIT -1 1

1 (Prior code § 8-1.5(b))

2 19.10.030 Height regulations. Accessory uses and structures

3

<u>Accessory uses and structures</u>	<u>Criteria or limitations</u>
<u>A. Energy systems, small-scale,</u>	<u>Provided there will be no detrimental or</u> <u>nuisance affect upon the neighbors.</u>
<u>B. Fences, walls, mail boxes, trash</u> <u>enclosures</u>	
<u>C. Garages and car ports</u>	
<u>D. Subordinate uses and structures</u> <u>which are determined by the director of</u> <u>planning to be clearly incidental and</u> <u>customary to the permitted uses listed</u> <u>herein;</u>	

4

5

6

7 ~~No main building shall exceed thirty five feet in height.~~

8 (Prior code § 8-1.5(c))

9 19.10.040 Area regulations. Special Uses

10

11 This section held in reserve

12 ~~Within any A-2 district, no building or structure shall be constructed on any lot~~
13 ~~having a width of less than sixty-five feet and an area of less than seven thousand~~
14 ~~five hundred square feet. There may be more than one two-family (duplex) dwelling~~
15 ~~on any lot, provided there is not less than seven thousand five hundred square feet~~
16 ~~of lot area for each two-family dwelling (duplex). This lot width and area~~
17 ~~requirement shall not apply to the building of a two-family dwelling on lots of less~~
18 ~~than seven thousand five hundred square feet in area where existing boundaries of~~
19 ~~such lots were actually established and of record in the Bureau of Conveyances~~
20 ~~and/or Tax Office of the state prior to the enactment of the ordinance establishing~~
21 ~~the use of zone district.~~

22 (Prior code § 8-1.5(d))

23

24

25 19.10.050 Yards. Development Standards

26

	D-1	D-2	Notes and exceptions
<u>Minimum Lot Area (Square feet)</u>	10,000	7500	
<u>Minimum Lot Width (in feet)</u>	65	65	
<u>Maximum Building Height (in feet)</u>	35	35	<u>Except that vent pipes, fans, chimneys, antennae, and equipment used for small scale energy systems on roofs shall not exceed fifty feet.</u>
<u>Minimum Yard Setback (in feet)</u>			
<u>Front</u>	15	15	
<u>Side</u>	6	6	
<u>Side above one-story or 15 feet</u>	10	10	
<u>Rear</u>	20	20	
<u>Accessory structures within Setback Area</u>	<u>Mail boxes, trash enclosures, boundary walls and fences.</u>		<u>Shall not exceed eight feet in height.</u>

1

2 A. ~~Front Yard. There shall be a front yard of not less than fifteen feet in a class A-2~~
3 ~~two family district from any setback line for street widening purposes, and if no~~
4 ~~such line exists, then from main street boundary or front boundary. An attached~~
5 ~~garage, carport, or other permitted accessory use shall provide and maintain the~~
6 ~~same front yard setback as required for the main building. A detached accessory~~
7 ~~building, any portion of which is located to the side or front of the main building,~~
8 ~~shall not be less than five feet from such main building and not nearer to the side~~
9 ~~lot line than the width of the front yard required for the main building.~~

10 B. ~~Side Yard. There shall be a side yard on each side of the main two family~~
11 ~~(duplex) dwelling of six feet. In the case of a two-story two family (duplex) dwelling~~
12 ~~not exceeding thirty five feet in height, the minimum side yard space shall be ten~~
13 ~~feet. An attached garage, carport, or other permitted accessory use shall provide~~

1 and maintain the same yard spacing as required for the main two-family (duplex)
2 dwelling.

3 ~~C. Rear Yard. There shall be a rear yard of not less than twenty feet in an A-2 two-~~
4 ~~family (duplex) district from the common boundary line. A detached permitted~~
5 ~~accessory building, any portion of which is located to the rear of a main two-family~~
6 ~~(duplex) building, shall be located not nearer than six feet to such main building;~~
7 ~~provided, however, this construction shall not reduce the depth of the rear yard to~~
8 ~~less than twenty feet.~~

9 (Prior code § 8-1.5(e))

10

11 S:\ALL\APO\19.10 Duplex\19.10duplexdraft.doc

ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director



COUNTY OF MAUI

DEPARTMENT OF PLANNING

TRANSMITTAL

August 26, 2011

STATE AGENCIES	
<input checked="" type="checkbox"/>	Dept of Health, Maui (2)
<input checked="" type="checkbox"/>	Dept of Health, Honolulu
<input checked="" type="checkbox"/>	DOT, Statewide Planning Office (4)
<input checked="" type="checkbox"/>	DLNR-Planning (5)
<input checked="" type="checkbox"/>	Land Use Commission (Hard Copy)
<input checked="" type="checkbox"/>	Office of Planning
<input checked="" type="checkbox"/>	DBEDT
<input checked="" type="checkbox"/>	Office of Hawaiian Affairs
OTHER	

COUNTY AGENCIES	
<input checked="" type="checkbox"/>	Civil Defense (CIZ/CPA)
<input checked="" type="checkbox"/>	Dept of Water Supply
<input checked="" type="checkbox"/>	Dept of Housing
<input checked="" type="checkbox"/>	Dept of Human Concerns
<input checked="" type="checkbox"/>	Dept of Public Works (3 Hard Copies)
<input checked="" type="checkbox"/>	Fire & Public Safety
<input checked="" type="checkbox"/>	Police Department
<input checked="" type="checkbox"/>	Zoning Admin. & Enforcement Div.
FEDERAL AGENCIES	

PROJECT NAME: TITLE 19 UPDATED TO CHAPTERS 19.10
APPLICANT: William Spence, Planning Director
SUBJECT I.D.: Changes 19.10 Duplex Districts

TRANSMITTED TO YOU ARE THE FOLLOWING:

☒ Draft Ordinance

THESE ARE TRANSMITTED AS CHECKED BELOW:

☒ For your Comment and Recommendation

Please provide any previous comments, letters, etc. pertinent to this proposed ordinance and identify which of your comments and recommendations you would like the Department of Planning to recommend as conditions of approval. Submit your comments directly to me by September 27, 2011. If no comment, please sign the bottom and return. For additional clarification, please contact me via email at joseph.alueta@mauicounty.gov or by phone at (808) 270-7743.

Sincerely,

JOSEPH W. ALUETA, Administrative Planning Officer
For: William Spence, Planning Director

xc: Clayton I. Yoshida, AICP, Planning Program Administrator
Joseph W. Alueta, Administrative Planning Officer
Project File
General File

WRS:JWA:atw
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EXHIBIT - 2

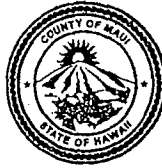
We have no comment:	Signed: <i>Jane Haake</i>	Dated: <i>9/2/11</i>
Print Name: <i>Paul Haake</i>	Title: <i>Captain; FPB</i>	

250 SOUTH HIGH STREET, WAILUKU, MAUI, HAWAII 96793
MAIN LINE (808) 270-7735; FACSIMILE (808) 270-7634
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ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director



11 SEP 23 PM 12:07

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COUNTY OF MAUI
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COUNTY OF MAUI

DEPARTMENT OF PLANNING

TRANSMITTAL

August 26, 2011

STATE AGENCIES	
<input checked="" type="checkbox"/>	Dept of Health, Maui (2)
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FEDERAL AGENCIES	

PROJECT NAME: TITLE 19 UPDATED TO CHAPTERS 19.10
APPLICANT: William Spence, Planning Director
SUBJECT I.D.: Changes 19.10 Duplex Districts

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☒ Draft Ordinance

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Sincerely,

JOSEPH W. ALUETA, Administrative Planning Officer
For: William Spence, Planning Director

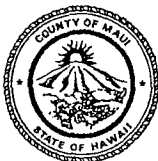
xc: Clayton I. Yoshida, AICP, Planning Program Administrator
Joseph W. Alueta, Administrative Planning Officer
Project File
General File

WRS:JWA:atw
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EXHIBIT - 3

We have no comment:	Signed:	Dated: SEP 20 2011
Print Name:	PAUL J. MEYER	Title: DEPUTY DIRECTOR

250 SOUTH HIGH STREET, WAILUKU, MAUI, HAWAII 96793
MAIN LINE (808) 270-7735; FACSIMILE (808) 270-7634
CURRENT DIVISION (808) 270-8205; LONG RANGE DIVISION (808) 270-7214; ZONING DIVISION (808) 270-7253



ALAN M. ARAKAWA
MAYOR

OUR REFERENCE
YOUR REFERENCE

POLICE DEPARTMENT

COUNTY OF MAUI

55 MAHALANI STREET
WAILUKU, HAWAII 96793
(808) 244-6400
FAX (808) 244-6411



11 SEP 26 10:00

GARY A. YABUTA
CHIEF OF POLICE

DEPT OF PLANNING
COUNTY OF MAUI
RECEIVED
CLAYTON N.Y.W. TOM
DEPUTY CHIEF OF POLICE

September 22, 2011

MEMORANDUM

TO : JOSEPH W. ALUETA, ADMINISTRATIVE PLANNING OFFICER
DEPARTMENT OF PLANNING

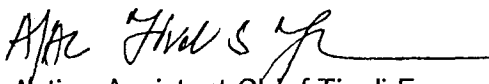
FROM : GARY A. YABUTA, CHIEF OF POLICE

SUBJECT : PROJECT NAME: TITLE 19 UPDATED TO CHAPTERS 19.10
APPLICANT: William Spence, Planning Director
SUBJECT ID: Changes 19.10 Duplex Districts

☐ No recommendation or comment to offer.

☒ Refer to enclosed comments and/or recommendations.

Thank you for giving us the opportunity to comment on this project.


Acting Assistant Chief Tivoli Faaumu
For: GARY A. YABUTA
Chief of Police

Enclosure

EXHIBIT -4

COPY

TO : GARY YABUTA, CHIEF OF POLICE, COUNTY OF MAUI
VIA : CHANNELS
FROM : JHUN-LEE CASIO, POLICE OFFICER III, COMMUNITY
POLICE OFFICER
SUBJECT : RESPONSE TO A REQUEST FOR COMMENTS AND
RECOMMENDATIONS REGARDING CHANGES TO MAUI COUNTY
ORDINANCE CHAPTER (19.10) DUPLEX DISTRICTS

*Recommend approval to
submit suggestions by
JLC 9/21/11*

This memorandum is being submitted as a response to a request for comments and recommendations by County of Maui Department of Planning, Administrative Planning Officer, Joseph W. ALUETA.

PROJECT: Title 19 Updated to Chapters 19.10 (Duplex Districts)

APPLICANT: William Spence, Planning Director

RESPONSE:

In review of the submitted documents, concerns from the police perspective would be upon the safety of pedestrian and vehicular movement as well as public safety.

Upon reviewed of the proposed changes of County Ordinance Chapter 19.10 (Duplex Districts), I found that the previous Chapter 19.10 had been generalized. Under Special Use section (19.10.040), the previous area regulations was deleted and being held in reserve.

Under Development Standards section (19.10.050), the Crime Prevention through Environmental Design (CPTED) strategies should be considered in planning, landscape architecture, and architecture to reduce crime, the fear of crime, and the opportunity for crime to occur in communities and the environment.

I recommend that the following strategies be considered.

1. Design the duplex so that the exterior doors are visible to the street or neighbors
2. Use good lighting on all doors that open to the outside.
3. Keep trees and shrubs trimmed back from the windows, doors, and walkways.
4. Allow plant growth to be no more than 3 foot high for clear visibility.
5. Installing see through fences, and so forth.

*RECOMMENDED APPROVAL TO
SUBMIT SUGGESTIONS BY
JLC CASIO.*

[Signature]
9/21/11

CONCLUSION:

The above recommendations are based upon the Crime Prevention through Environmental Design (CPTED) strategy to reduce the fear and incidence of crime and an improvement in the quality of life.

Submitted for your perusal,

JML 09/20/11 12:45

Jhun-lee CASIO E#12935
Police Officer III / Community Policing
09/20/11 @ 1000 HRS.

Conclue. The UPDATES APPEND
TO BE MORE VAGUE THAN
CURRENTLY FOLLOWED.

