

County Clerk

RECEIVED

From: PSLU Committee
Sent: Friday, July 16, 2021 2:01 PM
To: County Clerk
Subject: FW: PSLU Committee #62 Testimony

2021 JUL 19 PM 2:06

**OFFICE OF THE
COUNTY CLERK**

Bill 62.

From: Dawn Lono <Dawn.Lono@mauicounty.us>
Sent: Friday, July 16, 2021 1:49 PM
To: PSLU Committee <PSLU.Committee@mauicounty.us>
Subject: FW: PSLU Committee #62 Testimony

From: Wes Hada <weshada@yahoo.com>
Sent: Wednesday, July 14, 2021 1:59 PM
To: Dawn Lono <Dawn.Lono@mauicounty.us>
Subject: PSLU Committee #62

Aloha, This is Wes Hada. I was the art teacher at Hana High and Elementary 1992 1993. I am now a homeowner amongst others being subjected to some Haiku lawlessness. The crux of the matter is that Lothar, a well known person to the County Council has established a compound on 50 E Waipio Rd, Haiku, where he has installed a commercial enterprise called Jungle Zipline. You may realize he has had surveyors arrested, personally sued your colleagues for doing their jobs and locked out EMI with a gate and sued the County in order to keep his enterprise secreted.

In summation he has defied laws and abused the processes of governance to defend his isolationism that sustained his non transparency regarding liberal uses of Roundup and atrocious unauthorized stream diversions. His blatant disregard is threatening the existence of Lo'i from Kahiko times and of my hard work restoring traditional Hawaiian farming practices (Kalo) on my humble parcel directly downstream from him. Worst of all he is getting away with it so far. We need to know what other environmental abuses are taking place.

Let me know how we can go forward together into bringing some long overdue oversight. PSLU #62 is our hard work. Please vote for the integrity of our Aina.

Ua mau ke ea o ka aina i ka pono o Hawai'i !

Mahalo Nui, A hui hou,
Wes Hada

County Clerk

From: R&J Friedlander <waipio2021@gmail.com>
Sent: Monday, July 19, 2021 4:57 PM
To: County Clerk
Subject: ZIPLINE TESTIMONY

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2021 JUL 20 AM 8:06

OFFICE OF THE
COUNTY CLERK

Aloha County Council Members,

I am requesting simply to please pass the zipline ordinance bill 62, relating to zipline/canopy activities in the agricultural district.

Specifically Jungle zip is located on less than 15 acres in a very narrow valley between houses. Operating without permits, disturbing all the neighbors, running a commercial tour, bringing tourists down our small, substandard dirt access roads. Quite simply ziplines do not belong in this location.

I cannot state strongly enough how important this is to us, and my friends next to North Shores zip, whose lives are also very affected.

I truly appreciate all your time and effort towards this matter.

Thank you for this opportunity to testify,

Sincerely,

Jennifer Friedlander,

280 W. Waipio Rd. Haiku, HI, 96708

PO Box 701597, Paia, HI, 96779

Landline: 808-573-8154

Email: R&J Friedlander. waipio2021@gmail.com

List of people who's lives are disturbed by the zip line, and who have complained about Jungle Zip/ Aloha Eco Adventures.

Jennifer & Robert Friedlander,

tmk: 29005069000

280 W. Waipio Rd. Haiku, 96708

April Azar,

tmk: 290050040000

258 W. Waipio Rd. Haiku, 96708

Paul Milton Carter,

tmk: 290050560000

230 W. Waipio Rd. Haiku, 96708

Carmen Jimenez & Scott Schellhammer,

tmk: 290050440000

36 E. Waipio Rd. Haiku 96708

Wesley Hada,

tmk: 290050350000

271 E. Waipio Rd. Haiku 96708

Christine Gleason,

tmk: 290050020000

E. Waipio Rd. Haiku 96708

William Wolf,
tmk: 290050520000
85 E. Waipio Rd Haiku 96708

Gina & Ben Hattenbach,
tmk: 290050500000 + 290050530000
161 (20) E. Waipio Rd. Haiku 96708

Angela Kepler & Francis Rust,
tmk: 290050510000
103 E. Waipio Rd. Haiku 96708

County Clerk

From: April Azar <aprilinparadise@gmail.com>
Sent: Tuesday, July 20, 2021 7:44 AM
To: County Clerk
Subject: ZIPLINE TESTIMONY

RECEIVED
2021 JUL 20 AM 8:06

OFFICE OF THE
COUNTY CLERK

Aloha Councilmembers.

Please pass the ordinance Bill 62
that will regulate zipline and canopy tours in rural agricultural communities.

I live on West Waipio Rd. My house of over 20 years is located approximately 100 ft. from the platform of the Line 7 of the Jungle Zipline, located on East Waipio Rd. Line 7 is the "longest, steepest, and last of the zipline tour". I know this because I literally hear them tell that to all the tourists who have just landed on the platform after screaming their way through the gulch on the other 6 lines, through which Waipio Stream is located. I can hear them giving their orientation and preparing them for their 700-1000 ft. descent. I can hear the conversations and when I ask them to quiet, they turn up their microphones. And worse conflicts have occurred. Then the blood curdling screams that echo through the gulch, landing on the platform not far from the Friedlander residence.

It is a long bumpy West Waipio Rd. that goes to my house. It is not maintained by the county or any entity other than this community, yet I have hundreds of tourists a week just 100 ft. out my back door. This has gone on long enough. Please help to bring some infrastructure and enforceable regulations on this nuisance and desecration of the peace of our agricultural communities and homes.

Thank you for your time and efforts to resolve this issue.

Sincerely,

April Azar

258 West Waipio Rd.

PO Box 791395

Paia HI 96779

aprilinparadise@gmail.com

County Clerk**RECEIVED**

From: Robert Friedlander <rbyhi@yahoo.com>
Sent: Wednesday, July 21, 2021 8:29 AM
To: County Clerk
Subject: ZIPLINE TESTIMONY

2021 JUL 21 AM 8:38**OFFICE OF THE
COUNTY CLERK**

Aloha County Council Members,

I am requesting that you pass bill # 62 concerning zip lines.

Regulations need to be put in place immediately, to put an end to unregulated, illegal, unwanted, invasive zip lines.

Jungle zip is about 50 feet from my home!

Thank you for all your efforts, please pass this bill.

Sincerely,

Robert Friedlander.

280 W.Waipio Rd. Haiku, HI 96708.

Landline: 808-573-8154

Email: rbyhi@yahoo.com

Sent from my ipad

Yahoo email : rbyhi@yahoo.com

RECEIVED

2021 JUL 22 AM 8:18



OFFICE OF THE
COUNTY CLERK

County Communication No. 21-361

A BILL FOR AN ORDINANCE REQUIRING DEPARTMENT OF HAWAIIAN HOME
LANDS REPRESENTATION ON THE BOARD OF WATER SUPPLY
Maui County Council

Iulai 23, 2021

9:00 a.m.

Hālāwai Keleka'a'ike

The Office of Hawaiian Affairs (OHA) **SUPPORTS** the bill contained in County Communication No. 21-361, which would require a member of the Department of Hawaiian Home Lands (DHHL) to be represented as part of the Maui County Board of Water Supply (Board) membership. Allowing DHHL a seat on the Board will provide needed representation for native Hawaiian beneficiaries in decision making that may substantially impact their legal rights and interests, and thereby facilitate the more timely implementation of the Hawaiian Homes Commission Act.

OHA notes that there are longstanding concerns involving the need to better facilitate the practical implementation of the Hawaiian Homes Commission Act, including in county decision-making processes. For example, while DHHL has priority rights to our public trust water resources, and despite the state's legal and moral obligations to implement the Hawaiian Homes Commission Act, DHHL often struggles to receive an appropriate level of consideration in county decisions impacting its ability to access water. Ultimately, without being able to access water, DHHL cannot fulfill its mission of providing homesteading opportunities for its native Hawaiian beneficiaries. This bill will add needed safeguards to ensure DHHL's water needs and rights are better understood and appropriately accommodated in Board decisionmaking, and thereby facilitate the expedient return of native Hawaiians to the land.

By adding DHHL beneficiary interest representation on the Board, the proposed bill will further facilitate a greater understanding of DHHL's unique water rights and needs, and better ensure that Board decision-making properly considers DHHL's historical and practical challenges and concerns relating to its ability to access water necessary for its mission.

Accordingly, OHA respectfully urges the Council's **SUPPORT** for the bill contained in County Communication No. 21-361. Mahalo for the opportunity to testify.

NAPILI

Bay and Beach Foundation

P.O. Box 10823
Lahaina, HI 96761

RECEIVED

2021 JUL 22 AM 8:18

OFFICE OF THE
COUNTY CLERK

To: The Honorable Alice Lee, Chair, and Members, Maui County Council
Michele McLean, Department of Planning

From: Napili Bay and Beach Foundation, Inc., Board of Directors

Re: Proposed Changes to the Precise Terms for the Napili Bay Civic Improvement District
(Lahaina)

Napili Bay and Beach Foundation members are supportive of the changes in NBCID language proposed by the Planning Department and Planning Commission in terms of height of any structures within the district (CC 21-343): Structures are limited to a maximum of two stories and thirty feet in height, including all appurtenances such as elevator shafts, stairwells, vent pipes, and antennae.

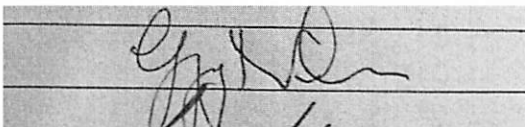
We are also supportive of the slight amendment suggested by Councilmember Paltin (CC 21-344, part E.) to further clarify uses now in effect and future uses in the district: "The permitted uses shall be as provided for in the hotel district and as listed in chapter 19.14 of this code, for any hotel or apartment-hotel use that was established by August 6, 2021...

... The permitted uses shall be as provided for in the residential and apartment districts as listed in chapters 19.08 and 19.12 of this title for any use established after August 6, 2021."

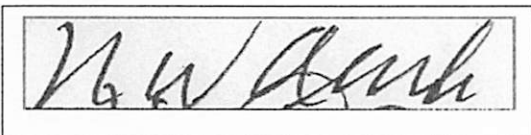
Respectfully submitted,



Pat B. Lindquist, President
Napili Bay and Beach Foundation, Inc.



Gregg Nelson, GM, Napili Kai Beach Resort
VP, Napili Bay and Beach Foundation



Nane Aluli, GM, The Mauian
Secretary, Napili Bay & Beach Foundation

Pat B. Lindquist, President

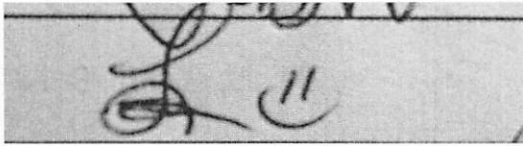
Gregg Nelson, Vice-President

Nane Aluli, Secretary

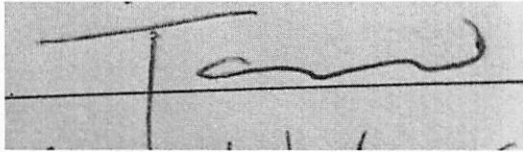
Norm Runyan, Director

Jamie Lung-Ke'o, Director

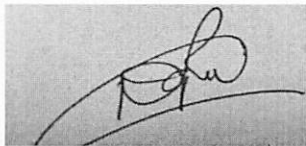
Tano Taitano, Director



Jamie Lung Ka'eo, GM, Hale Napili
Director, Napili Bay and Beach Foundation



Tano Taitano, GM, Napili Surf Beach Resort
Director, Napili Bay and Beach Foundation



Norm Runyan, GM, Napili Shores Resort
Director, Napili Bay and Beach Foundation

Pat B. Lindquist, President

Gregg Nelson, Vice-President

Nane Aluli, Secretary

Norm Runyan, Director

Jamie Lung-Ke'o, Director

Tano Taitano, Director



**HAWAI'I LODGING & TOURISM
ASSOCIATION**

Testimony of
Mufi Hannemann
President & CEO
Hawai'i Lodging & Tourism Association

Maui County Council
July 23, 2021

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2021 JUL 22 PM 2:05

OFFICE OF THE
COUNTY CLERK

**CC 21-354: A BILL FOR AN ORDINANCE ESTABLISHING CHAPTER 3.47, MAUI COUNTY
CODE, IMPLEMENTING A COUNTY TRANSIENT ACCOMMODATIONS TAX**

Chair Lee and members of the Council, mahalo for the opportunity to submit testimony on behalf of the Hawai'i Lodging & Tourism Association, the state's largest private sector visitor industry organization.

The Hawai'i Lodging & Tourism Association—nearly 700 members strong, representing more than 50,000 hotel rooms and nearly 40,000 lodging workers—continues to advocate on behalf of an industry that still finds itself fighting to recover from the effects of the COVID-19 pandemic. Hotels and other lodging entities in particular are taking the steps necessary to recoup losses that have accrued over the past year and a half, and we feel strongly that county governments should be making this process easier for businesses rather than more difficult.

It is our position that now is not the time to levy additional tax burdens on businesses that have been disproportionately affected by the pandemic. Historically, Maui County has relied heavily upon tourism for jobs, tax revenues, and visitor spending that supports local businesses of all types from restaurants to retail to small business. At the height of the pandemic, travel was at a near standstill, and Maui's unemployment rate soared to unprecedented levels. Unemployment in the Maui metropolitan area, defined by the Bureau of Labor Statistics to include Kahului, Wailuku, and Lahaina, went as high as 35% in April of 2020. In 2019, visitors to the island of Maui alone accounted for nearly thirty percent of statewide visitor spending, which equated to \$5.13 billion in monies brought into the local economy. Should the Council enact an additional three percent surcharge, or a thirty percent increase to the TAT, it would make the county among the highest taxed municipalities for travelers in the nation.

The three percent surcharge also stands to have unintended consequences. For one, elevating the cost of staying at traditional, brick and mortar lodging properties will force budget-conscious travelers to increasingly utilize illegal short-term rentals- a problem that has troubled Maui neighborhoods for years. If the twofold intent of this Council is to stem tourism while also filling county coffers, this is an issue that must be addressed. We know that the growth of illegal rental units has far outpaced that of brick and mortar lodging properties, and the proliferation of these units throughout the county has exacerbated numerous factors associated with overtourism. Reigning in illegal short-term rentals and making sure that legal operators are paying the appropriate taxes would shrink the overall inventory of transient accommodations and generate a significant amount of monies through both taxation and fines. Maui residents have continued to push for better enforcement of short-term rental ordinances, and this would be an opportune time to answer these calls.

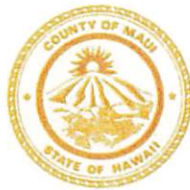
As such, HLTA strongly opposes this proposed measure.

Thank you for the opportunity to offer this testimony.

MICHAEL P. VICTORINO
Mayor

MICHELE CHOUTEAU MCLEAN, AICP
Director

JORDAN E. HART
Deputy Director



DEPARTMENT OF PLANNING
COUNTY OF MAUI
ONE MAIN PLAZA
2200 MAIN STREET, SUITE 315
WAILUKU, MAUI, HAWAII 96793

July 22, 2021

RECEIVED

2021 JUL 22 PM 2:28

OFFICE OF THE
COUNTY CLERK

Honorable Michael P. Victorino, Mayor
County of Maui
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

Michael P Victorino 7/22/21
Mayor Date

For Transmittal to:

Honorable Alice Lee, Chair
and Members of the Maui County Council
200 South High Street
Wailuku, Hawaii 96793

Dear Council Chair Lee and Councilmembers:

**SUBJECT: BILL FOR ORDINANCE AMENDING SECTION 19.60.030,
MAUI COUNTY CODE, RELATING TO HOTEL USE AND
DEVELOPMENT STANDARDS IN THE NAPILI BAY CIVIC
IMPROVEMENT DISTRICT (LAHAINA) (CC 21-343)**

Attached please find the minutes from the Maui Planning Commission (MPC) meeting on July 13, 2021, regarding Resolution 21-66 which transmitted a proposed bill to amend Chapter 19.60, Maui County Code, relating to the Napili Bay Civic Improvement District. The MPC recommended approval of the bill with minor revisions recommended by the Department. The bill for ordinance was transmitted to you via County Communication 21-343.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michele McLean".

MICHELE MCLEAN, AICP
Planning Director

Attachment

xc: Councilmember Tamara Paltin
Jacky Takakura, Administrative Planning Officer

MCM:JMCT

S:\ALL\APO\19.60\Transmittal 210722 NBCID_Minutes.docx

**MAUI PLANNING COMMISSION
PORTION OF REGULAR MINUTES
AGENDA ITEM B.1.
JULY 13, 2020**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Christian Tackett at approximately 9:00 a.m., Tuesday, July 13, 2021, online via BlueJeans; **Meeting ID: 375 864 204**

Mr. Christian Tackett: Good morning Director, Corp Counsel, Commissioners. It's great to see . . . (inaudible) . . . How's my feedback? Is my feedback horrible? Is it okay? Everybody can hear me . . . (inaudible) . . .? So roll call. We're going to have roll call first. Good morning Commissioner La Costa. Good morning PD. Are you there?

Ms. P Denise La Costa: Aloha Chair. Sorry, I was on mute. Aloha Kakahiaka and nice to be back.

Mr. Tackett: Good morning Commissioner Edlao.

Mr. Jerry Edlao: Good morning Chair, Vice-Chair, Director, the rest of the Commissioners and anybody who's joining us today.

Mr. Tackett: Thank you. Good morning Commissioner Freitas.

Ms. Carolyn Takayama-Corden: He's not in attendance today.

Mr. Tackett: No. Moving on to Commissioner Hipolito. Good morning.

Mr. Mel Hipolito, Jr.: Good morning Chair. Good morning Vice-Chair, Director, and fellow Commissioners, good morning.

Mr. Tackett: Thank you for coming. Good morning Commissioner Lindsey.

Ms. Ashley Lindsey: Good morning everyone. Nice to see your faces this Tuesday. It's been a long three weeks. I, I --.

Mr. Tackett: I'm glad you could make it. Commissioner Pali, good morning. Is Kellie here today? Commissioner Thayer, good morning.

Ms. Kimberly Thayer: Aloha Kakahiaka. Good morning. Nice to see you all again. I'm excited for today.

Mr. Tackett: And I see, I see Kellie just popped up. So good morning, Kellie.

Ms. Kellie Pali: Good morning everyone.

Mr. Tackett: Awesome. And then, last but not least, good morning Dale, Commissioner Thompson.

Mr. Dale Thompson: Good morning all. Looking forward to a great day.