St. John O'Neil

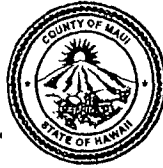
9-21-11

ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director

11 OCT -5 P1 25



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August 26, 2011

STATE AGENCIES	
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OTHER	

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<input checked="" type="checkbox"/>	Zoning Admin. & Enforcement Div.
FEDERAL AGENCIES	

PROJECT NAME: TITLE 19 UPDATED TO CHAPTERS 19.10
APPLICANT: William Spence, Planning Director
SUBJECT I.D.: Changes 19.10 Duplex Districts

TRANSMITTED TO YOU ARE THE FOLLOWING:

<input checked="" type="checkbox"/>	Draft Ordinance
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THESE ARE TRANSMITTED AS CHECKED BELOW:

<input checked="" type="checkbox"/>	For your Comment and Recommendation
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Please provide any previous comments, letters, etc. pertinent to this proposed ordinance and identify which of your comments and recommendations you would like the Department of Planning to recommend as conditions of approval. Submit your comments directly to me by September 27, 2011. If no comment, please sign the bottom and return. For additional clarification, please contact me via email at joseph.alueta@mauicounty.gov or by phone at (808) 270-7743.

Sincerely,

JOSEPH W. ALUETA, Administrative Planning Officer
For: William Spence, Planning Director

xc: Clayton I. Yoshida, AICP, Planning Program Administrator
Joseph W. Alueta, Administrative Planning Officer
Project File
General File

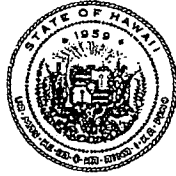
WRS:JWA:atw
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EXHIBIT - 5

We have no comment:	Signed: <i>Wayde T. Oshiro</i>	Dated: 10/03/11
Print Name: Wayde T. Oshiro	Title: Housing Administrator	

250 SOUTH HIGH STREET, WAILUKU, MAUI, HAWAII 96793
MAIN LINE (808) 270-7735; FACSIMILE (808) 270-7634
CURRENT DIVISION (808) 270-8205; LONG RANGE DIVISION (808) 270-7214; ZONING DIVISION (808) 270-7253

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



LORETTA J. FUDDY, A.C.S.W., M.P.H.
DIRECTOR OF HEALTH

11 SEP 14 AM 1:52

DEPT OF PLANNING
COUNTY OF MAUI
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STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. BOX 3378
HONOLULU, HI 96801-3378

In reply, please refer to:
File:
EPO-11-174

September 2, 2011

Mr. Joseph W. Alueta
Administrative Planning Officer
County of Maui
Department of Planning
250 South High Street
Wailuku, Maui, Hawaii 96793

Dear Mr. Alueta:

**SUBJECT: Comment and Recommendation for TITLE 19 UPDATED TO
CHAPTERS 19.10; Changes 19.10 Duplex Districts**

Thank you for allowing us to review and comment on the subject document. The document was routed to the various branches of the Environmental Health Administration. We have no comments at this time, but reserve the right to future comments. We strongly recommend that you review all of the Standard Comments on our website:
www.hawaii.gov/health/environmental/env-planning/landuse/landuse.html. Any comments specifically applicable to this application should be adhered to.

The same website also features a Healthy Community Design Smart Growth Checklist (Checklist). The Hawaii State Department of Health, Built Environment Working Group, recommends that State and county planning departments, developers, planners, engineers and other interested parties apply the healthy built environment principles in the Checklist whenever they plan or review new developments or redevelopments projects. We also ask you to share this list with others to increase community awareness on healthy community design.

If there are any questions about these comments please contact the Environmental Planning Office at 586-4337.

Sincerely,


GENEVIEVE SALMONSON, Acting Manager
Environmental Planning Office

EXHIBIT - 6



STATE OF HAWAII
DEPARTMENT OF HEALTH
MAUI DISTRICT HEALTH OFFICE
54 HIGH STREET
WAILUKU, HAWAII 96793

September 22, 2011

Mr. William R. Spence
Director
Department of Planning
County of Maui
250 South High Street
Wailuku, Hawaii 96793

11 SEP 23 49 50
DEPT OF PLANNING
COUNTY OF MAUI
RECEIVED

Attention: Joseph W. Alueta

Dear Mr. Spence:

Subject: Title 19 Updated to Chapter 19.10
Applicant: William Spence, Planning Director
Permit No.: Changes 19.10 Duplex Districts

Thank you for the opportunity to review this project. We have the following comments to offer:

Areas applicable to Individual Wastewater Systems (IWS) shall meet all the requirements of Hawaii Administrative Rules, Chapter 11-62, "Wastewater Systems." If you have any questions, please call Roland Tejano, Environmental Engineer, at 808 984-8232.

Should you have any questions, please call me at 808 984-8230 or E-mail me at patricia.kitkowski@doh.hawaii.gov.

Sincerely,

A handwritten signature in cursive script that reads "Patti Kitkowski".

Patti Kitkowski
District Environmental Health Program Chief

EXHIBIT - 7

NEIL ABERCROMBIE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

GLENN M. OKIMOTO
DIRECTOR

Deputy Directors
JADE T. BUTAY
FORD N. FUCHIGAMI
RANDY GRUNE
JADINE URASAKI

11 SEP 27 AM 11:48

DEPT OF PLANNING
COUNTY OF MAUI
RECEIVED
IN REPLY REFER TO:
STP 8.0541

September 20, 2011

Mr. William Spence
Director
Department of Planning
County of Maui
250 South High Street
Wailuku, Hawaii 96793

Dear Mr. Spence:

Subject: Maui County Code Amendment
Title 19.10 Two-Family (Duplex) Districts
County of Maui

Thank you for requesting the State Department of Transportation's (DOT) review of the subject ordinance amending Maui County Code.

DOT understands the proposed amendment is a reformatting effort for Title 19.10, Duplex Districts.

The proposed changes do not appear to affect DOT's land use review process (i.e. review of land development projects for transportation impacts, submittal of comments and recommendations for mitigating measures and improvements). DOT wishes to continue to be consulted on all land development projects with any potential impacts to State airport, harbor or highway facilities.

DOT appreciates the opportunity to provide these comments. If there are any questions, please contact Mr. David Shimokawa of the DOT Statewide Transportation Planning office at telephone number (808) 831-7976.

Very truly yours,

A handwritten signature in black ink, appearing to read "Glenn M. Okimoto".

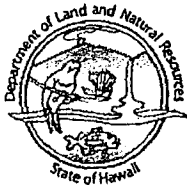
GLENN M. OKIMOTO, Ph.D.
Director of Transportation

EXHIBIT -8

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSIONER OF WATER RESOURCES (HAWAIIAN)



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

September 29, 2011

County of Maui
Department of Planning
Attention: Mr. Joseph W. Alueta
Administrative Planning Officer
250 S. High Street
Wailuku, Hawaii 96793

via email: joseph.alueta@mauicounty.gov

Dear Mr. Alueta:

SUBJECT: Changes to Chapter 19.10, Maui County Code, Relating to Two-Family
(Duplex) District

Thank you for the opportunity to review and comment on the subject matter. The Department of Land and Natural Resources' (DLNR) Land Division distributed or made available a copy of your report pertaining to the subject matter to DLNR Divisions for their review and comments.

At this time, enclosed are comments from our Engineering Division on the subject matter. Should you have any questions, please feel free to call Darlene Nakamura at 587-0417. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to be "Russell Y. Tsuji".

Russell Y. Tsuji
Land Administrator

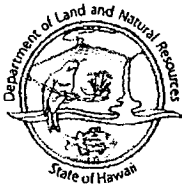
No. of Pages: 3

EXHIBIT - 9A

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



WILLIAM J. AILA, JR.
DIRECTOR
LAND AND NATURAL RESOURCES
DEPARTMENT



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

September 14, 2011

MEMORANDUM

TO: **DLNR Agencies:**
___ Div. of Aquatic Resources
___ Div. of Boating & Ocean Recreation
☒ Engineering Division
___ Div. of Forestry & Wildlife
___ Div. of State Parks
☒ Commission on Water Resource Management
___ Office of Conservation & Coastal Lands
☒ Land Division Maui District
___ Historic Preservation

FROM: Russell Y. Tsuji, Land Administrator

SUBJECT: Changes to Chapter 19.10, Maui County Code, Relating to Two-Family (Duplex) District

LOCATION: County of Maui

APPLICANT: Department of Planning, County of Maui

Transmitted for your review and comment on the above referenced document. We would appreciate your comments on this document. Please submit any comments by September 23, 2011.

If no response is received by this date, we will assume your agency has no comments. If you have any questions about this request, please contact Darlene Nakamura at 587-0417. Thank you.

Attachments

- () We have no objections.
() We have no comments.
(☒) Comments are attached.

Signed: _____

Date: 9/16/11

cc: Central Files

B

DEPARTMENT OF LAND AND NATURAL RESOURCES
ENGINEERING DIVISION

LD/Darlene Nakamura
Ref.: Changes Chapter 19.10 Maui County Code
Maui.551

COMMENTS

- () We confirm that the project site, according to the Flood Insurance Rate Map (FIRM), is located in Flood Zone .
- () Please take note that the project site, according to the Flood Insurance Rate Map (FIRM), is located in Flood Zone .
- () Please note that the correct Flood Zone Designation for the project site according to the Flood Insurance Rate Map (FIRM) is .
- () Please note that the project must comply with the rules and regulations of the National Flood Insurance Program (NFIP) presented in Title 44 of the Code of Federal Regulations (44CFR), whenever development within a Special Flood Hazard Area is undertaken. If there are any questions, please contact the State NFIP Coordinator, Ms. Carol Tyau-Beam, of the Department of Land and Natural Resources, Engineering Division at (808) 587-0267.

Please be advised that 44CFR indicates the minimum standards set forth by the NFIP. Your Community's local flood ordinance may prove to be more restrictive and thus take precedence over the minimum NFIP standards. If there are questions regarding the local flood ordinances, please contact the applicable County NFIP Coordinators below:

- () Mr. Robert Sumitomo at (808) 768-8097 or Mr. Mario Siu Li at (808) 768-8098 of the City and County of Honolulu, Department of Planning and Permitting.
- () Mr. Frank DeMarco at (808) 961-8042 of the County of Hawaii, Department of Public Works.
- () Mr. Francis Cerizo at (808) 270-7771 of the County of Maui, Department of Planning.
- () Ms. Wynne Ushigome at (808) 241-4890 of the County of Kauai, Department of Public Works.
- () The applicant should include water demands and infrastructure required to meet project needs. Please note that projects within State lands requiring water service from the Honolulu Board of Water Supply system will be required to pay a resource development charge, in addition to Water Facilities Charges for transmission and daily storage.
- () The applicant should provide the water demands and calculations to the Engineering Division so it can be included in the State Water Projects Plan Update.
- () Additional Comments:
- (X) **Other: We do not have any objections to a bill for an ordinance amending Title 19.10, Maui County Code, relating to Two-family (Duplex) district.**

Should you have any questions, please call Ms. Suzie S. Agraan of the Planning Branch at 587-0258.

Signed:

CARTY S. CHANG, CHIEF ENGINEER

Date:

9/19/11

C

**MAUI PLANNING COMMISSION
REGULAR MINUTES
JANUARY 24, 2012**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Kent Hiranaga at approximately 9:05 a.m., Tuesday, January 24, 2012, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

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

Chair Hiranaga: Good morning. Today is January 24, 2012 and I'd like to call the Maui Planning Commission meeting to order. For the record, all Commissioners are present. At this time, I'd like to open the floor to public testimony on any agenda item. Is there anyone here that wishes to provide testimony at this time, please come forward? Seeing none, we'll move onto the agenda. Director?

Mr. Spence: Good morning, Commissioners, we are on Item B-1. We can take 2 and 3. These are proposed amendments to the Duplex District, the Apartment District and the Hotel District. These are different sections of the Maui County Code in Title 19. We have Joe Alueta here to make a presentation.