Mr. Tackett: Me too. You know, it's hard to lose with a crew like you guys. Okay, I believe I got to go over the extractions or the instructions for the testimony when we have testimony. Three minutes each for each testifier. We're going to be kind of strict with it because the rules have to be the same for everybody. So, please hold your testimony to three minutes. Use the chat function if you would like to testify. If not, at the end of testifying . . . (inaudible) . . . call for testifiers after all that have signed up has gone through. Please don't use the chat function to offer testimony or comments, and keep your audio and video muted until you're called. If you don't keep your audio and video muted until you're called then . . . (inaudible) . . . everything that's going on in your house. So, so that will, that will be real helpful for us if you could, if the testifiers could please keep your audio muted until such a time you're called.

B. PUBLIC HEARINGS

1. MS. MICHELE CHOUTEAU MCLEAN, AICP, Planning Director, transmitting County Council Resolution 21-66 referring to the Maui Planning Commission a proposed bill to amend Maui County Code Chapter 19.60, Napili Bay Civic Improvement District, to clarify the maximum building height and phase out short-term rental homes for properties outside the 3.2-foot sea level rise exposure area. Some minor revisions and updates are also proposed. (J. Takakura)

The entire text of the proposed bill for ordinance is available at <https://www.mauicounty.gov/DocumentCenter/View/126849/Draft-Bill-for-Ordinance-relating-to-Chapter-1960-Napili-Bay-Civic-Improvement-District-?bidId=>

Mr. Tackett: I believe the first of order of business, Director, is it the, the proposed bill to amend the Maui County. Is that our, is that our agenda item?

Ms. Michele McLean: Yes, Chair. Can you hear me?

Mr. Tackett: Yeah, I can hear you.

Ms. McLean: Yes, the first item is a transmittal, from myself to the Commission, a County Council Resolution 21-66 which referred to you a proposed bill to amend Maui County Code Chapter 19.60, relating to the Napili Bay Civic Improvement District, to clarify the maximum building height and to phase out short-term rental uses for properties outside the 3.2-foot sea level rise exposure area (SLR-XA). Some minor revisions and updates are also proposed because the Department has alternative recommendations to the bill that was sent to the Commission from the County Council. Jacky Takakura, our Administrative Officer, is taking the lead on this project. Jacky?

Ms. Jacky Takakura: Thank you, Director. Good morning Maui Planning Commission. So I'm going to share screen. I just have a real short presentation. Can you give me a thumbs up if you

can see the screen? Okay, so this is the proposed bill regarding Napili Bay Civic Improvement District. And this is part of the Maui County Code, Chapter 19.60.

Mr. Tackett: Sorry, sorry to interrupt, but I just need to swear you in first. Do you promise to tell the truth?

Ms. Takakura: Yes, I do.

Mr. Tackett: Thank you so much. Please proceed.

Mr. Michael Hopper: Chair, just for these two . . . (inaudible) . . . Corporation Counsel

Mr. Tackett: You're saying for the next two resolutions, no need to be sworn in because they're reading, they're reading the resolution?

Mr. Hopper: Well, these are just recommendations you're making to Council, so that's right. For this one and the next one, no need to swear anybody in or allow cross examination of testimony, so you're good.

Mr. Tackett: And is there, is there testimony for both items?

Mr. Hopper: Yes, you would allow testimony for both items, and then Commissioners questions. But just no need to have --. It's not a permit application, so you wouldn't need to swear anybody in or have cross examination of the, of the testifiers. There's an item later, the C.1., you would have to do that for. The remaining items, I know two are off our agenda. So every item other than C.1., today, there's no need to swear in testifiers or allow cross examination of the testifiers, except for C.1. So you're --. Other than that, you can just proceed as normal.

Mr. Tackett: Thank you Corp Counsel. I appreciate that clarification. Thank you. Alright, please proceed, and sorry for the interruption.

Ms. Takakura: No problem. I'll be truthful anyway.

Mr. Tackett: I, I figured, I figured as much.

Ms. Takakura: So this is Maui County Code Chapter 19.60 which is the Napili Bay Civic Improvement District. And just some background information about the zoning district. There's 59 master parcels. If you look at all the condominiumized parcels, it totals to about 900 parcels. It's a small zoning district, 51.26 acres, and I'll show a map on this. This chapter is really old. It's from before the days of ordinances, and there's only been minor changes over the years. There's only been two, in fact, that I could find, and they were just minor, minor revisions. So, it is from the 1960s. Time to update it.

This is the zoning district. This is from the digital zoning map. If you can see this lavender cross hatched or trellis pattern, that's the Napili Bay Civic Improvement District. It mentioned it is kind of a smaller zoning district. And you can see it's kind of mixed with the yellow. The yellow is

residential. This light-green is Ag, and then this white with green print is golf course. But, the zoning district in question is this lavender cross hatched or trellised pattern area.

So the first change that we're proposing is regarding building height. So right now, the current language is that the building height shall not exceed two stories. What the County Council is proposing in their resolution is that building height must not exceed two-stories or 30-feet in height. And what the Department's proposal is that structures be limited to 30-feet in height including all appurtenances such as elevator shafts, stairwells, vent pipes and antennae.

So the reason for this change is that, like I said, this zoning chapter is really old. Over the years most of the other zoning districts have been updated and now use either feet, or feet plus stories. Napili Bay only uses stories and that can be vague. Limiting height to 30-feet would allow for more housing opportunities if a property owner wanted to build a three-story structure. And there are a few existing three-story structures in this zoning district. There's Napili Gardens, Napili Kai, Napili Pointe, Napili Sunset. So this would not be inconsistent with what's already in this zoning district. We're proposing that everything be limited to 30-feet. Even the accessories and the things on the roof.

The second proposed change is regarding transient accommodations. And the County Council is proposing to add the part you see is underline here in the top first paragraph. So, the existing language, permitted uses are consistent with Chapter 19.14, and 19.14 is the zoning code for Hotel District. And then the County Council is proposing to add this line, it's underlined, except short-term rental homes are prohibited on properties located outside of the 3.2-foot sea level rise exposure area. And then the rest of that paragraph is the same as what's existing regarding the hotel . . . (inaudible) . . .

What we're proposing is changing it so that the permitted uses shall be as provided for in the residential and apartment districts as listed in Chapters 19.08 and 19.12. And why this change? Currently use is allowed in the Hotel Zoning Districts are okay in Napili Bay, and that's meant that transient use of single-family dwelling and multi-family dwelling is outright allowed. So there's no short-term rental home permits in this area. So we're proposing to change from making it following Hotel District to changing it to follow Residential and Apartment Districts, so that residential and apartment district uses would be allowed. And that would mean that short-term rental home permits or Special Permits would be needed for...vacation rentals. And right now, like I mentioned, because we've -- they've been outright allowed, we would like to change it so that apartments would be needed.

Regarding the sea level rise, it's not clear of the relationship between sea level exposure area and vacation rentals. It would be clear and more consistent to regulate the entire zoning.

And then finally, we're proposing to prohibit new hotel and short-term rental home uses, but existing may continue as nonconforming. Bed and breakfast homes could be allowed with a permit in accordance with the bed and breakfast chapter, which is 19.64. And then any other new transient uses would need to obtain a County Special Use Permit, the Maui County Code 19.5.10.070. And that would mean that they would come before the Maui Planning Commission.

And then also these proposed changes would be consistent with the community plan, which has this area down as residential.

And then we just have some other minor revisions. Because like I mentioned, this chapter is really old. We just want to change Item F of this part of the chapter; location of accessory uses must be to the rear or interior of the lot. Right now, it says rear of interior of the lot. I think that's a typo. It should be rear or interior of the lot. For G, including that reference to Chapter 16.13 of the Code because that's the chapter that regulates commercial signs. And then, the last item, adding the word use, Special Use Permit because that's the actual name of the permit, Special Use Permit. And that, I'd like to add that section 19.510.070 because that's the chapter that regulates the Special Use. And those would be things that be approved by the Maui Planning Commission, so there would be some public review.

Like I said this is a short presentation. To summarize, we support the bill with the following amendments: the 30-foot building height limitation, uses consistent with residential and apartment zoning districts, existing would not be affected, and then just the minor changes to bring this chapter to the 21st century.

So the Commissions have options. You can recommend that the County Council approve the following bill. You can recommend that the Council approve the bill with amendment, recommend denial, or vote to defer action in order to gather additional information. We're hoping that you recommend that the Council approves the bill with amendments. So if you have any questions, I'm going to stop sharing, and we can take it from here. Thank you.

Mr. Tackett: Thank you. Nice job. Commissioners, does anybody have any questions for Planner Takakura? I believe we had PD, then Kellie, then Dale, so ... go ahead PD.

Ms. La Costa: Mahalo Chair. Jacky, thank you for your great presentation as always. Under Section G where it says signs and advertisement shall not be gaudy or excessive in size, there's no determination of excessive in size as far as I can tell. Did there not be specific sizes not to exceed?

Ms. Takakura: Thank you Commissioner La Costa. Right now in the zoning code it doesn't have it. That's why we want to add that reference to Chapter 16.13 because there are limitations in that chapter, so that would make it clear. Yes.

Ms. La Costa: That works. Thank you.

Mr. Tackett: Thank you, PD. Kellie, go ahead please.

Ms. Pali: Chair, I did not raise my hand. Thank you, though, I appreciate it.

Mr. Tackett: Sorry, I missed that. Okay, Dale, you're up.

Mr. Thompson: And my question was answered. Thank you so much.

Mr. Tackett: Right on. Thanks you guys. Commissioners, anybody else have any questions? Commissioner Thayer, go ahead please.

Ms. Thayer: Thank you. Thank you for your presentation. Just by way of background, I'm wondering if you could tell us a little bit of like the origin and the intent of the Napili Bay Civic Improvement District. Like why was it created and, like, how will these changes support what was intended in the first place.

Ms. Takakura: Thank you Commissioner Thayer. I think this chapter came out before, like, you and I were born, so I'm not really sure. Maybe the Director might have some, but we would just like to make this chapter, you know, consistent with other chapters. And like I mentioned, you know, consistent with the community plan. But, yeah, it's been around since the 60s so I'm not sure. But maybe the Director might know.

Ms. McLean: Thanks, Jacky. I apologize for my troubles of logging on this morning. So back in 1960 was when the County Code was first adopted in its current form. And the intent is still written in that chapter. It's focusing on that area and the kind of improvements that the County at that time wanted to see. It, it's not purely a Hotel District because the area could have just been zoned Hotel. It was specific to that region. Since its adoption in 1960 it hasn't been touched, and so development has progressed under the standards that are in the code now. And it wasn't until recently, and you probably all seen the paper with one particular parcel that's being developed when the community came out objecting to how this particular development was being -- had been approved and was being constructed. So, up until this one particular development, the standards had worked fine. There's nothing that no attention had been called. Everything was harmonious. But this one example has stood out as reasons to, not necessarily change the intent of the district, but to just kind of freeze it where it is and not allow any expansion beyond, you know, the one parcel that's being now such a problem.

Ms. Thayer: Thank you.

Mr. Tackett: I believe Ashley has a question now. Commissioner Lindsey, go ahead.

Ms. Lindsey: Maybe a couple of years ago in the Maui Redevelopment, when I was on the MRA, the Wailuku area, we kind of went over something similar area. And there was some consideration based on length of wood for construction that was kind of considered, like, standard lengths of wood. I guess they're like eight feet lengths versus ten. And was that considered in this writing of 30-feet, or where did that number come from?

Ms. Takakura: Thank you, Commissioner Lindsey. Thirty-feet in height is consistent with the residential zoning district, you know, the yellow parts of that map that I showed you that were nearby. It's also, I believe, in Interim and Ag. That's pretty standard in most of our zoning districts for building height. There's only a few where it can be higher. So it's just kind of that's the standard number that we use for the zoning.

Ms. Lindsey: Okay, thank you.

Ms. McLean: And I would add if I could. That's what the, the community has been calling for in these changes.

Mr. Tackett: Thank you Commissioner Lindsey. I believe Commission Edlao, followed by Commissioner La Costa. Go ahead, Commissioner Edlao.

Mr. Edlao: Just to be clear, these changes would apply to everybody that's within that red circle, even the residential.

Ms. Takakura: Thank you Commissioner Edlao. It was -- if you have the map, it's the lavender kind of like a cross hatched pattern. So only those 59 parcels, master parcels. And existing can continue. Those would be okay. If anything new that would be the, the changes are made.

Mr. Edlao: Okay, thank you.

Mr. Tackett: Thank you Commissioner Edlao. Commissioner La Costa, go ahead please.

Ms. La Costa: Thank you, Chair. This question is more for the Director. If there isn't a consistency throughout the County in the residentially zoned areas have a height restriction of 30-feet, then would it make sense to make sure that it is the same across the board so you don't have some at 35 and some 30, or is that an act of Congress which would never get done to do that? Thanks.

Ms. McLean: To change a maximum building height in the County Code would require Commission recommendation -- actually all three Commissions -- as well approval by the County Council. So it's not, it's not an impossible task. So, so, it really depends on the zoning district. Thirty-feet is pretty standard for two-stories. Sometimes 35-feet in districts where there might be structures allowed other than dwelling, you know, it's expected to have a higher height. But we're used to administrating the code with all the different heights in all the different zoning districts, so there isn't a need for it to be consistent across the board.

Ms. La Costa: I thought that would be something that would make the public know that they could not build them over 30-feet in height so that you wouldn't have to jump through all those hoops.

Mr. Tackett: Make sense PD. Do, do you have any other questions? No?

Ms. La Costa: No, Chair. Thank you.

Mr. Tackett: Thank you. Commissioners. I believe Commissioner Thayer has a question. Go ahead please.

Ms. Thayer: Thank you. I think this is a question for the Director. Based on one of the pieces of written testimony that was submitted there was a suggestion about regarding the two-stories

and 30-feet in height that a roof deck should be considered as a floor if it is accessible to normal activities by occupants. And just wondering how the Department view, views that.

Ms. McLean: We have seen roof decks in, you know, back to Vice Chair La Costa's example, we have seen roof decks in the Residential District. Even on a single story. The definition of story in the County Code does require a floor and a ceiling so a roof deck wouldn't be considered a story. The, the understanding that we have, from the community, is they want a height limit. And certainly the Commission could recommend and we'll be hearing testimony today, you know, you could add a prohibition that roof decks are not allowed, period. That's one way to address that issue. When you talk about building height, you know, that's a visual impact. And if the building height stops at 30-feet and there's a roof deck, you know, is, is that something you want to prohibit because you want that height to be it? You know, that, that could be a way to go. We haven't gone that far in any other districts before. But certainly this situation in Napili is unique. But we felt that limiting the height, that's where the building has to stop. And if someone builds a little lower than that in order to have stairway to get up there, you know, they should be allowed to do that.

Ms. Thayer: Okay, thank you.

Mr. Tackett: Thank you Commissioner Thayer. I believe Commissioner Edlao has a question. Go ahead Commissioner Edlao.

Mr. Edlao: What if the structure to be built is on a slope? You know, the topography slopes ten, 15, 20 percent, where do you measure your 30-feet from?

Ms. Takakura: Thank you Commissioner Edlao. We measure from the natural or finish grade that's part of the Code and the definition of height.

Mr. Edlao: But if --. Yeah, so if it's on a slope and they cut, right, so the lower portion, that's the natural grade. So you measure from there or in the back where it's going to be higher?

Ms. McLean: I will read you the definition of height from the County Code. Jacky's correct that we use finished or natural grade, whichever is lower, right. So if someone --

Mr. Edlao: Okay.

Ms. McLean: -- can add a bunch of . . . (inaudible) . . . build on top of that.

Mr. Edlao: . . . (inaudible) . . . but you said whichever is lower, that's fine. I can live with that. Thank you.

Ms. McLean: Whichever is lower.

Mr. Edlao: Okay.

Ms. McLean: And then in terms of a slope, let me see how the definition addresses that

because it's a very long definition. Okay, it, it -- from the diagram that accompanied the definition, it looks like it would be the lowest point. The height is measured from the lowest point on the slope. So you could -- if you're on the slope, you could cut into the slope in order to get the more mauka portion of the building to have a complete story there. And then you start at the lower portion of the slope would have to cut in to have a two-story structure. So the height is taken from the lowest point.

Mr. Edlao: Okay, thank you.

Ms. McLean: You're welcome.

Mr. Tackett: Thank you Commissioner Edlao. Commissioners, do we have any other questions? Sorry Commissioner PD. Go ahead PD.

Ms. La Costa: Thank you Chair. At some point there was a definition that said that the height shall be determined from mean grade level. So halfway up and half way down. So does that no longer apply?

Ms. McLean: That could be a definition in the building code. I was reading from the zoning code. I was looking at the zoning code definition. I think the vertical distance measured from a point on top of a structure to a corresponding point directly below on the natural or finished grade whichever is lower. You could have -- back to Commissioner Edlao's question -- you could have a structure that tiers up as the parcel goes up. But if it's going to be just a straight structure, you would have to cut in and measure from that lowest point.

Ms. La Costa: If the building codes are different from zoning, then that can cause confusion, and then people could build and then be violating one or the other set of laws.

Ms. McLean: When it comes to the zoning code, the building codes doesn't have building height limits in it, only the zoning code does. But there might be a definition of height in the building code, but it --. When a building permit is reviewed, the building permit office wouldn't review for a height limit. That would be the Planning Department based on the zoning code.

Ms. La Costa: Mahalo for your education as always.

Mr. Tackett: Thank you PD. Commissioners, any other questions? I got a question for the Director please. So, so as it stands right now, Director, under two-stories, what is the height limitation of two-stories? Is it fairly indefinite under the current process? So I believe what is, what is the tallest building on Maui? Because there is a highest point, right? There is levels that you cannot exceed correct?

Ms. McLean: Correct. As Jacky mentioned most zoning districts now have a limit of feet versus stories. You know, theoretically, in the Napili Bay Civic Improvement District with a height limit of two-stories, theoretically, you could have two, two-stories that are 40-feet each. You could have an 80-foot building. We haven't seen that fortunately. So stories, you know, don't really help us limit a building's height. Also with stories, one of the reasons we started changing to feet

is because there are things like lofts and mezzanines which can meet our definition of story, but don't add to a building's height. So it -- overall height is, is what should be regulated rather than the stories. There are building code requirements for how, for how low a ceiling can be for habitation. But beyond that if you want to have 30, 30-foot ceilings in your house, single-story, go ahead. But you can't go higher than 30-feet.

Mr. Tackett: Got it. And then, and then just for clarification, I believe I heard you right, but should, should, should somebody build a deck on top of their structure so that whatever their, their, their rail height is you would start at 30-feet and work down if you wanted something like on your roof. It's allowed, but it would have to be approved by the Department and it would start at that maximum height and work down, correct?