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

1. MR. WILLIAM SPENCE, Planning Director proposing amendments to Chapter 19.10 of the Maui County Code regarding the Two-Family Duplex District. (J. Alueta)

Mr. Joe Alueta: Good morning, Commissioners. This is part of our continuing update of Title 19 chapter by chapter. We sorta get interrupted every now and then to take care some fires and do some quick amendments to other sections, but we're kind of going in order from the end of the Code book to the other. So today we find ourselves at -- the one you'll be reviewing is the Two-Family Duplex District. As some of you Commissioners know the basic program that the Planning Department is doing with this current update is to put the County Code into a structured outline for every chapter for more usability. We believe that every District should have what are your allowed uses on the basics. What should be considered accessory uses to those allowed uses. And what uses would you allow given special review either by the Commission--and standards and then try to organize the development standards all into one table so that it's easy to understand what you have to do, how big, how wide do you have to build your buildings and so forth.

The first district we're gonna review today is the Two-Family Duplex District. It's kind of an odd, odd district carryover from originally, from the original County Code. And as you can see there's very limited Duplex Districts. Most of those lands that have been, that are zoned Duplex, some of them is in Lahaina in some of your older communities particularly in Lahaina Town there's some as well as there's a few areas in Kihei that have Duplex areas. I apologize, I didn't--I had intention of having some maps here for you to show you that zoning, but hopefully you can take my word on it. It's kind of a limited district. Most of the Two-Family Duplex Districts because it is in sort of a Multi-Family designation on your community plans have all been up zoned you could say to an A-1 and an A-2 District.

Also I believe, part of the--if you read the, if you go through this existing standards of a Duplex District it's sort of more of a Single-Family--a Single-Family lot with two single-family homes on it they're attached or what is considered to be an attached ohana unit now. So I think that's part of the reason this ordinance or this Code came about prior to the ohana or accessory dwelling provisions that came about in the mid-'80's. And so I think that's why some of this became more of a moot zoning. But we still have it on it today so we need to accommodate, account for it within in the current Code.

As you can see where it's generally located so you've probably had it maybe along a major roadway and buffering between a Commercial District. It had very residential characteristics. We did send out for agency--most of the agencies did not have any comment because we're not making any significant changes. You could see the Police Department recommended some environmental design strategies to reduce crime. I'm not sure if they did a presentation on--to the Commission on that but had to do with landscaping as well as lighting that can deter entrance, people from entering into it, but also deters pedestrian movement. I think it's kind of counter intuitive but you've got two different things, is that one is crime prevention but at the same time it creates an impediment to friendly or people commuting from one area to another area in a simplistic way. However, those comments as well as, you know, standard Department of Health needing wastewater systems. All of these zoning classifications of duplex are located pretty much in the urban core-- excuse me, they are in the urban core. So there are a hookup to County wastewater facilities.

So the main bill or what the amendments you're looking at is on Exhibit 1 of the staff report. As you can see, we did some-- all we did was one, removed some confusion from they used to name it like under permitted uses within the A-2 District and that created confusion with the Apartment District. And so it's actually Duplex District. We also had to create your accessory uses to basically what can be allowed. On Page 2 of that Exhibit 1, there's a little typo, it should be mail boxes. Under Special Uses, we haven't created any--there wasn't any listed so I didn't feel like it was my place to be adding special uses. You'll just add it as some time down the line and wanted to have it. Development Standards, they're all over the area. You could see there is in each chapter. So I've consolidated down into the B-1 and B-2 Districts. These are your lots sizes. As you can see they're very similar to a residential. The one note that you should look at I guess is with regards to our standard for small scale energy systems. It says not to exceed 50 feet. So you may wanna see if that's, is that too tall or is that the height that you would wanna see it. Typically we're doing about a 10 to 15 depending on the district. And pretty much, that's it. There's really not much to this District. We're just, I guess like I say reformatting it, updating it to accommodate for today's code, and again, encouraging--allowing for small scale energy systems. Is there any questions at this time?

Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: Joe, when you start looking at this your proposed changes to ...(inaudible)... I have no objections to it. I like the way that you're simplifying it and streamlining it. Are there other standards scattered throughout the Code and that's why you're bringing it into this Chapter 19, Title 19?

Mr. Alueta: Every title of Chapter 19, in Chapter 19, so every Duplex, Apartment and every chapter that I'm going through, right, they, some of them were written or a carryover from the '60's. So they just basically changed the number from 7, you know, 8.1 which is the original County Code to 19. And they didn't really, really look at it again and update it. And that's--so what I'm trying to do is I'm going through each chapter one by one and creating a basic foundation which is a basic outline and trying to make sure that uses or standards are not conflicting with other sections of Title 19 or even you know, maybe Title 16. I try not to, you know--but anything that comes under the purview of Planning Department, but for the most part what they do is they scatter the development standards throughout that chapter. I mean, within the existing chapter and it can be very, very cumbersome to read. And when you read it, and my liking to it, I use this example many, many times so excuse the veteran Commissioners is that it's like a written math problem. It's like train A is headed east from Chicago at 35 miles an hour into a 2 mile an hour head wind, then B leaving Boston headed west at 45 miles an hour. You know, where do they--I mean, that's how this County Code was written a lot of times. And so, developers, architects are scratching their heads like, well, just tell me how big it is? I mean, put it in the table format and that's one of the biggest things and I was talking with Commissioner Wakida about is that a lot of times you can't see the problems or what you wanna question because it's so buried into this paragraph of a problem. And once you put in a, in a table simplified format then all of sudden, why are we doing that, why is it that way? And you know, when we're going to these conferences on the mainland, anybody wants to throw the baby out with the bath water, let's just rewrite the whole Code. And many times they're saying no, your Code's fine just organize it and then slowly pick apart at it. And that's the methodology that we've, that we've taken because if I dropped a document that size and said that's gonna be the County Code, how long do you think we'd be here and how many--I mean, I'd be going through three different Commissions by the time I was done. So I just feel that it's easier, it's more understandable, it's digestible. So that's the reason we're doing it.

Mr. Shibuya: No, I'm not objecting to that, Joe. Because I was on the Board of Variance and Appeals. Chapter 16 was our Bible and are those provisions in this or are the provisions in 16?

Mr. Alueta: No, the--16 is--for the most part, 16 is Building Code.

Mr. Shibuya: Yes.

Mr. Alueta: So this Title 19 is zoning. You do not, so I do not tell you whether or not you need to go 12 inches or 16-inch on center and use 2 x 4 for one-story or two-story structure. That's and whether or not you need to use a type of Simpson tie for your connectors.

Mr. Shibuya: Right.

Mr. Alueta: I do not say that. The odd ball situation is that Building Code allows for certain structures such as mail boxes, stuff like -- I need to accommodate for that within the Code. 16.13 and 16.12A is the Sign Code. I need to accommodate for that in Title 19 because in the Commercial District we deal with signs. Sign Code tells you how big it is, what it should look like, and the graphics. Title 19 is going to tell you where can you have it on the property, and can you have it within a setback, and that's what I'm accommodating for. So I'm saying is, yes you can have a ground sign and it can be an allowed use within the setback. I'm saying Building Code allows for

a trash enclosure and doesn't regulate it, I'm saying in our Title 19 you can do a trash enclosure and it can be within the setback. So I'm making it clear that you don't--the setback requirement doesn't apply to everything single thing that you build. Okay, and that's kinda what, you know, we're saying we wanna accommodate for certain things, we wanna say a building is set back, but not necessarily your boundary wall. It's a boundary wall because it supposed to be on the boundary. And before -- or if you an apartment complex, typically you have mailboxes, centralized mailbox system. Well, maybe those should be allowed in the setback area. And so it's just--I'm just trying to make sure that--because these are things that come up when they, when we review it--the plans, they're like, well, can you do this? Is that allowed? And the architect is going, questioning it. So I'm just trying to provide clarity. When they have a question and it's not clear, my job and Mr. Spence's job is let's clarify it. Let's make it easy for people. So that's our goal.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: Hi, Joe. Was there a reason that the Duplex Bill does not have what is in the other two, mainly establishes rule making provisions?

Mr. Alueta: Could be an oversight? Yes, I would ask that you --

Mr. Mardfin: Include a thing about establishes rule making.

Mr. Alueta: Okay.

Mr. Mardfin: Secondly, Mr. Chairman?

Chair Hiranaga: Proceed.

Mr. Mardfin: On Exhibit 1, Page 3, you have your, for Table D-1, D-2, and under Maximum Building Height in feet, under Notes and Exceptions, you treated that differently than the other two. You said, "except that vent pipes, fans, chimneys, antennae, and equipment used for small scale energy systems on roofs shall not exceed 50 feet." And in the other two you say, "shall not exceed 10 or 15 feet above the building height." It's just a different way of wording it.

Mr. Alueta: Correct.

Mr. Mardfin: It's not consistent between the three.

Mr. Alueta: In talking with the Staff and going over it, right. In the Residential District, right, we did a total height for many of the existing districts. In the Apartment District and Hotel District, the zone is your districts where you have really, really tall buildings on the floor areas and they wanted to have--and also, it's a district where--you'll also notice that we added stairway shafts, that's the reason.

Mr. Mardfin: You added what?

Mr. Alueta: Stairwell shafts. On the Apartment, if you're jumping ahead because you're doing a--

which is good you're comparing it, but two things that we added and I'll go over those when I get to them and that's the reason that they're separate. They're different is that because the question came because you have such a height, a large height, and we're getting rid of stories, okay, and throughout the whole Code, right. In the Apartment and in the Hotel District there's significant height, okay. So the question came up, can I build a 30-foot XYZ whatever, you know, building and then you, a super large antenna on top of it because that's basically what you could do. I'm not saying that that couldn't happen in the Duplex District, but the maximum height--again, that's why I asked you to look at that is 50 feet. So when you look at these when they say maximum height, you can't just say, okay, well, 35 feet, 50 feet. You should assume that they may build just a one-story house but they still may be able to do a chimney or a tower to 50 feet. And we talked about this in some of the other districts. Now the way the Department looked at it was that, chances are you're not going to get that. You're not going to get a 20-foot, single-story duplex with a 40-foot chimney. It's not really that likely. However, in a--you don't know what will happen in the Apartment District, or antenna, you know what I'm saying? And so we need to look at that as -- and we also had to look at where are our Apartment and Hotel Districts, you know. Apartments are here, but also a lot of our Hotel Districts are along the coastline. So would it look appropriate to have a designed structure and then all of a sudden have a super tall antenna on top of it to get around the Code. I mean, it doesn't make much to some sense, but I'm saying is that it could happen and we just from a design aspect we wanted to make sure we limited the design characteristics of those top of either stairwells or roof antennas so that they would not dwarf in scale the building itself meaning they would be proportionate to the scale of the building.

Mr. Mardfin: I understand that. What I'm asking is why not phrase for Duplex--I understand why you have it phrased for Apartments and Hotels the way you do, that makes perfect sense to me. I don't understand why you don't use the same reasoning. Is the only reason you're using a different reasoning for Duplex because that fits in with Residential? Because it seems, first, I think this is a little unclear. It says you can't have antenna to exceed 50 feet. Is that 50 feet above the building which would take it up to 85 feet?

Mr. Alueta: No, total.

Mr. Mardfin: That needs some clarification I think then.

Mr. Alueta: Well, actually it said the other way, and they told me to put in not to exceed 50 feet, that was the amendments.

Mr. Mardfin: In total, in total height. You could interpret that--with a good lawyer you could interpret that as you get 50 feet above the Duplex. So I would make sure it's really super clear.

Mr. Alueta: Okay.

Mr. Mardfin: I'm not objecting to the concept. I'm suggesting that the wording be tightened.

Mr. Alueta: Okay.

Mr. Mardfin: And other things equal, I would have gone with 15--maximum 15 feet above the

building height because as you point out you could have a 20-foot story--a 20-foot building and a 30-foot antenna and that would look kinda--while you think it wouldn't happen, it could happen.

Mr. Alueta: And again, this is that transition, Mr. Mardfin. I appreciate your questions because that's the discussion would be you're gonna have on that is that in all the other districts, right, they're either--you have already reviewed and we talked about this is one, it's in Residential, again really low. There have been the Commercial Districts, well, we don't really--there wasn't that much ...(inaudible)... it's a Commercial District or it's the Industrial District that we talked about. Here we're now talking about, we're getting into the Duplex is kind of--and the Apartment District can be the buffer zone or has been and it -- and you read the Purpose and Intent, it has a residential characteristic and that's why I asked --

Mr. Mardfin: So you wanted to follow Residential?