Ms. McLean: Under the Department's recommendation that the structures must be limited to 30-feet in height including all appurtenances such as elevator shafts, stairwells. So yeah, that would be your 30-feet and then you'd have to work from within that. So if you wanted a roof deck with railings around it, accessed by a stairwell or if the stairwell goes up eight-feet, then your roof deck would have to 22-feet.

Mr. Tackett: Thank you. And then just, just a comment for Ashley. I believe if you stay under 30-feet, you could use eight-foot studs, you could use ten foot studs or you could use 12-foot studs which is a fairly substantial room height and still have enough room for a roof. So, there's still quite -- in the 30-foot number there's still kind of a lot of leeway for, for people to get that they want. That's all the questions I have. Commissioners, anybody else have any questions? I believe, Director, is it testimony time?

Ms. McLean: Yes, Chair. We have four people so far who've signed up to testify on this item. The first is Jeremy. Jeremy, if you could also let us know your last name, then you can unmute your audio, and if you wish, unmute your video.

Mr. Tackett: Are you there Jeremy? Going once, going twice, Jeremy you there? Director, could we have the next testifier please?

Ms. McLean: Yes, Chair. We can come back to Jeremy. I don't see Jeremy in the column box, so we call again. Next is Brian Tatman.

Mr. Brian Tatman: Hey folks.

Mr. Tackett: Good morning.

Mr. Tatman: Okay, can you hear us?

Mr. Tackett: Yeah, we can hear you well. You have three minutes, Brian.

Mr. Tatman: Okay. Myself, my name is Brian. This is my wife, Mara. We purchased a house in the Napili Civil District in March of 2020. And in dealing with Jordan Hart and Ana Lillis in the Planning Division, the Department of Planning, specified that we were in this Napili District. We

had asked questions about opening a B&B. We asked questions about short-term, you know, rental permits in this area. And we were told that this is basically a non-permitted area, and that if we wanted to open a B&B, we would be allowed to open a B&B. We would just open it. We have e-mails with -- what's here name? -- Tara Furukawa as well that described that as well. So we purchased this building in 2020, and I believe what we're looking to get is why is the proposed changes to the short-term rental permit process, why are they going forward? I believe you covered extensively the height restriction, and we understand exactly why that's being approached. But according to the short-term rental process, why is it that you're leaving an exception for the water zone? Is our biggest question is wells 2.5-feet above the water zone. We are above that limit. And we are also near a condominium complex that does short-term rentals, I'm sure, mostly without permits since none of them signs or have . . . (inaudible) . . . So we just wanted basically to see if there's going to be a grandfathered list of properties. We are technically a single-family residence here. We are duplex building. However, in this little section of our neighborhood, just above that water limit probably. And our plans were to eventually either open a bed and breakfast or do short-term rent a portion of the property, and that seems to be now under question. And we just purchased the property in 2020. I understand that there's now a five-year limit to apply for the short-term rental permit. So where does that leave homeowners like us that just purchased? I've talked with the Department of Planning about what is going on in this neighborhood. And then we see proposed changes that will affect the value of our property and our proposed, you know, what we're planning to do with it. And will you allow a process to for people that wants to apply for a short-term rental permit in this area a means to do so outside of the regulations of the five-year minimum for a purchase of a property. Because when we purchased the property that minimum did not apply. And so it's drastically changing what we're planning on doing in the neighborhood. I understand there's concerns about the short-term rentals, but this puts stipulations into that process that allow for people to complain, allow for a manager to be on regulation, and so I, you know, I agree with the process. We just need an opportunity to actually participate in that process without having to go through a special Council. You know, I understand that if that's the only way that we'll go about that process.

Ms. Takayama-Corden: Three minutes.

Mr. Tatman: But, you know, why --. Got it. Understood. Thank you.

Mr. Tackett: Thank you. I appreciate it. I believe, Director, was there, was there anybody that wanted to respond to that or not?

Ms. McLean: Chair, we respond to Commissioners' questions after testimony if the Commission does have questions.

Mr. Tackett: I kind of felt that from the silence which I -- I just wanted to, just wanted to confirm.

Mr. Tatman: There will be an opportunity for us to ask questions as well through the Commissioner, to the person proposing this?

Mr. Tackett: No. So what happens is as you guys are testifying, and then, and then the Commission, the Commissioners, they'll, they'll bring up those questions later if they have those kinds of questions. So basically you guys, you guys get to enter that into the forum and then, and then everybody . . . (inaudible) . . .

Mr. Tatman: . . . (inaudible) . . .

Mr. Tackett: Well, I would say that that's a pretty negative way to go about it, Brian. You don't know that there's no response, but nothing positive ever comes from negativity. So I'd . . . (inaudible) . . .

Mr. Tatman: I understand, I understand but this directly affects the values and of the plans of our property, and if you guys don't have a means to respond, then why did we attend? . . . (inaudible) . . . allowed to pose questions to the Commissioner?

Mr. Tackett: Brian, you're not helping yourself, but suit yourself, you know what I mean. You're not helping yourself . . . (inaudible) . . .

Mr. Tatman: . . . (inaudible) . . .

Mr. Tackett: You don't know us. You don't know if we're going to agree to that or ask questions about that. What you did was bring it to the forefront and that's what testimony is for.

Ms. Mara Tatman: Alright, thank you.

Mr. Tackett: So if you stay, stay at least neutral, stay out of the negative zone because you're not going to do anything good yourself that way.

Ms. Tatman: Okay. Thank you.

Mr. Tackett: You're welcome. I believe I have questions for you guys perhaps, so if you could still stay on the line. PD, you have a question for the testifiers?

Ms. La Costa: Thank you, Chair. I do have a question for the testifiers, and actually it's a clarification. When you talked about purchasing your property in 2020, and you were told that you could do specific things, who told you that you could do those, number one? And number two, during your due diligence of your property, did you check those things or just presumed that they could be done after you purchased? And the reason I'm asking those questions is there was legislation enacted September 27th of 2019 that prohibited the application unless you've owned it for five years. So unless I'm incorrect that is the statutes that's on the books. So you purchased in 2020, tell me about the due diligence period and now you're expecting things to be changed.

Ms. Tatman: Yeah, that's a totally fair question and we were thinking the same thing when we bought it. And so it was Jordan Hart and the Director of Planning, and Ana Lillis who's the planner, with the County. And Tara Furukawa was at the Department of Planning as well, and

he said the same thing. We're like, you know, if we wanted to do this, like, how do we know that we can? And so it was sold with the expectation of no, it is available for short-term rental, and we were --. Because we talked about the five-year requirements. We were planning on, you know, doing that five-years from now, and thought we'd have to build that into our, to our plan. And Tara had said no, because of the Civic Improvement District, because it's Napili Bay's criteria and the rules around that area that it's zoned as a hotel and that you could do those tomorrow if you chose. Which we're -- we still aren't doing tomorrow either, you know. It's still a plan. I mean, we're, you know, we are applying for all the proper restrictions, like, we're, you know, we're rule followers. And so we wanted to make sure that we had it all. We always have our ducks in our row before we made investments like this. So, that's why we were just really curious about what is the motivation for the restriction and how will it improve, you know, the nature of the community and the value the community, and around, you know, having the exceptions for the waterfront homes, but not for us. And understanding too that even when you do apply for things like B&B or ohana permits it's usually very limited. And so it's not as if, you know, there's going to be, you know, will there be enough for everybody like we have, you know, most units, apartments next to us. And so, you know, what is that process look like and how do we even go about it knowing that we just bought last year with this expectation until now that it would be restricted. And just to understand more about what is, what is the motivation there and why --

Mr. Tatman: We're wondering . . . (inaudible) . . .

Ms. Tatman: Yeah, one area and not the other, and why it would it improve the community overall. I'm guessing you're not just doing it for . . . (inaudible) . . .

Ms. La Costa: You're correct there. So may I ask the Director, please, to -- or Tara --- to chime in on that. Because it is conflicting about why, why the Napili -- I should know this by now -- why the area there -- yeah the improvement district was not included. And as far as the apartments, they are under the Minatoya Act, I believe so they are excluded from signage and yadda, yadda, yadda. So Director, could you please give some additional information so that we're all on the same page? Mahalo.

Ms. McLean: The, the Tatmans are correct that...because the uses in the Napili Bay Civic Improvement District includes those uses allowed in the Hotel District. Condominiums, Apartments have operated as vacation rentals similar to the way that the Apartment District also used to be allowed to do vacation rentals, and now that . . . (inaudible) . . . has continued.

Similarly for short-term rental homes or for single-family homes -- excuse me -- historically, the Department has allowed single-family homes in this district and in the hotel district to conduct vacation rental use without having to go through any sort of permit process. The development that has led to these proposed changes brought to our attention from irregularities in allowing that to happen. And that's why we notified the owner of that property that they would not be allowed to do short-term use.

Putting that aside though I, I don't question that back in 2019 and 2020, we would have told them that you can do vacation rental use. It comes to the five-year requirement that is specific to

what's called the short-term rental home and getting a short-term rental home permit. That is specific to certain districts, residential district, and the agricultural district and rural district where that use is listed as a permitted use if you get the permit. To date that hasn't been the case in the Napili District.

Mr. Tatman: Specifically, why allow it in half of the district, up to 2.5 feet above the water . . . (inaudible) . . .

Mr. Tackett: Excuse me? Excuse me, you got, you got --. Hey, you got three minutes. It is not between you and her. It is between the Commission and her, so you need to --

Mr. Tatman: Her question was asked.

Mr. Tackett: Yeah, but it's not your turn to ask questions, you know. You had your three minutes. Please let the Commissioners work through the process.

Ms. Tatman: Go ahead Michele.

Mr. Tackett: Go ahead Director. I apologize for interrupting.

Ms. McLean: No, that's okay. That's okay. So similarly to the way that the Apartment District was amended to no longer allow short-term rental use, those that had been conducting that use already were allowed to continue. The same would be through here if the bill passes to restrict or limit short-term rental use. Any short-term rental use that has been conducting would be allowed to continue.

Mr. Tackett: PD, does that answer your question?

Ms. La Costa: It does. Thank you very much, and thank you Director.

Mr. Tackett: Thank you.

Ms. Tatman: One quick thing, though, just for clarification. It doesn't mean you're grandfathered in just because you were doing it. Meaning you were grandfathered in if you've been appropriately permitted, right?

Mr. Tackett: Mara, you have three minutes. After that, it's the Commissioners.

Ms. Tatman: Okay.

Mr. Tackett: Now is not . . . (inaudible) . . .

Ms. Tatman: No, I just wanted to make sure I understood what she was saying.

Mr. Tackett: Please, please stop.

Ms. Tatman: I wasn't challenging.

Mr. Tackett: I'm just saying that it's not your turn to talk unless you're called on. And as I, as I understand it you weren't called on. And now I have my Corp Counsel that wants to say something about it which is -- which we're going to find out right now. But that's the process. Everybody gets three minutes to testify. The Commissioners get to digest it, they get to ask questions about it, and that's the process. So I'm going to turn it over to, to Mr. Hopper, and I'm going to get his clarification on it. And then we have Kellie that also has a question. Mr. Hopper, go ahead please. Mr. Hopper are you there?

Mr. Hopper: I had a message that said that there were network issues and I wanted to check and see. It looks like some people are off. I didn't know if all the Commissioners were still on or not.

Mr. Tackett: I see all my Commissioners. Mel, are you there?

Ms. McLean: I see all of the Commissioners too. It was showing, it was showing poor network for you, Mike, not for the Commissioners.

Mr. Hopper: Okay, if it was just for me, that's fine. Thanks.

Mr. Tackett: Thanks you guys. Go ahead Kellie. You had a, a question?

Ms. Pali: Yeah, it's actually not for the testifiers, but pertaining to this. And I think the confusion is it sounds like the testifiers don't understand the nature of our meeting today, nor do they understand that this is not the forum for them to have questions. So I would like the Director, for this testifier and all testifiers after today because we got a big agenda, and we can't be derailed on our first item, right? So Director, can you just explain to this testifier and all other testifiers who may not have clarity on our duties today and just reaffirm that they can come give their opinion about an item, but this is not the forum for them to bring up problems that would have immediate solution. There's another avenue they can go to, to learn, to understand, to get the background information. But it's not from us here today. Our task is to focus on just getting their opinions, if they have a high opinion. It sounds like this testifier wants to say, no, don't allow this portion to go through. So, I hear that from the testifiers. But as far as the questions and answering, that's not what we're here for, for the testifiers. Can you clarify what their due process would be for further inquiries on the matter so they can have resolution themselves? Thank you.

Ms. McLean: Thank you, Commissioner Pali. You said it very well. For testifiers who have questions that may not be answered by the presentation and by the Commission's deliberations, you can contact the Planning Department with your question. For the first two items on the agenda today, from today, they go to the County Council for further action, so there's another opportunity to testify. Between now and when the Council might take these bills up, you can get your questions answered and that might inform the testimony that you give to the Council down the road.

Mr. Tackett: Thank you, Kellie. Thank you, Director. Commissioners, does anybody else have any questions? Can we get the next testifier please?

Ms. McLean: Yes Chair. The next testifier is Nick Drance, and he will be followed by Robin Knotts. Are you still --

Mr. Nick Drance: Hello? I am. Good morning. First, I wanted to thank the Commission Chair, Vice-Chair and members for asking such decisive questions that appears to have loopholes. No one like loopholes just as the way the present rules reads. So please direct that wording and I encourage you to continue on so that we don't get huge structures in this area.

Regarding this Resolution, 21-66, the Napili Bay Improvement District, I hope the height limit applies island wide as the Vice-Chair mentioned and this comment be forwarded to Council for review. It has popular support. I'm sure you know that this particular property is considered a debacle by residents who brought this to light. And had they not brought it to light, it wouldn't, we wouldn't be discussing it. And this particular property also escaped the view of the Planning Department for years until, I think, last year. No, beginning of this year when residents brought this problem up. So there's a lot of projects that are escaping Planning Department judgment. So I wished that there was an audit for that.

As far as the improvement district is concerned, civic improvement appears largely to mean urban development. And a lot of residents resent that interpretation which makes Maui look more like the mainland. That's a violation to Maui County Plan. And I wished these sort of things were first viewed through a lens at the Maui County and Community Plans. And I understand that this designation was made in that area when it was largely rural. So hopefully the new community plan will remedy that, and I hope that the designation for this area is up for a review.

As far as Item Two goes, please recommend -- I recommend and I ask you recommend approval of this along with any amendments that strengthen the bill.

Regarding Communication Item One, I know a lot of locals object development in this area because not only it's a flood plain, but when it rains hard, it becomes a raging river that deposits into the ocean as far as the eye can see. In addition to it being some of the last remaining open area in this area. I know that homes are often built on flood plains, but the adjacent flood plain in wetland areas have already been developed. So it looks like Mother Nature has nowhere else to turn in this particular case. The challenge is so big it seems like this is a job for the Army Corp of Engineers to evaluate especially given the extreme climate change. So this area could carry far more water in the future than it does now.

And I'm told that decisions made by you are sometimes based on technicalities that residents are unaware of. Perhaps that --

Ms. Takayama-Corden: Three minutes.

Mr. Drance: -- was case --. Well --.

Mr. Tackett: Thank you Nick for your testimony.

Mr. Drance: I thought I was -- the three minutes began with Item One, Communications.

Mr. Tackett: The three minutes begins the second you, you are acknowledged. So everybody get three minutes from beginning to the end.

Mr. Drance: Oh, I'm sorry. I thought it was three minutes per. Well, just to --

Mr. Tackett: I can't --

Mr. Drance: Alright. Thank you. Alright. Alright. No arguments. No arguments. Good. Thank you.

Mr. Tackett: Please stick around in case there's questions, Nick. Commissioners, any questions for Nick? PD, go ahead.

Ms. La Costa: Thank you Chair. Nick, would you please continue what you were saying? You did get cut off mid-sentence, and I was interested in your perspective. Thank you.

Mr. Drance: Okay. Thank you. It's --. Residents consider the Maui Coast approval to be a disaster because there's already mile long lines of traffic right there. Kam One is right there, and it's already too crowded. So if we can't understand how that project was approved, and it's really, really a very, very big sore subject. It probably had a lot to do with the initiative about the hotel moratorium which that is excluded from. But that hotel expansion is viewed by residents in the area to be a complete disaster along with the projects on either side of Piilani. Kihei is becoming an urban city. So that's why I brought that up. We can't understand how that could be approved despite outrage from local residents.

Ms. La Costa: Are you discussing the, the item before us, the Napili Bay Civic Improvement District, or I heard you talk about Kihei so it's not . . . (inaudible) . . . and apples?

Mr. Drance: Yeah. Yeah. It's --. You know, Vice-Chair, you ask very incisive questions about this so you're talking about avoiding loopholes. And this particular thing to residents looks like there's a loophole and that's how it was approved as well. So I'm encouraging you to continue your dedication towards avoiding loopholes. And I'm mentioning that one as an egregious apparently loophole. So I encourage you and thank you for your incisiveness.

Ms. La Costa: Mahalo for your comments. Appreciate you testifying and being here with us.

Mr. Drance: Thank you.

Ms. La Costa: Thank you Chair.

Mr. Tackett: Thank you PD. Commissioners, any other, any other questions for Nick? Thank you Nick.

Mr. Drance: Thank you. Aloha.

Mr. Tackett: May, may I have my next testifier please, Director?

Ms. McLean: Yes Chair. And I was mistaken. Robin Knotts wishes to testify on a later item, not this one. We do have two more, so far, who want to testify on this item. Next is Tom Croly, who will be followed by Sam Small.

Mr. Tom Croly: Aloha Commission Members. Tom Croly testifying on my own behalf. Hopefully giving you information that helps you make a better decision about this. Both legislative items that are coming before the Commission today, I find very troubling. I find that both measures to be dishonest and inconsistent with their stated intents. This measure to amend the uses allowed in the Napili Bay Civic District seeks to limit future uses, and prohibit short-term rental homes from this district. Now as the Planning Department has already pointed out, there are no short-term rental homes in the Napili Civic District because transient vacation rental is an outright permitted use in that district. And the planners were correct when they told the property owners you don't need a bed and breakfast permit, you don't need a short-term rental permit. Because transient vacation rental uses of all types are allowed in this district because this district is basically a quasi-hotel district.

In Napili Bay Civic Improvement District, a landholder may build a hotel, they may build an apartment house with dozens of short-term rental condos, and as already been pointed out, they can build a single-family home, and use that single-family home for transient vacation rental use. However, let's be clear, none of those, none of those is a short-term rental home. Because a short-term rental home carries with it a host of conditions; professional management, quiet hours, occupancy limits to two guests per bedroom. All of the uses that I just described are unmanaged, unregulated uses, and they are quite different than short-term rental homes. So there should be no discussion about short-term rental homes in this particular thing. Because what you're talking about here is taking away the, the rights, the land use rights from property owners in this district, in a very similar manner as the, as the Planning Director pointed out to what was done in the Apartment Districts some 30-years ago. And we all know where that kind of left us today, where we just unilaterally took away the short-term rental . . . (inaudible) . . . you making those uses and now we're still talking about how to manage that.