Mr. Alueta: Yeah, and so we had done the standard Residential. Now again, is 50 feet too tall? That's up to you guys to decide. We're just pointing it out. At the same time, once you get into the Apartment and Hotel Districts, it's not quite Commercial, it's not --You shouldn't look at it the same as a Commercial District. It has a Residential characteristic but it's a high density Residential. It's the intent to be in your high density urban core for the most part, but at the same time it could be on your coastal areas and ...(inaudible)... view planes in those districts. So that's why we've--it's a juggling act, but we're also trying to accommodate some of the memos that we have. We have memos about allowing for stairwells, we have memos, policy memos that allow for certain antennas and so we're trying to incorporate some of those policy memos into today's Codes so we don't have to rely on a policy memo. But, like I say, that's the reason there's a difference. One is the height, the location of some of these Hotel Districts and Apartment Districts as well as the purpose and intent of what these are, you know, as opposed to Duplex has a more of a residential characteristic.

Chair Hiranaga: Commissioner Wakida?

Ms. Wakida: Thank you. First of all, I love the chart. I've struggled with the narrative in previous projects that have come up and so a chart is great. And secondly, I agree with Commissioner Ward Mardfin, the problem is just the language. It's a grammar thing. It says literally that the chimneys shall not exceed 60 feet and that obviously is not what you mean. So it's just a grammar problem there on that to clear that up. My question, I didn't look it up, but is Duplex defined in the, in the Code? In the beginning of the Code? Is there a definition for Duplex?

Mr. Alueta: You know, I didn't, I didn't bother looking it up either. I was looking it up as a --it's a zoning category and it just has it's defined by it's -- of what its allowed uses are.

Ms. Wakida: Because is -- I mean, I assume a Duplex is building with two families, but you made reference and I didn't quite catch it, said something about a dwelling and an ohana. That's not what you mean by Duplex.

Mr. Alueta: No, but it predates because it--by definition, right--you are correct. It's two families in a single structure. By--later on, we defined an ohana and you can have an attached ohana and it's not considered a duplex because by a separate code and entity. And that's why I'm saying is that

this is like predates the whole concept of having accessory dwellings or even having ohanas. And if you follow me, you mean, if you remember the ohana in 19.35, this is the Accessory Dwelling Code.

Ms. Wakida: So--but your intent in this section is to have one building and two families. Is that what you mean by Duplex?

Mr. Alueta: Correct.

Ms. Wakida: And so, I would hope that that would be defined then in the beginning of the Code where the rest of the definitions are.

Mr. Alueta: Okay. I'll make sure, it's a single structure with two separate living quarters.

Ms. Wakida: Thank you.

Mr. Alueta: There would be an apartment.

Mr. Spence: Commissioner Wakida --

Chair Hiranaga: Director?

Mr. Spence: Thank you. If we don't have a definition, would you like us to recommend one to the County Council?

Ms. Wakida: Yes, I would.

Mr. Spence: Okay, I see lots of nodding heads.

Mr. Alueta: Okay.

Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: In that definition since we are on that, could you include multi generational families versus two separate families within the same structure? Because you could have one structure, a Residential area, a very large structure and you have three generations in there. They're all related.

Mr. Alueta: Right. By definition of a family. The definition of a family includes up to six unrelated people. So if everybody, if everybody is related, that's one family. So it's still considered a single family. So you could have three generations of a family living together and it's still considered one family.

Mr. Shibuya: Okay, so you have your cousin living on the second floor?

Mr. Alueta: That's still one family.

Mr. Shibuya: One family.

Mr. Spence: Yeah, and that's, that's not so much a matter of the Zoning Code. You know, I mean, it's something that exists and you know, will continue to exist.

Mr. Alueta: So we do not prohibit it. What you're saying--right now that's an allowed use and it would not be prohibited.

Mr. Shibuya: Because I was thinking in the condominium because now you're talking two separate rental units and two separate owned parcels within that same structure like a condominium.

Mr. Spence: At the moment we're just talking about the Duplexes.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: I think Commissioner -- I have two things. One is, I think Commissioner Shibuya is suggesting that when you write the definition for a Duplex and you say two separate households you don't preclude them, mom and pop living, are living in one and the kids living in the second. That they can be related but they're still two separate. I think that was his point.

Mr. Shibuya: That's right.

Mr. Mardfin: My question is, in point 31, you changed A-2 to Duplex. A-2 didn't disappear though? A-2 continues on in the Apartment Complex. So you've essentially created a separate--a new separate category when you create Duplexes.

Mr. Alueta: That's correct. The history of time can sometimes be confusing and muddy, okay. It's kinda like you have -- someone did an error, it should have been said, it should be the D-2 or Duplex and instead they put A-2 and I do not know why. Now whether the intention was when they did the Apartment District, to fold Duplex into the Apartment District, I do not know. I don't have any record to indicate that. All I know is that the--there's a Duplex District and then there's an Apartment District. But then when they wrote the Duplex Code for some reason they said within the A-2 District and for me, that's an error, and that has been perpetuated for 40 years. It's kinda like that reversed stamp on the bridge to Hana where the numbers are mixed up and it's like, now it's a historic error, but no one wants to correct it. All right, they tried to correct that error, but I'm not one of those guys. It's a mistake and you either admit you made a mistake and you move on and you correct and that's the way you work on it and I'm not going to perpetuate it, okay. Okay, it supposed to have been Duplex from day 1 on D-2. I'll make a note that, you know, they talk about, you know, Duplex and the whole thing and the setback and I'm not sure if it's when you read it if you can discern whether there is a D-1 and D-2, but on the Zoning Map there's D-1 Duplex and D-2 Duplex. So somewhere there needs to be, whether you want it or not it's out there zoned now. We need to create a category in the Code here. That's what we're doing.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: That explains my question, okay. I already mentioned that the established rule making

provisions wasn't there but you're gonna add it?

Mr. Alueta: Correct. It's in the section, but somehow it got cut off, for some reason it's cut off.

Mr. Mardfin: The police have made suggestions for all three of these that certain things be done. Those don't appear to me to be directly incorporated into this. Is that the sort of the stuff that the rule making would do when the Director makes rules he'll say, your lighting has to be this, your doors have to face the street, is it there rather than put it into the Code directly?

Mr. Alueta: I think those are, it can be, it can be in the rules the Director administers for as far as design and review of buildings within either the Duplex--he can do that. It can be--these are more or less comments that they send all the time regardless of what we send them. So whether we're sending it to review an ABC Store for SMA, they're gonna send the exact same comments, okay. So it's not particular that they want it incorporated into this Code. It's just that they're making it repeatedly known that hey, there is these standards you should do when you build a building.

Mr. Spence: Mr. Chairman?

Chair Hiranaga: Director?

Mr. Spence: Probably the best way to do it because the Police Department send, you know, like Joe says, they make a lot of the same comments over and over again. That's probably as we develop Administrative Rules for the Department when we do project reviews, you know, we'll incorporate some of those things into the rules so then we can apply them to the projects. Rather than just putting them in the Duplex, you know, we already have five Single-Family, you know, we'll make it applicable to everything. You know, if we do Administrative Rules we'll have an opportunity for the architects and the developers and everybody to have input in on those rules and we'll go from there.

Chair Hiranaga: Commissioner Wakida.

Ms. Wakida: I heard your discussion, of course, about the 50-foot rule here. I just saw those seemed excessive to me. If the building is 35 feet then you can have a 15-foot something or other. I mean, the height of this room is probably 10 feet. I don't see, 15 feet to me just seems excessive. Could you please justify why it needs to be 15 feet above the maximum building height? Apparently that's what it was before and haven't been changed.

Mr. Alueta: You know, I don't think it was, it wasn't there. It's something that was--we've been, we played with when I come to the Commission on different districts. And some feel that 10 feet above the roof has been enough that was--and then some have expanded it to 15 and so, I went with the bigger number. We can always shrink it down to 10 if you feel--I mean, like I say, this is kind of a cusp, in the cusp between what you call your Apartment--or Commercial and Residential. And so in the Residential District, I believe you've allowed for 10 feet, but in the Commercial District you allowed I believe it was 15. So you need to make that -- and then you have the Apartment. And so, I didn't know which way to go so I put 15 in for now and you can always--like I say, if you feel that's too tall then you can say not to exceed 45 feet. That's entirely up to you.

Ms. Wakida: Well, if I were to make a recommendation I would like it to similar to the others, say not 10 feet above the maximum building height, yeah.

Mr. Alueta: Oh, same as the -- oh, so 10 feet above the roof. Okay. That's easy enough to do.

Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: I would like to leave it at the 50 feet or 15 above. The reason why is that in the Board of Variance and Appeals we allowed for the 50-foot ham radio antennas and they are in the Residential areas as well as in this other area. So if you're gonna do that, then I think you need to be consistent and this allows for that ham radio antennas. And usually the antennas are elevated. In other words, when they're transmitting or receiving they raise the antenna up to the 50-foot level, and then when they're not in the use they drop it down to probably about the 20, 25-foot level.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: On a different topic. On Page 2, I mean same subject matter, Exhibit 1, Page 2, Line 13 through at least 16 and maybe a little further, these are lines that are being deleted and it says, "there may be more than one two-family duplex dwelling on any lot provided there is not less than 7,500 square foot of lot area for each family dwelling." There's nothing in your table--there's nothing in your table that seems to indicate you can have more than one duplex on a lot. I don't know if that's necessary or desirable or it was just left out. It just struck me that, I gathered the main thing you're trying to do is codify what already exists and by leaving that out you're, you're--you're missing a ...(inaudible)... that you might or might not want to have in the law or what might or might not already be in the law. And the other thing is, well, let him answer that, then I have another question.

Mr. Alueta: Yeah, that basically says that you can have one, two-family duplex and the lot has to be 7,500 square feet.

Mr. Mardfin: If I had a 15,000 square foot lot, I could have two duplexes, is that correct?

Mr. Alueta: If you had a what?

Mr. Mardfin: Fifteen thousand.

Mr. Alueta: Yes.

Mr. Mardfin: So if I had 15,000 square foot lot I could have two duplexes.

Mr. Alueta: Two duplexes.

Mr. Mardfin: And if I had a 30,000 square foot lot, I could have four duplexes, something like that?

Mr. Alueta: You might have to subdivide at some point.

Mr. Spence: Mr. Chairman?

Chair Hiranaga: Director?

Mr. Spence: I believe Public Works requires subdivision requirements after the third unit. So you have three units, you need to put in curbs, gutters, sidewalks and other improvements that are normally required if you were to subdivide.

Mr. Mardfin: But if I had 22,500 square feet, I could do two duplexes without a problem?

Mr. Alueta: Yeah. That's how it is in the Single-Family Residential District. That's how it is in all districts.

Mr. Spence: Yeah, that's consistent with existing Code.

Mr. Mardfin: And we don't have to have anything in Joe's table to indicate...

Mr. Spence: No, we don't need anything in the table. That's a separate section of this particular proposed change.

Mr. Mardfin: But it's being, this stuff is being deleted about multiple ones.

Mr. Alueta: It says there--on the table it says, 7,500 square feet.

Mr. Mardfin: But that's for one. It doesn't say 7,500 for each duplex, right?

Chair Hiranaga: Let me just interject because something like this gets circulated among the various departments and so just because you have 22,500 square feet, it doesn't mean you can get three duplexes because you still have to meet sideyard setbacks, minimum lot width and so, you know, it goes to the departments, they all put their standards on it, and if you meet all the standards, yeah, then you can, but it's not a ...(inaudible)... that you can get three.

Mr. Mardfin: My concern is there's nothing--with these lines deleted, there's nothing indicating that you can have multiple duplexes on a large enough lot.

Chair Hiranaga: Well...

Mr. Mardfin: It's silent on it which is fine.

Chair Hiranaga: Commissioner Ball wants to say something.

Mr. Ball: I think I'm gonna side with Ward on this. There should be at least a little--under Notes and Exceptions, a little thing mentioning about, mentioning about the multiple structures if your lot's big enough somehow.