So I also took --. I'm not representing anyone in this district. But I took a look at the property taxes being paid in this district. And I noticed that some of the vacant lands in this district is paying hotel and short-term rental property tax which by the way is double the property tax that you would otherwise pay. So that would tell someone who owns this land you're allowed to make these uses. And we're now we're potentially pulling the rug out from under them and saying, you can't make these uses. As Jacky pointed out, there's only 59 properties in this district. I would like to recommend that the County go to each of those 59 property owners and see if they're okay with --

Ms. Takayama-Corden: Three minutes.

Mr. Croly: -- with giving up the short-term rental rights that they have in this district. Thank you, Chair.

Mr. Tackett: Thank you Mr. Croly. Does anybody have --? Thank you.

Mr. Croly: Okay.

Mr. Tackett: Director, may we have our next testifier?

Ms. McLean: Yes, Chair. The next testifier is Sam Small.

Mr. Sam Small: Good morning. Thank you for the opportunity. Thank you for everything that you do. I would ask that this Napili Bay issue be deferred. Please table this. There is, you know, this appears to be a knee jerk reaction to the problems that have been presented to the community by the Greg Brown construction, and the exemption that that property seems to have inappropriately received. And this appears to be a situation where we're trying to, you know, make the law after the law has been broken. And as this is a community district issue, it really need the opportunity -- the community really needs the opportunity to weigh in. And this legislation proposed appears to be knee jerk. It's not appropriate and we would ask you to defer this matter and give the community an opportunity to understand and give appropriate input into how this needs to be handled. The previous testifier is, is right, you know. With the issue is -- the short-term rental is not really the issue. It, it shouldn't be a part of this discussion. The height issues and the style of construction, that's what's at hand. The square footage used and, and how a single-family home gets to be turned into a hotel, you know, please explore that. Because that is an apparent abuse of our existing system. And the clarifications that can be made need to be vetted fully by the community and we really have not had the opportunity yet to do that. So we ask you to please defer this matter.

Mr. Tackett: Thank you, Sam.

Mr. Small: Thank you.

Mr. Tackett: Commissioners, does anybody have any questions for Sam? Go ahead PD.

Ms. La Costa: Thank you. First of all, Chair, we're getting a lot of feedback from you. I don't know if you're getting it from my side too.

Mr. Tackett: I believe it started when our last testifier came on. Unless somebody else has their stuff on because before it wasn't. So I'm hoping that it clears up when, when we move on to the next testifier.

Ms. La Costa: And my question is for clarification. If this was noticed on the County's website and therefore was noticed to the community? And if it was, then I don't see any need for deferral as the testifier has suggested. Thank you for the clarification whomever can do that.

Ms. McLean: Thank you Vice-Chair La Costa. The agenda was properly noticed. The public hearing notice was posted in the newspaper at least 30-days prior to today's meeting. Additionally, we did send the notice out to all 59 properties in the district to let them know, which wasn't a requirement but we chose to do that.

Ms. La Costa: Thank you, Chair. I appreciate your proactive response.

Mr. Tackett: Thank you. Any, any other questions for Sam? Thank you, Sam. Director, can we have our next testifier please?

Ms. McLean: Chair, no one else has indicated they wish to testify on this item.

Mr. Junya Nakoa: I like talk story.

Ms. McLean: Oh, Mr. Nakoa, it sounds like.

Mr. Nakoa: You guys can hear me? Hello?

Mr. Tackett: Yeah, go, go ahead Mr. Nakoa, you have three minutes.

Mr. Nakoa: Okay. Yeah, you know, I still educating myself about this. It's about the Greg Brown property. I've been telling you guys a couple times. But, you know, the change of the whole zoning thing, I don't know about that. But, if it's going to be 30-feet, and it's 30-feet from the top of --. Again, the Greg Brown property, I know you guys never look at 'em. The bugga get one trellis on top that look like one roof. He got one elevator on top that it can be counted as a story. So, if that, if that 30-feet accounts to the top of that to the bottom of the original grade of the property, then -- because I talking on behalf of, not the 59 people that live around there, that rich area that where all the rich people live. Okay, us guys no live over there. I live up the road, Napilihau where the, you know, the kind, the local, locals live. Napili Bay was our back yard. I learned how to skateboard like that over there. But, the 30 -- if you talking about the 30-feet and stuff, I think we should stick with the two-stories and the, and the 30-feet, you know, and all that stuff because --. And the 30-feet is the top of the top. You know what I mean? Like, if you get one antenna on top that damn thing, that bugga got to go to that. The 30-feet better be counted in that. Not, oh, go 30-feet up and then put up one, one pool covering, you know, like one shade stuff and then make 'em look more high. You know what I mean?

So -- and you know the short-term rentals, you guys get so much fricken rules inside that damn thing. You get, yeah, all kind. And then now we trying to, the County Council trying to limit 'em, you know. So, again, maybe, like, yeah the Croly guy is correct. The short-term thing, I don't know. But you know what, I only like go short-term anyway, period. Not going get one in Napilihau that for sure. And I know get couple more short-terms coming up and I going be against those too. But, this, this thing got be able to stop the loophole. If you guys gotta defer 'em, defer because I don't think you guys all know the whole thing about 'em. You don't know the whole -- what's really going on in this district. You know what I mean. You guys maybe gotta go talk to the, the couple that was on top earlier, you know, earlier grumbling. Or you guys gotta go talk to the kind, you know, so you guys need. Yeah, you might have had a public testimony

out there noticed, but Jesus, us guys talk about going to do, or going to the area like that, and you guys really listening to us. Because, hey, I've been working on this since February and it's getting frustrating is all this, all this thing is coming up because we brought it up. We when do the job of the Planning Commission, the Planning Department. We found out was too high. We found out the buga was all kind stuff. We did do the due diligence --

Ms. Takayama-Corden: Three minutes.

Mr. Nakoa: -- and we when bust our okole for go look at 'em. Okay, pau, my bad.

Mr. Tackett: Thank you Nakoa. Please, please stick around. We might have questions. Commissioners, anybody have questions?

Mr. Nakoa: I get plenty answers.

Mr. Tackett: Thank you for your testimony, Junya. Thank you. Director, do we have any other testifiers?

Ms. McLean: Yes, Tamara Paltin has indicated she wishes to testify.

Mr. Tackett: And I also have a guy, I believe, John Seebart that just said something. Do we have an idea of who was first?

Ms. McLean: Mr. Seebart hasn't indicated in the chat function. Council Member Paltin has, though. We can go to Mr. Seebart next.

Mr. Tackett: Okay. Go ahead Mr. Seebart.

Mr. John Seebart: Did you want me or Tamara?

Mr. Tackett: Yeah, we're going with you and then we're going to Tamara.

Mr. Seebart: Okay. You know what, I tried the chat room and I couldn't figure out how to do that. I clicked on it, but nothing happened. So anyway, I didn't come to testify on this particularly, but it raised an issue on the Brown house there, the Greg Brown structure. And I just thought I'd make a comment that I fully . . . (inaudible) . . . We shouldn't --. I don't believe we should be issuing any permits in the shoreline areas that will be underwater in the near future. And as we look at . . . (inaudible) . . . you can see rise that's predicted for the near future. But, we shouldn't be perceived into thinking that that is where it will stop. The science says that unless we stop global warming, it's going to be a rise of 220-plus feet. So my thinking is we should be very careful about issuing permits in areas where we're going to be facing the same kinds of problems that we're now facing down in the Kahana condos. And that's all I have to say.

Mr. Tackett: Thank you Mr. Seebart. Commissioners, does anybody have any questions? Thank you for your testimony. Could we have Ms. Paltin please?

Council Member Tamara Paltin: Aloha and thank you. Can you hear me?

Mr. Tackett: Yes I can. You have three minutes. Thank you so much.

Council Member Paltin: Thank you. So I just wanted say that I proposed this bill because we were getting a lot of complaints about the Greg Brown house. And, you know, there's nothing that we can do retroactively. But moving forward one of the reasons that they said it was difficult to enforce two-stories was they didn't have a height limit in feet. And so I just chose 30-feet. You can say 30-feet and two-stories. You can say 20-feet and two-stories. You know, it was just a proposal I put out there as well as, you know, the proliferation of short-term rentals. My intent was not to negatively affect the condos around Napili Bay. So that was part of the reason why I said outside of the SLR-XA. I'm not sure if prohibiting short-term rental within the SLR-XA would negatively affect those condos, like, Napili Sunset or even Napili Kai Beach Resort, or those, those ones that have been along on the shoreline and proactively have a B&B, Napili Bay and Beach Foundation. So I didn't want to negatively affect those. It's just, you know, a starting point bill. Threw it out there to quickly address the situation that folks had been complaining about. If you guys can improve on it, please do. And that was basically my reason. It wasn't meant to be a comprehensive, be all end all for the Napili Bay Civic Improvement District. Obviously that thing has been around since, like, board of supervisor days. And it would take more than this to comprehensively address all of that. But this was just kind of a stop gap measure and I knew that you guys were going to review it further, so I just put, put out the basics, you know, like 30-feet, no short-term rental, outside of the sea level rise exposure area. My thinking too was if we're going make long-term housing for our residents, it's better to be outside of that sea level rise exposure area. Whereas, you know, tourists, they love being up front and center. So, that was just my -- I just wanted to give you a little bit reasoning behind why I proposed it. Nothing is set in stone. If you think that there's better words or numbers to be added in there, I'm open and that's about it.