Mr. Alueta: Yeah, because that's--all it says is the minimum lot size is 7,500 square feet in the D-2

for everyone that you have. So every duplex. So if you want two duplexes, you need to have another 7,500 square feet to do a multiple. And that's how it is in the Single-Family. In the R-1 District it's 6,000 square feet. So if you have a 12,000 square foot lot in the R-1 Zoning, you can have two single-family dwellings. You can have one on each lot--one on each--

Chair Hiranaga: Potential to have two.

Mr. Alueta: You have a potential to do two. Same thing if you have a--if you have a half-acre and it's R-3 zoning and you don't want to subdivide, you have the potential to do two full single-family homes and one accessory ohana. So it's--that's already in the Code, and so I'm not sure what Ward is asking that's --

Mr. Spence: Mr. Chairman?

Chair Hiranaga: Director?

Mr. Spence: We can put a notation in the--our transmittal to the County Council that this 7,500, you know, per duplex.

Chair Hiranaga: Per structure.

Mr. Spence: Yeah.

Mr. Mardfin: Mr. Chairman?

Chair Hiranaga: And you know, Water Department has their fixture count requirements so just because you have 22,500 square feet, you have a 5/8-inch meter you may not be able to build three duplexes.

Mr. Spence: Right.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: I think I have an easy solution for this at least in part. Where you--on the line on your table you had minimum lot area square feet, if you said minimum lot area square feet per duplex --

Mr. Spence: That's fine.

Mr. Mardfin: --that would probably solve it and then under Notes, you might or might not wanna put--and if you had, you know, it's D-1 they're gonna need 10,000. You'd have to have a 20,000 square foot lot to get two.

Mr. Alueta: Correct.

Mr. Spence: That's fine, we can, we can make that change.

Mr. Alueta: Is that a -- would that be a--okay, you're gonna have to do it in the Apartment District. To be consistent you'd have to do it in the Apartment District, in the Hotel District and then I'd go back to the Residential and say..., okay.

Chair Hiranaga: Any other discussion? I have a couple comments. The duplex can be separated from first floor and second floor? 'Cause a lot of people have visualize duplexes being say both on the--on the ground floor with a common firewall, but can you have the separation being first floor-second floor?

Mr. Alueta: There's no restrictions as far as--I don't know the Building Code that well, but I would imagine you could, upstairs/downstairs.

Chair Hiranaga: I think my one concern is the 35-foot building height because residential is 30 feet. I would prefer seeing it at 30 feet. I don't know why you would allow a duplex building to be five feet higher because it's -- to me a duplex that I actually rented on the mainland in California, it's very difficult to tell it's a duplex. It looks like a house except it's got basically two garages and two driveways but it looks like a house, and so why allow them to be five feet higher because then they won't look like a house, they'll look like something else. I mean, on the road I lived there were duplexes down the entire road but they all looked like houses 'cause they were supposed to look like houses.

Mr. Alueta: I believe I pulled the 35 feet straight from the existing Code. So I didn't, I didn't--I understand your concerns, but I didn't feel it was in purview to change it without any justification. It's an existing Code.

Chair Hiranaga: Okay.

Mr. Alueta: So if we did it, I didn't want to create any non-conformities also. I believe if you dropped it to 30 then you'd have non-conforming duplex building out there. And I know how you all love non-conforming.

Chair Hiranaga: And personally for me I would prefer a 10-foot height limitation on those chimneys and whatever, 'cause it's supposed to look like a residential area so it should to me meet residential standards. Commissioner Shibuya?

Mr. Shibuya: In terms of the fences, especially in the backside, if you are protecting a swimming pool, and you put up--what's the regulation on swimming pools? I think it was six feet or eight feet? The fences around the swimming pool, I think for safety?

Mr. Alueta: I thought it was like four, three or four.

Mr. Shibuya: Is that all?

Mr. Alueta: Yeah.

Mr. Shibuya: Okay. And this eight feet in height is from ground level or the slope, the natural

ground level?

Mr. Alueta: It's from the point on the ground.

Mr. Shibuya: From the point on the ground. So if you're on a slope and you own the house down below that fence to look like a structure.

Mr. Alueta: It would look like a slope with a tent. I'm sorry, Commissioner Shibuya.

Mr. Shibuya: Yeah, you know, I understand.

Mr. Alueta: It would look like a--and again, a fence--by definition a fence has at least 50 percent light and air am I correct. Yeah, whereas a wall is solid structure.

Mr. Shibuya: Okay. Thank you.

Mr. Ball: Where did the eight feet come with that, directly from the...

Mr. Alueta: No, we added that in just to clarify, it was during the Residential District updates right, we put in a eight-foot boundary wall maximum height in the Code that came through. Remember when walls were a big thing?

Mr. Ball: Right, right, right.

Mr. Alueta: It was a hot topic. Everybody talked about it for about a year and a half. Walls, walls, walls. So it was--we decided when we updated the Residential District, we added eight-foot height in the Residential Districts. We wanted to clarify that you could do that here and it could be in the setback.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: Mr. Chairman, on the agenda it says, public hearing and action, but I didn't see specifically what kind of action they were, the Department was seeking? ...Input?

Mr. Spence: Any time the Department is proposing a change in the Zoning Code what we're looking for from the Commission is a recommendation to the County Council.

Mr. Mardfin: Would you like a--may I make a motion then?

Chair Hiranaga: I believe I will need to open up the public--open the public hearing first if the discussion is complete. No objection.

a) Public Hearing

Chair Hiranaga: We'll open the public hearing. At this time, all who wishes to provide testimony regarding this agenda item please come forward. Seeing none, public hearing is now closed.

b) Action

Chair Hiranaga: Open the floor to a motion. Commissioner Mardfin?

Mr. Mardfin: I move that the Planning Commission recommend approval of this to the Council with the suggestions that we have made specifically that rule making authority be added for the Director, that the height of the--maximum building height be 10 feet above the building with the similar wording to the other two. And that with this minimum lot area, it be a minimum lot area for a duplex. I think those were the three major things we focused on.

Mr. Freitas: Second.

Chair Hiranaga: Seconded by Commissioner Freitas. Discussion? Commissioner Shibuya?

Mr. Shibuya: I'd like to make a friendly amendment with an exception for the ham radio antennas that if it's used elevated, that it can be elevated no higher than 50 feet from the ground.

Mr. Mardfin: I will accept it as friendly if my seconder will accept it as friendly.

Mr. Freitas: Accepted.

Mr. Mardfin: That's what friendly amendments are. He makes a suggestion and --

Chair Hiranaga: I know, but that may affect the voting on the full motion, but that's your call. Any other discussion? Commissioner Ball?

Mr. Ball: So the proposal will be that roofs shall not exceed 45 feet then?

Chair Hiranaga: Thirty-five.

Mr. Ball: Or are adding--

Mr. Alueta: No, I think they, I think your intention was to mimic the Apartment and Hotel and just basically say 10 feet above --

Mr. Ball: Ten feet above the --

Mr. Alueta: --the structure. So 10 feet above which is easier.

Mr. Spence: So it would be 45 feet?

Mr. Alueta: Yeah. Or if you're 25 it would be 35.

Mr. Spence: And for ham radios it would be another five feet.

Mr. Alueta: I'm sad that you're prejudice against the CD radio club but's no -- I'm just kidding.

Mr. Shibuya: Ham or CD antennas. So long as it's elevated I have no problem with it. Bring it down after use.

Chair Hiranaga: Just for discussion purposes I would prefer seeing the maximum building height be adjusted to 30 feet and you know, if there is--I mean, non-conformity, I mean we're here to make improvements and so if we create a non-conformity issue so be it. I don't know how many duplexes there actually are on this island, but I can't make a motion so I'm just throwing that out that from my experience duplexes should look like residential housing units and by giving them that extra five feet, they don't look like residential housing units. Commissioner Mardfin?

Mr. Mardfin: Mr. Chairman, I take your point and I understand it. And if you could put a duplex in a Residential area I'd absolutely be for it because it would be a work around a residence. If you wanted a higher residence or it would say well, it's a duplex and you get an extra free five feet. But since these are fairly limited zoning areas for duplexes I'm not--I wouldn't accept it as a friendly amendment because I think if it's already zoned Duplex and it's 35 feet in the Code, I personally wouldn't wanna change it. And you can't--it's not like you can get a--particularly get around it. I mean, you could put a little higher residence, yeah, maybe, but I'm, I'm okay with the way it is.

Chair Hiranaga: Do we have Duplex zoning on this island?

Mr. Alueta: Yes. It's been around for a while.

Chair Hiranaga: Has someone built a duplex?

Mr. Alueta: Yeah, there's some in Lahaina, Lahaina Town and actually --

Mr. Shibuya: Kahului.

Mr. Alueta: Yeah, there might be some in Kahului, but also -- where there's actually D-1 surprisingly we discovered was lots in Pukalani is D-1 Duplex, but it's actually part of a Planned Unit Development, so--but that's only where there's D-1.

Mr. Ball: Question?

Chair Hiranaga: Commissioner Ball?

Mr. Ball: Do you find that most of those D-1 and D-2 zonings are like kinda spot zonings for certain lots. Not like I've--I haven't seen the maps so, I mean, always see these duplexes kinda one here and one there. It's not a like a row of duplexes.

Mr. Alueta: You know, there hasn't been one in a long time. I mean, it's been--Pukalani was probably the newest. Lahaina, in the old--like I say in that old areas, it's primarily where you have a --where the community plan may have said some type of Multi-Family on the community plan, but the property had two single family houses connected or you know, it was operating as a duplex and so they came in and got a -- that's pretty much where you see that. And it's not so much spot zoning, yeah, it is spot zoning. It's not like there's a row of duplex housing, but it's sort of like that

transition between the Single-Family and maybe the Commercial or Apartment District where it's, it's designated as something on the--as Multi-Family on the community plan, but it's been Single-Family, it's zoned Single-Family and they come in and get rather than going to an A-1 or A-2 where everybody would be up in arms, they say, well, how 'bout a Duplex. And so it's kinda like that compromise. That's what I see it as more, is more of a compromise.

Chair Hiranaga: Commissioner Wakida?

Ms. Wakida: I take the point of our Chairperson about the 30-foot rule and I would also like to see that. However, I would like to open it up to a whole quagmire of problems with non-conforming units that already exist, things that already exist should be--should continue and not have to go through some, some additional process, but if they choose to rebuild then they have to be 30 feet. I think it's a good point.

Chair Hiranaga: Yeah, I think non-conformity only comes into play if it's destroyed, you know, by fire or whatever and there's a certain percentage, they have like a 55 percent?

Mr. Spence: Mr. Chairman?

Chair Hiranaga: Director?

Mr. Spence: We do have non-conforming provisions in the Code that if, I think it's, you can replace up to 50 percent. I mean, say a structure is damaged by fire, if you have to replace more than 50 percent of that structure then you have to conform to whatever the new Code is. So there's also, well, that's time limitations on uses, but it could create difficulties. I don't like creating non-conformities and without going out and seeing what has been built with, underneath this existing Code, I would, my preference would be let's leave it at 35 feet.

Chair Hiranaga: Although this is just a recommendation to Council so they could do that --

Mr. Spence: Yes, it is.

Chair Hiranaga: --they could do the checking. But it brings, it brings to light a concern. Commissioner Mardfin?

Mr. Mardfin: I didn't accept the 30 feet as a friendly amendment. So if Commissioner Wakida wants to pursue lowering it to 30, she should propose an amendment and we'd vote on the amendment.

Chair Hiranaga: Understood.

Mr. Freitas: Call for the question.

Mr. Alueta: Can I clarify what the current motion is?

Chair Hiranaga: The motion is the three items plus the fourth regarding the ham radio.

Mr. Alueta: Oh, yeah, four thank you.

Chair Hiranaga: Antenna. Commissioner Shibuya, you don't happen to have a ham radio?

Mr. Shibuya: No, I don't. I was a ham radio operator before, but then I had to go to college and I sold it as my scholarship.

Mr. Mardfin: This was before the internet existed mind you.

Chair Hiranaga: Commissioner Wakida, are you gonna put an amendment to the floor?

Ms. Wakida: No. I take the Director's point also about he doesn't like to create a lot of non-conforming problems. So I think that's a good point. I don't like to make things more complicated than they already are.

Chair Hiranaga: All right, any further discussion? Seeing none, I'll call for the--Director if you could repeat the motion?

Mr. Spence: The motion is to make a vote -- is to make a recommendation to the Council of approval for the revisions including a section for ruling making authority for the Planning Director, for a maximum height of 10 feet above the building, above the roof line and some notation in there about 7,500 square feet per duplex structure, and also 50 feet for ham radios. I think as a practical matter if they're lowering it and raising it, you know, we will make the notation to the Council nonetheless.

Mr. Shibuya: With a condition that it's elevated.

Mr. Spence: Yes.

Mr. Shibuya: Yes. Okay, to a maximum height.

Chair Hiranaga: Commissioner Wakida?

Ms. Wakida: Does there need to be something in here about defining Duplex in this motion?

Mr. Spence: Sure.

Mr. Alueta: We'll make sure.

Mr. Mardfin: I would accept that as a friendly amendment.

Chair Hiranaga: So be it. Any further discussion? Seeing none, I'll call for the vote. All in favor of the motion so indicate by raising your hand.

Mr. Spence: That's eight ayes.

Chair Hiranaga: Motion carries.

It was moved by Mr. Mardfin, seconded by Mr. Freitas, then

**VOTED: To Recommend Approval of the Proposed Amendments to Chapter 19.10, as Recommended by the Department with the Additional Revisions by the Commission to the County Council.
(Assenting - W. Mardfin, J. Freitas, D. Domingo, L. Sablas, I. Lay, K. Ball, P. Wakida, W. Shibuya)**

Chair Hiranaga: Next agenda item B-2. Director?

Mr. Spence: The next proposed amendments to Title 19 on your, on your agenda is to 19.12, the Apartment District. Again, Mr. Alueta will make the presentation.

2. MR. WILLIAM SPENCE, Planning Director proposing amendments to Chapter 19.12 of the Maui County Code regarding the Apartment District. (J. Alueta)

Mr. Joe Alueta: Thank you. Good morning, Commissioners. Again, similar to the Duplex you just did, Apartment on the staff report you can see where we've done line by line changes, changing everything from general to Purpose and Intent. Key things you should look at again is removing stories and dealing with the overall heights, total height. We are putting in Administrative Rules. We're also putting in the update for with regards to energy systems and vent pipes. We're also allowing in this district for stairway shafts, and this is again, to deal with several of our existing memos and policy memos that we're dealing with.

In dealing with--in the conversion from stories to height we're using a 15-foot standard for a first story and that's how we've--for these districts that's how it has been. Everything else is like I said converting your word math problems into a table format. The Apartment District is kinda where you start getting into your lot coverage and floor area ratio so that's something new that maybe you haven't seen before. Maybe in the Commercial Districts when we did the Business Districts you had that same thing, but again--Accessory structures, we're again making it clear. You can have certain structures within the setbacks such as mailboxes, trash enclosures, boundary walls and ground signs. This is one of your first where you think you're probably gonna need a ground sign. We put in for--these structures shall not exceed eight feet except for as allowed by Title 16.13. Again, Mr. Shibuya talked about whether or not we actually look at other structures and try to--this is where we're accommodating for the height, the maximum height is the--is 12 feet for ground signs in 16. So for that exception for signs we do wanna make an exception. And that's pretty much it. Agency comments, again, we're not--anything significant that would require amendments to the Code. Again, Police Department--we have Health Department with their standard comments if applicable. Again, this is--we're not talking about developing a project, this is just the Code so a lot of the standards and comments coming from agencies deal trying to mitigate some type of construction or development impact and these are more Code and development standard wise. And that's all I have. Any questions at this time?

**MOLOKAI PLANNING COMMISSION
REGULAR MEETING
FEBRUARY 8, 2012**

*** All documents, including written testimony, that was submitted for or at this meeting are filed in the minutes' file and are available for public viewing at the Maui County Department of Planning, 250 S. High St., Wailuku, Maui, and at the Planning Commission Office at the Mitchell Pauole Center, Kaunakakai, Molokai. ***

A. CALL TO ORDER

The regular meeting of the Molokai Planning Commission was called to order by Vice-Chair John Sprinzel at 12:02 p.m., Wednesday, February 8, 2012, at the Mitchell Pauole Center Conference Room, Kaunakakai, Molokai.

Mr. John Sprinzel: Aloha. We have a quorum, so our Commission is in session. (Mr. Sprinzel then spoke in the Hawaiian language.) Which means less talk, more paddling.

B. INTRODUCTION OF NEW MEMBER - SHERRY TANCAYO

Mr. Sprinzel: The first item is the introduction of a new Member who's not here. So that's delayed.

C. PUBLIC TESTIMONY ON ANY PLANNING OR LAND USE ISSUE

Mr. Sprinzel: Any public testimony on any planning matter, which you can't stay for the item? There being none, public testimony is closed.

D. APPROVAL OF MINUTES OF THE JANUARY 11, 2012 MEETING

Mr. Sprinzel: Approval of the minutes, please, of January the 11th. Janice proposes and seconded by Ron Davis.

There being no further discussion, the motion was put to a vote.

It was moved by Ms. Kalanihuia, seconded by Mr. Davis, then unanimously

VOTED: To approve the minutes of January 11, 2012.

Mr. Sprinzel: Carried. Thank you. I apologize, I've lost my voice, which some think is a good thing.

E. COMMUNICATIONS

Mr. Sprinzel: A motion has been made. Somebody second? Janice. So Zhantell proposes. Janice seconds.

There being no further discussion, the motion was put to a vote.

It was moved by Ms. Dudoit-Morris, seconded by Ms. Kalanihuia, then

VOTED: To approve the exemption.

***(Assenting: Z. Dudoit-Morris, J. Kalanihuia, R. Davis, D. Kelly,
J. Sprinzel.)***

(Dissenting: N. Bacon.)

(Excused: M. Pescaia, L. Buchanan, S. Tancayo.)

Mr. Sprinzel: The motion is carried. Thank you. Build a nice house, Ms. Williams.

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

- 1. MR. WILLIAM SPENCE, Planning Director proposing amendments to Chapter 19.10 of the Maui County Code regarding the Two-Family Duplex District. (J. Alueta)**

Mr. Sprinzel: A public hearing regarding two-family duplexes. Well, we got Joe so—

Mr. Alueta: Good afternoon, Commissioners. Are we doing a five-minute break?

Mr. Sprinzel: Joe, can we just have a very quick break?

Mr. Alueta: Yes, a five-minute break, yeah.

Mr. Sprinzel: Thank you. Five-minute recess.

(A recess was then taken at 1:38 p.m., and the meeting reconvened at 1:45 p.m.)

Mr. Sprinzel: We are back in session. Thank you, Joe.

Mr. Alueta: Thank you. So, good afternoon, Commissioners. Again, my name is Joe Alueta. I'm your Administrative Planning Officer. As you've seen before, like I came two weeks ago, I brought you a resolution, and I told you that there's two ways in which you can amend Title 19 or change the ordinances. And that is, one is by Director-initiated or one by resolution. Your last meeting, I brought a resolution for the home-based business, and

that was initiated by Council. The bills that I have before you are Director-initiated, and these are initiated by the Planning – from our Planning Department.

These bills, again, are part of our ongoing efforts to just update and modernize our County Code. For the most part, the changes that we're doing is very – more of a structural outline. The hodgepodge that the code has been early on—they use different things—it's been amended at – very haphazardly over the last 30, 40 years. And what we're trying to do is create a standardized outline. And that standardized outline besides using – is one, to create tables so it's easier to understand. We're also trying to create a format where in every district you have, what is an – what's your allowed use, what are considered uses that are accessory to those permitted uses, what uses require additional review by the Planning Commission, and those are called special use permits, and then you have your developmental standards. We're also giving, for the most part, giving the Director the power to create administrative rules to administer any part of the code or each section. So hopefully, we can go through these districts pretty quickly. We'll take them one at a time. They are listed one at a time. So we probably have to do three public hearings, I believe, on all of them.

So the first is dealing with duplex districts. Okay? This is one of the original titles from the Maui County Code, from like '67, and was just carried over. And if you look at the original code, it shows you when it was last amended. And it basically hasn't been amended since the '60s. They basically cut and pasted the whole code from the old – into Title 19. Also, in the duplex district, which makes things confusing it's a precursor to the apartment district. Okay? I mean, there was an apartment district. But for some reason in the duplex districts, they say within the A-2 district. And so they created – when – we have A-1 and A-2 in the apartment district, and then they started to use A-2 in the duplex. So on our old zoning maps, it is very confusing, and you have to be really be careful because we have zoning changes where people got A-2 zoning, but it's A-2 duplex, not A-2 apartment. And so it always creates a problem with the Department because it's very confusing when people call in.

So again, I'm pretty much working from the Exhibit 1 from the staff report. So if you look through it. We really didn't get much comments from any of the agencies that were reviewing it because again, a lot of the changes are basically, trying to standardize it. The first chapter is gonna be purpose and intent, permitted uses, accessory uses and structures, special uses, standards and developments, and then a rule making. Okay? You can see from the page 1 of Exhibit 1, we're taking away A-2, and just saying, "within the duplex districts." And it tells you what's the allowed uses. We're not changing any of the allowed uses. It's the same as it is originally. When you look at accessory uses on page 2 of Exhibit 1, you see it's – we're clarifying what you can have. We're pretty much allowing for energy systems, small scale, and then fences, walls, it should be "mailboxes," and not "boxed," and then trash enclosures. We're just clarifying what can be allowed.

Again, we're creating the special uses. Right now, there are none listed, and so we're just holding that in reserve. Under development standards, we're creating or we're identifying two different development standards or minimum lot size, which is D-1 and D-2. People ask why are you creating a new D-1, D-2, or a new D-1 when there's--? The reason is we have on our zoning maps, we have lands that is designated as D-1 duplex. And we're like going, where did this come from? But apparently, they zoned D-1 duplex, but they didn't create any development standards. So I had to create some based on going through the maps and looking what the lot sizes are. The D-1 is mostly -- is located mostly -- there's some in Wailea, and there's also some in Pukalani in the project district up there. But the uses would be in both. The only difference is going to be lot size in that whole thing.

A couple corrections I would make is on the very end on page 4, I forgot to add the rule making. I have it listed in the table, but it's basically the same language that you've seen previously. Somehow it got -- when I -- somehow it got left off, but there is a rule making section there.

I'll go back to -- if you go back to page 3 of Exhibit 1 really quickly, I will tell you that on the Maui Planning Commission, just to let you know that on the exception to heights, right, if you notice that each district, the maximum is 35 feet. But if you look at exceptions for vents, pipes, fans, chimney, antennae, equipment for small scale, it says "not to exceed 50 feet." In the Maui Planning Commission-- And I brought this up because we didn't know whether we should make it ten feet or 15 feet. The Maui Planning Commission recommended that it be clarified to be ten feet above the maximum building, the max building. And then they made an exception for ham and radio antennas, but I'll-- That's their comments, but I'm just saying that they, rather than going to 15, they said ten feet.

And then that's pretty much it. I do have a map here to show you where the various zonings of -- for Molokai, of course, for Molokai. I don't think you have any duplex. Yeah, you don't have any duplex zoning, yeah. Commissioner Bacon, besides duplex buildings being allowed within an apartment complex, I believe they're also allowed in your interim districts, so they may have been built prior to the thing. That's where they may have come from. This is actually a zoning class, not just building, the uses. So does the Commission have any questions at this time before, I guess, you go into public hearing? No? Mr. Chair, you wanna do public hearing?

a. Public Hearing

Mr. Sprinzel: Would anybody from the public like to make any queries? There being no public, public hearing is now closed.

Mr. Alueta: Okay, so do you have any comments, or do you have any preference on the height for rooftop structures, the exception? Currently, like I say, we have it as 50 feet, and the Commission made it ten feet. Nope? Okay. Alright.

Mr. Bacon: Quick question on that. You know, people that have the – what do you call those—the ham radios and stuff like that? They have those really tall whip antennas. Are those exempted from all the rules and stuff, because I know they're also – something that it's considered for safety and stuff like that? They can communicate when other people can't and stuff.

Mr. Hopper: Yeah, ham radios have kind of an FCC exemption that allows them to kind of be built at any height. But I do believe, I assume, you go through a variance process or an equivalent process to determine – I mean, essentially, a County, if it wants to regulate the height or something like that, it needs to have its own independent expert hired to basically determine if the ham radio is at the – you know, if it's basically at the height that it needs. And they give a lot of leeway, I think, for the reasons you said for emergency purposes. And so they may have some special rights under the FCC, Federal Communication Commission Rules, to exceed height limits in certain cases, or to get variances under certain standards. So I'm not sure the specific cases, but we have dealt with at least one on Maui that did go through a variance process. But we had to give special consideration during that process because of the Federal law.

Mr. Bacon: Yeah, I was just curious because I've seen them and was wondering about that. Thank you.

(Ms. Dudoit-Morris then left the meeting at 1:57 p.m.)

Mr. Alueta: Any—? So again, we are recommending approval of the bill as presented. I didn't hear any comments or concerns.

Mr. Sprinzel: No, I think we approve.

Mr. Alueta: Okay. Is that—? Is that by an approval by consensus or can I get a motion for—? Yeah.

b. Action

Mr. Sprinzel: Okay, motion. Seconded.

There being no further discussion, the motion was put to a vote.

It was moved by Mr. Davis, seconded by Mr. Bacon, then unanimously

VOTED: To recommend approval of the bill as presented.

Mr. Sprinzel: Passed unanimously.

Mr. Alueta: Thank you.

2. MR. WILLIAM SPENCE, Planning Director proposing amendments to Chapter 19.12 of the Maui County Code regarding the Apartment District. (J. Alueta)

Mr. Alueta: Okay, moving on to the apartment district, again, very similar to the duplex district. Molokai does have quite a bit of apartment districts as you can see from the zoning map. Again, moving – working from Exhibit 1 from the staff report, which has the kind of a Ramseyered version of it, one correction is that they have they have the maximum building height should be 35 feet instead of 30. Oh, I'm sorry, that was the recommendation by Maui to raise it to 35. And again, the Department did recommend for ten feet above the maximum building height, so it's the same as – it's a little different from duplex. And you can see that we did install – adopt the Planning Commission Rules at the very end, the rule making authority. But again mostly, it's just taking the original code, which is as you can see the prior code was 8-1.6. So that goes way back to the '60s, '67. So it really hasn't been amended too often except for maybe in '89 was the last time this code was amended. So we are just trying to modernize it. We do have the development standards. It's just a table format. And that's pretty much it. We aren't adding any special uses. So if you have any questions at this time?

Mr. Sprinzel: Our height's 35-foot here anyway, isn't it? I mean, on Molokai, isn't that the height, the building height, 35?

Mr. Alueta: I believe your community plan has language with regards to not only – for most things. I believe Clayton is looking at it. And so when the project is in the SMA, which most of your projects in the urban core on Molokai is, we would look at the development standards from the code, which is the law. And then during the SMA process, we would look at – for design, and look if there's any more restricting language. But yeah, it doesn't sound like this would conflict with anything. Right now, I think the code says 30 feet for apartment. It was Maui Planning Commission recommended be raised to 35. So again, the Planning Department– Oh, sorry. Do you need to do public hearing?

a. Public hearing

**LANAI PLANNING COMMISSION
REGULAR MEETING
FEBRUARY 15, 2012**

APPROVED 03-21-2012

A. CALL TO ORDER

The regular meeting of the Lana'i Planning Commission (Commission) was called to order by Chair Gerald Rabaino at approximately 5:30 p.m., Wednesday, February 15, 2012, in the Lana'i Senior Center, Lana'i City, Hawaii.

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

Mr. Gerald Rabaino: Yeah, I said five-thirty yeah. We have a quorum. David Green is not here and Matthew Mano is not here, as well as Stanley Ruidas, okay, for the record. Commissioners are we all settled in? Okay, on the agenda for February 15th, Wednesday. Meeting called to order. And (B), item (B), introduction to our new member, Joelle Aoki. Any words Joelle?

B. INTRODUCTION OF NEW MEMBER - JOELLE AOKI

Ms. Joelle Aoki: Thank you.

Mr. Rabaino: You're welcome. Commissioners, anything for --? Okay, John, into the mic. John, thank you. Okay, with that said, approval of the August 17th 2011 minutes distributed in the December packet. If you didn't bring it, well, you can rely it on your memory, unless you want to move it back. Any suggestions? Approval or --? John, in the mic, John.

C. APPROVAL OF THE AUGUST 17, 2011 MEETING MINUTES (*Distributed in the December 21, 2011 packet. Please bring your copy to the meeting.*)

Mr. John Ornellas: I make a motion to accept the minutes of August 17th 2011.

Ms. Leticia Castillo: Letty Castillo, I second the motion. Yeah, I second that motion -- John's --.

Mr. Rabaino: Okay, it has been moved, and we call for the vote. And before we call the vote, any discussions commissioners? Okay, any discussion commissioners? If none, calling for the vote. All those in favor say aye.

Planning Commissioners: "Aye."

Mr. Rabaino: Any opposed? Okay so be it, the ayes have it.

It was moved by Commissioner John Ornellas, seconded by Commissioner Leticia Castillo, then unanimously

VOTED: to approve the August 17, 2011 Lanai Planning Commission meeting minutes as presented.

(Assenting: J. Aoki, S. Barfield, L. Castillo, A. de Jetley, J. Ornellas

APPROVED 03-21-2012

Mr. Alueta: Yeah, except —. That you —. That your comments are that, for home based business, that you want to be exempted from the home based business until you guys get your community plan. So it's addressed in the community plan.

Mr. Rabaino: Okay. That's an exact phrase that you stated right? Okay. Do we have a second on the motion or did we make him wait?

Mr. Ornellas: I made the motion.

Mr. Rabaino: Yeah John made a motion. You did a second? No.

Ms. de Jetley: I'll do the second. I'll second the motion.

Mr. Rabaino: Okay, Alberta second the motion. Okay, discussion or call for the vote? Call for the vote. All those in favor say aye.

Planning Commissioners: "Aye."

Mr. Rabaino: Any opposed? Motion carried. The ayes have it. No objections on the nos.

Mr. Alueta: Okay. Thank you.

Mr. Rabaino: Thank you Joe. Next item.

It was moved by Commissioner John Ornellas, seconded by Commissioner Alberta de Jetley, then unanimously

VOTED: to be exempted from the home based business, and address the matter during the community plan process.

(Assenting: J. Aoki, A. de Jetley, S. Barfield, L. Castillo, and J. Ornellas

Dissenting: D. Green, M. Mano and S. Ruidas)

2. MR. WILLIAM SPENCE, Planning Director proposing amendments to Chapter 19.10 of the Maui County Code regarding the Two-Family Duplex District. (J. Alueta)

- a. Public Hearing**
- b. Action**

Mr. Alueta: The next is three bills. They're initiated by the department. These are dealing with amendments or clean up of 19.10, which is the two-family duplex district, 19.12, the apartment district, and 19.14, the hotel district. If you want, Mr. Chair, I can go through all three of them at once or do you want to take them one at a time? We can do one at a time, and do public hearing one at a time. That probably would be cleaner.

Mr. Rabaino: I think one at a time would be best.

Mr. Alueta: Okay. So again, this one is initiated internally. As you know the department has been going through reformatting the Title 19. We've gone through each – we're going through each section and creating a standard outline. And that outline basically is what's the purpose and intent of that district, what are your allowed uses, what are your accessory uses for that zoning category, what uses are considered special uses, and what are your development standards. And then we create what it's going to be. So, with two-family duplex district is an original code. It goes back to the 1967 Maui County Code, and pretty much has never been amended, and that's probably why it's in the format that it is. You can see from my memo report the changes that we proposed and why on the table. But pretty much I'll go through it from working from exhibit-1 which is the – basically a Ramseyer version.

Again, you can see on page one, line 17 thru 22, that's the standard outline that we're going or standard header sections that we're having. So again, purpose and intent, permitted uses, accessory uses and structures, special uses, development standards, and then a rule making authority. Under – then you have on line, page one, line 30 we're just changing that to permitted uses. But the big change you can see is under line 31 it says, where it says, within the A2 district no building. Now, that's where it gets confusing because it's a duplex district, but it talks about A2 which is confusion with the A2 Apartment District, and it has always created that problem. So on our zoning maps, you have to look very carefully. Okay, and in some of the zoning changes that I have occurred during the 70s and 80s, they say A2 and most of the time you associate A2 with apartment. And you have to look carefully, it will say A2 duplex or A2 two-family district. And so we had to be very careful and we can get into trouble because the development standards are different, and the allowed uses are different.

So again, we want to make that clear and just say duplex districts. And then also we created a standard accessory uses and structures, and you've seen this before. This is the same one we've added to all of the other sections. We're also adding energy system small scale. That's to make sure that you can do your solar, PV panels on your roof, and water, just to make it clear.

Accessory use (B), I'm just doing a typo correction. It should say, fences, walls and mailboxes, not box. There should be s not a v.

Mr. Rabaino: Joe? Can I –? Under –. On page two, item number three in the accessory box, it says, energy system small scale.

Mr. Alueta: Yeah.

Mr. Rabaino: Okay, is that included storage?

Mr. Alueta: Never mind, we heard him.

Mr. Rabaino: You heard me? Okay. Under energy system small scale, is battery storage

included for the backyard light? You want to be off the grid from Maui Electric.

Mr. Alueta: Yeah. Just whatever is considered part of the energy system. So batteries . . . (inaudible) . . .

Mr. Rabaino: That looks – because it's invisible over here. It's not in writing.

Mr. Alueta: No, no, it's part of it. It's whatever energy. And then we have that standard, provided there's no detrimental or nuisance effect upon the neighbors. Because again bio mass classification is considered a small scale energy system and that may create problems for your neighbors if you do a lot of bio mass which is barbequing.

Mr. Rabaino: Okay. Thank you.

Mr. Alueta: Anyway, the main thing – and then you can see where we cleaned up under special uses. There's no special uses at this time. Under development standards that's where we consolidated all these things that they had all over the place, area and yards, and we created one table. Interestingly, again, we're creating that D2 district, but for some reason on some zoning maps, there's actually D1 but there's no zoning standard. So I had to create one based on what was out there existing. So somebody zoned stuff D1 duplex, but there is no such thing as D1 duplex, so I had to create something for that. And that will allow these areas that are zoned that to have a development standards to go with.

On the column where it says notes and exceptions. Under it says maximum building heights. It talks about 35-feet for both of them, and then it has this exception of going up to 50 feet, which is 15 feet above. The Maui Planning Commission put in 10 feet above the maximum building height which is pretty standard bringing it back down. So they just felt to bring it back down to only 10 feet above which is what we were granting for in the residential district.

The duplex district is kind of a transition zone between – because it's kind of residential, but it's kind of apartment at the same time. It's in between two districts. And so you'll see in the apartment district we allow certain height restrictions also, so we didn't know which way to go.

Mr. McOmber: . . . (inaudible) . . .

Mr. Alueta: Depending on the lot, they're called R0 lot lines. We have R0 zoning, and R0 overlay district.

Mr. McOmber: . . . (inaudible) . . .

Mr. Alueta: Right. That's when you have two single-family dwellings that either are attached.

Mr. McOmber: . . . (inaudible) . . .

Mr. Alueta: Yeah, if they're separate lots they're not. If they're on one lot – if they're on one lot,

then that's a duplex. Okay. Let's see, the only other error that we have is on page four. We forgot to add the rule making authority. It's in the table on the front, but I forgot to add it on the back, and so that's just allowing the director. The language is pretty standard, and you'll see that in the apartment district. Do you have any –? I have a map here if you want of the –. It shows all your apartment, hotel and duplex which you don't have. I forget what you have here. You have A1 and H1. Most of your hotels are down in the project districts so they don't qualify under that individual zoning.

Mr. Ornellas: Yes I do. Joe, who enforces, will enforce this?

Mr. Alueta: Zoning.

Mr. Ornellas: Zoning.

Mr. Alueta: Or the Planning Department. Our Zoning Administration Division.

Mr. Ornellas: Okay.

Mr. Alueta: Again, this is an existing district. We're just sort of putting everything into table format.

Mr. Ornellas: Yeah, because I don't think we have –. I don't think we have duplexes on Lanai.

Mr. Alueta: No. No.

Mr. Ornellas: But, you know, there might be a day when we do, so I would like to know who would be enforcing these rules.

Mr. Alueta: Believe it or not Molokai just approved it as is, so they had no problem with it. They have some duplex, but not much. They didn't have a problem with it. And again, Maui had their comments as I indicated with regards to the height and the basic corrections that the department presented.

Mr. Ornellas: Mr. Chair? I would like to make a motion to accept the revision.

Mr. Alueta: You've got to do public hearing.

Mr. Ornellas: Public hearing? I'm sorry. Pat, what was I thinking? Can we get on with the public hearing please? I'm sorry Joe, are you done?

Mr. Alueta: Yes I am.

Mr. Ornellas: Okay, Pat, please.

Mr. Reilly: Thank you. Pat Reilly. One, you'll see throughout all three of these items is the

energy, and I think Jerry brought that up. There is a definition on the front page about what small scale means. As you know we've had several energy systems and it's up to the neighbors, I guess, to complain to decide if it's a nuisance or not. For example if you have a wind turbine or a wind mill, and the things clacking all night. What's going to happen? Somebody is going to call up and say, oh, that's a nuisance. Then they got to have the Planning – you know, I don't know. There's got to be a better way, you know what I mean. I mean, it just creates a problem to me is that it's up to each individual neighbor to decide if they want to complain about their neighbor, which we don't want to do that. But, sometimes it is a nuisance, you know? So I kind of was listening to what the Chair was saying and I don't know if you can better define it, but that's in all three of these bills. And you know, we're going to see it a lot on energy system, small energy systems. And I've been trying to rack my brains to think of language that's going to relieve the Planning Department and make it clearer as to what the heck a nuisance is because in that case, I think you will run into some nuisance issues. Thank you.

Mr. Ornellas: Jerry, go ahead, because I want to get this thing moving please.

Mr. Rabaino: Okay, any other questions for Pat, John? Commissioners?

Mr. Ornellas: Can we close public testimony please?

Mr. Rabaino: We didn't even open it John. That's why you jumped the gun. Hello? Okay, so we're now going to close the public testimony. Sorry. See, you getting me confused.

Mr. Ornellas: Everybody's helping you.

Mr. Rabaino: Okay, anybody else wish to testify regarding this matter? If none, we're going to close it. So close for the record. Commissioners, any discussion?

Mr. Ornellas: Mr. Chair, Joe didn't we have that conversation when the power –. We did an agreement, we voted on something last summer or the summer before that about power systems, small power systems, and what can and cannot do.

Mr. Alueta: Yeah, this is a standard accessory use thing that we've added to the residential district, to the business district, to all the business bills that you saw last summer. So, it's –. And the nuisance – nuisance was added by the Department of Corp Counsel because I guess that's a pretty much a well defined, or sort of well defined thing from their aspects to be able to enforce on it. So we can enforce a nuisance and that's happened before. But, yeah, we just want to clarify that, you know, in the residential and all of the other and in the duplex district you can do PV panels. It's not a problem. When we say – and it's defined. I gave you the definition for energy system small scales, and the main thing was that provided that, you know, the majority of the power generated onsite is being used and consumed by the property which it's located.

Mr. Ornellas: Right. So Pat's concerns have already been covered, and it is in the –

Mr. Alueta: I believe so.

Mr. Ornellas: Okay. Corp Counsel gave a definition for nuisance?

Mr. Alueta: Well, they changed the language that was previously used. The language actually came out – was recommended several years ago by the Molokai Planning Commission, and during the final drafting for legality they changed whatever term that was being used at the time to be nuisance.

Mr. Ornellas: Okay. So this is just pertaining to power energy?

Mr. Alueta: Yes.

Mr. Ornellas: Okay. Because sometimes I'm a nuisance, so I'd like to see a definition about me.

Mr. Alueta: Okay. No.

Mr. Ornellas: Okay. Alright.

Mr. Rabaino: Okay, any other discussion commissioners? We going move to the next item.

Mr. Alueta: Well, you need a motion.

Mr. Rabaino: I'm sorry. Somebody make a motion please.

Mr. Ornellas: I did, didn't I?

Mr. Rabaino: No you didn't.

Mr. Ornellas: Okay, I make a motion that we accept the changes as presented.

Mr. Rabaino: Anybody second the motion?

Ms. Barfield: I second. Shelly.

Mr. Rabaino: So the motion has been entertained and Shelly has second the motion. All those in –? Any other discussion or all those in favor to vote? Okay, let's vote. All those in favor say aye.

Planning Commissioners: "Aye."

Mr. Rabaino: Any opposed? The ayes have it. You got it Leilani? Okay. So it has passed. Next agenda item, number three.

It was moved by Commissioner John Ornellas, seconded by Commissioner

Shelly Barfield, then unanimously

VOTED: to approve as presented.

(Assenting: J. Aoki, S. Barfield, L. Castillo, A. de Jetley, and J. Ornellas

Excused: D. Green, M. Mano and S. Ruidas)

3. MR. WILLIAM SPENCE, Planning Director proposing amendments to Chapter 19.12 of the Maui County Code regarding the Apartment District. (J. Alueta)

- a. Public Hearing**
- b. Action**

Mr. Alueta: The department again is bringing before you the apartment district which is Title 19.12, relating to apartment district. Again, it's very similar to the bill you saw earlier, primarily formatting changes to have it be consistent throughout the code. You have -. The only changes that, I guess, under (C), for purpose and intent was that they wanted to have apartment building. This should be occupied as long term residential basis. That was the only thing that came out of the Maui Planning Commission. They did want to recommend that the maximum building height be raised to 35 feet from the 30 feet. And that's pretty much it.

Mr. Rabaino: Joe, on exhibition-1, line item 34, definition of long term residence.

Mr. Alueta: We don't have a definition of long term. We have a definition of short term which is less than 180-days. So anything – anyone – anything more than 180 days is considered long term residential.

Mr. Rabaino: Commissioners, discussion?

Mr. Ornellas: Open.

Mr. Rabaino: Okay, open for public testimony is now open. Anyone in the room wish to speak on this item? If not, public testimony is closed. Commissioners?

Mr. Ornellas: Joe, we have a -. Okay, first of all enforcement, how do you enforce the apartment versus hotel versus – who enforces that? Because we may have a problem now here in Lanai City where somebody has purchased an apartment complex and they maybe selling, they may be renting it out on a daily basis. Isn't that – that's not an apartment, okay, so it falls under hotel?

Mr. Alueta: Yes.

Mr. Ornellas: Okay, who enforces? Who would enforce that?

ORDINANCE NO. _____

BILL NO. _____ (2013)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.10, MAUI
COUNTY CODE, RELATING TO TWO-FAMILY (DUPLEX) DISTRICT

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Chapter 19.10, Maui County Code, is amended to read as follows:

"Chapter 19.10

TWO-FAMILY (DUPLEX) DISTRICT

Sections:

- 19.10.010** [Generally.] Purpose and intent.
- 19.10.020** [Use regulations.] Permitted uses.
- 19.10.030** [Height regulations.] Accessory uses and structures.
- 19.10.040** [Area regulations.] Reserved.
- 19.10.050** [Yards.] Development standards.
- 19.10.060** Rule making authority.

19.10.010 [Generally.] Purpose and intent. A duplex district shall provide most of the desirable residential characteristics attributed to single-family districts. It has useful applications as a buffer zone along major streets and bordering neighborhood shopping centers.

19.10.020 [Use regulations.] Permitted uses. Within the [A-2] duplex district, no building, structure or premises shall be used and no building or structure shall hereafter be erected, structurally altered, replaced, or enlarged except for one or more of the following uses:

- A. Any use permitted and as regulated in the R-1, R-2 and R-3 single-family districts; and
- B. Two-family dwelling (duplex).

19.10.030. [Height regulations.] No main building shall exceed thirty-five feet in height.] Accessory uses and structures.

<u>Accessory uses and structures</u>	<u>Criteria or limitations</u>
<u>A. Energy systems, small scale</u>	<u>Provided there will be no detrimental or nuisance affect upon the neighbors</u>
<u>B. Fences, walls, mail boxes, trash enclosures</u>	
<u>C. Garages and car ports</u>	
<u>D. Subordinate uses and structures which are determined by the director of planning to be clearly incidental and customary to the permitted uses listed herein</u>	

19.10.040 [Area regulations. Within any A-2 district, no building or structure shall be constructed on any lot having a width of less than sixty-five feet and an area of less than seven thousand five hundred square feet. There may be more than one two-family (duplex) dwelling on any lot, provided there is not less than seven thousand five hundred square feet of lot area for each two-family dwelling (duplex). This lot width and area requirement shall not apply to the building of a two-family dwelling on lots of less than seven thousand five hundred square feet in area where existing boundaries of such lots were actually established and of record in the Bureau of Conveyances and/or Tax Office of the state prior to the enactment of the ordinance establishing the use of zone district.] **Reserved.**

19.10.050 [Yards. A. Front Yard. There shall be a front yard of not less than fifteen feet in a class A-2 two-family district from any setback line for street widening purposes, and if no such line exists, then from main street boundary or front boundary. An attached garage, carport, or other permitted accessory use shall provide and maintain the same front yard setback as required for the main building. A detached accessory building, any portion of which is located to the side or front of the main building, shall not be less than five feet from such main building and not nearer to the side lot line than the width of the front yard required for the main building.

B. Side Yard. There shall be a side yard on each side of the main two-family (duplex) dwelling of six feet. In the case of a two-story two-family (duplex) dwelling not exceeding thirty-five feet in height, the minimum side yard space shall be ten feet. An attached garage, carport, or other permitted accessory use shall provide and maintain the same yard spacing as required for the main two-family (duplex) dwelling.

C. Rear Yard. There shall be a rear yard of not less than twenty feet in an A-2 two-family (duplex) district from the common boundary line. A detached permitted accessory building, any portion of which is located to the rear of a main two-family (duplex) building, shall be located not nearer than six feet to such main building; provided, however, this construction shall not reduce the depth of the rear yard to less than twenty feet.] **Development standards.**

	<u>D-1</u>	<u>D-2</u>	<u>Notes and exceptions</u>
<u>Minimum lot area (square feet)</u>	<u>7500</u>	<u>10,000</u>	
<u>Minimum lot width (in feet)</u>	<u>65</u>	<u>65</u>	
<u>Maximum building height (in feet)</u>	<u>35</u>	<u>35</u>	<u>Except that vent pipes, fans, chimneys, antennae, and equipment used for small scale energy systems on roofs shall not exceed 45 feet or 10 feet above the building structure, whichever is less</u>
<u>Minimum yard setback (in feet)</u>			
<u>Front</u>	<u>15</u>	<u>15</u>	
<u>Side</u>	<u>6</u>	<u>6</u>	
<u>Side for the portion of a building above one-story or 15 feet</u>	<u>10</u>	<u>10</u>	
<u>Rear</u>	<u>20</u>	<u>20</u>	
<u>Accessory structures within setback area</u>	<u>Mail boxes, trash enclosures, boundary walls and fences</u>		<u>Shall not exceed 8 feet in height</u>

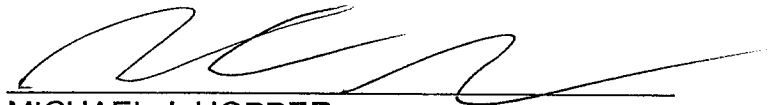
19.10.060 Rule making authority. The director of planning may adopt rules to implement this chapter."

SECTION 2. All lands designated on any land zoning map as A-2 duplex or A-2 two-family duplex or lands having received a change in zoning to A-2 duplex or A-2 two-family duplex prior to the effective date of this ordinance shall be re-zoned to the D-1 two-family duplex district. This section does not apply to any lands designated or zoned as A-2 apartment district.

SECTION 3. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 4. This ordinance shall take effect upon its approval.

APPROVAL AS TO FORM
AND LEGALITY:

A handwritten signature in black ink, appearing to read 'Michael J. Hopper', written over a horizontal line.

MICHAEL J. HOPPER
Deputy Corporation Counsel
County of Maui

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