Mr. Tackett: Thank you, Tamara. Commissioners, anybody have any questions? Go ahead Commissioner Thayer.

Ms. Thayer: Thank you Chair. So thank you for testifying Council Member. Just because I am not as familiar with this area as I would like to be for this purpose, but everybody's been mentioning this Greg Brown situation and that, you said this is in part a response to that situation. So can you enlighten us a little bit about what's going on there and why there's all this kind of public concerns?

Council Member Paltin: Sure, I guess. So, you know, a lot of folks that go around the Napili Bay area, there's this large empty lot for many years. And, you know, even myself as I've been going through, I've seen grading, I've seen the Greg Brown construction working on it. But I had no idea myself, and I think, a lot of folks as to how tall it would be. Right there on the corner, this huge, like, it's about 40-foot tall single-family home with, you know, basically 12 bedrooms, a pool on the bottom floor, a pool on the third, roof, third floor roof, maybe 14 bathrooms, a kitchen and an identical wet bar. And it basically, you know, Napili Bay Civic Improvement District is meant to maintain the character of the area, and it just, it kind of sticks out like a sore

thumb. You know, a lot of folks been complaining about the height. I'm not sure if they backfilled more than they were supposed to. But even so, I guess, there was some sort of a mistake where Napili Bay Civic Improvement District is not a widely known district. It's so old, and so they didn't --. I don't know. There may have been some mistakes made and it was given an SMA exemption which it would never would have qualified for if it was clear that it was going to be used for a short-term rental permit purposes. And so, I think, a lot of the community feels like they didn't get a chance to testify on the SMA permit because it was given an exemption. And then the next thing you know as we're walking by or driving by this tall building comes up on the corner of lower road. And I'm not sure if it's Hui Road or something like that. And you know, so many people use and love Napili Bay, this was like, how did this happen? And then I guess they found out that there wasn't any chance for any public input because it was given an exemption. So they were pretty upset. So a lot of people have been coming to me, and I'm like, I really had nothing to do with it. I promise. I didn't know.

Ms. Thayer: Thank you.

Mr. Tackett: Thank you Commissioner Thayer. Commissioner Pali has a question as well. Go ahead Commissioner Pali.

Ms. Pali: Hi. Thank you for your testimony. So I know that being on the Commission last year, we just went through the West Maui Community Plan. It just took us a long time, and now you're tasked with getting that through. Are you guys going to be addressing this specific thing in that community plan? And are you saying that today's measure is just kind of like, hey, let's make sure these mistakes don't happen right now until we get there? Is that what kind of your, your goal is and your purpose?

Council Member Paltin: So we, we did complete our committee review of the West Maui Community Plan, and we made some changes. But we didn't necessarily dial in on the Napili Bay Civic Improvement District. We spent a lot of time on things that were changed between CPAC and MPC, and policies and action items. There may be some few things in the policies and action items that could possibly address this situation. Like, you know, we made some policies, I think, about pool water and the discharge. So, I mean, there's two pools on this property. But we didn't take a deep dive into the Napili Bay Civic Improvement District. And, yeah, it never really came up. It would --. I think, too, you know, in the West Maui Community Plan process, it's looking at the entire district. We didn't --. I mean, except for I guess Plantation Estates Lot Owners Association, we didn't really do a really, really deep dive into any one particular area because it's the, the overall. And if we were to comprehensively address Napili Bay Civic Improvement District, I'd like to, you know, have town halls and outreach, and really go over the entirety of the district and what we would like to see going forward. And for the West Maui Community Plan, it was more of, I guess, you know, a 30,000 foot level or something like that. And we also didn't deal with zoning, which I think, Napili Bay --. I think neither the CPAC, little bit the Maui Planning, a little bit us, but we didn't dive deep into zoning so it would, I think, benefit from being taken up separately by itself if we're looking at the comprehensive overhaul.

Ms. Pali: Okay, thank you. And last question, so you do agree that we do need to look at this a little bit more in detail, and that you do agree that we should have community meetings so that way we can have more participation in this.

Council member Paltin: Oh, yeah, yeah for a complete overhaul of the Napili Bay Civic Improvement District. This was just a, you know, a knee jerk reaction to the numerous complaints that I was getting. Like, what can I do right now to give people this sense that this isn't going to continually happen?

Ms. Pali: Thank you.

Mr. Tackett: Thank you Kellie. Commissioners, anyone else got any questions for Councilperson Paltin? I have a question. So, it seems like, it seems like the majority of the, of the, of the confusion is around the short-term rental. It seems like there's a, a pretty, pretty. . . (inaudible) . . . agreement as to the 30-foot, the 30-foot level. And that, and that I believe, probably most of us didn't know that you could get away with anything you wanted in that district because of that was what it was. So are you saying that they should be looked at possibly separately or in possibly looked at maybe, maybe one looked longer at longer than the other, or is that, is that what I'm hearing you say?

Council Member Paltin: Oh, you know, regarding the short-term rental issue, it's, it's really not clear, I think, the way that the Department goes about short-term rentals in the Napili Bay Civic Improvement District. It's even a little bit confusing to me. And short-term rentals is an issue without adding the Napili Bay Civic Improvement District layer is confusing enough. But then adding that on to it makes it even more confusing. And I may be totally wrong, but my understanding of the way the Department implements it, in the Napili Bay Civic Improvement District is that if you have a house and you want to do short-term rental, you can, I think. But if you're building a new house and you got an SMA Exemption based on telling the Department that you're doing single-family home usage, like, it's going to be your home, you can't then automatically do a short-term rental on a newly built property. Or maybe even if you haven't lived there five years. I'm not sure. It's so confusing that I would just phase it out of there because, you know, already Napili, West Maui, we're, we're at over capacity in terms of tourist that I don't think we need more accommodations to bring in more tourists especially in that area. And, and that was part of my reason for not wanting to disrupt all those condos hotels on the bay. I figure they're working, they manage their tourists there, we've got that. We've got a couple of short-term rental homes really close to Napili Bay, we're good. Like, let's tap out, there's enough there. And, and with the, the Napili Bay Civic Improvement District overlay, it's super confusing. I, I would not profess to understand that all. Like, who can and who cannot do it so I leave . . . (inaudible) . . .

Mr. Tackett: I need, I need one more opinion from you on the phasing out and then as for me, though I've approved short-term rentals and I possibly will approve short-term rentals going forward as I have to, I have to weigh them with the options that they let me weigh. Do you know what I mean? So until somebody finds a mechanisms that lets me just deny them. If they come forward, they come forward, and if they meet the criteria you have to give it to them. And so like I said I am definitely not in favor of short-term rentals, but I will vote in favor of the ones that do it

the right way because that's the job that I'm tasked with. So we know it's the "What I want show", it's the "What is right show," I guess.

With that being said, the scary part for me is if you have people that bought purchased these lots a long time ago, and they've been paying an accelerated tax rate with the thought that maybe they could do something in the future and then you take that off the table for them and they have all those back revenues tied into it and they're not afforded the normal rights that everybody else in the County, it seems like they will end up getting stiffed for the cost. And then they don't even have the ability to do a short-term rental, which, like I said, I'm not necessarily in favor of, but as the rule, as the law reads, you're going to, you're going to take a district that has always been friendly towards that and make it a zero possibility. And then the other districts are going to continue to have their rights, and they didn't pay those kinds of taxes at all which kind of seems a little...unfair. What is your, what is your perception of that?

Council Member Paltin: Yeah, thank you for the question. So this is part where you should get clarification from the Department. I would imagine if they have hotel zoning they can do hotel usage. But not necessarily everyone in Napili Bay Civic Improvement District is paying hotel property taxes. And, you know, similarly how we don't pass bills retroactive -- to apply retroactively, we also don't pass bills to think of, like, whatever might happen in the future. You have ability to do short-term rental home. If you don't take advantage of it and the rules change, the rules change.

We recently passed the short-term rental home caps and most every area decided on caps that were what they currently are. So it's not necessary that other districts would have the right to do short-term rentals. We went the attrition model so, you know, as if there's an excess and above the caps as people no longer renew their short-term rentals. Once you get below the cap, more people can apply for them. But it's just, you know, the amount animosity that we're hearing from the public in terms of short-term rentals, and we understand that, you know, it's not necessarily the short-term rental home permits that are, are the number one. There's, like, you know, the possibility of like maybe 220 or so of permits. But, you know, it's a, it's a phase process. We're just trying to bring the balance back to something that gives our residents a little bit more quality of life. So, you know, while we heard folks saying, no short-term rental home permits whatsoever. And we heard people like the caps are just fine. We kind of took the middle road and said, you know, if you have one now, we're going to set these caps. And if there's attrition to below the caps then more people can apply to it. And then the next thing, I guess, you know, we'll be looking at the Minatoya list and, and doing something similar, not complete outright, no Minatoya list or whatever. But, you know, looking at areas where we can restore the balance a little bit.

Mr. Tackett: So what you're saying that as long as West Maui's under their cap people can continue to apply for those positions until that cap is hit. But nobody in that particular district can, just everybody else can. Is that, is that the intent of the bill that we have? Because that's kind of how I, I'm interpreting it.

Council Member Paltin: So West Maui is not under the cap. We're at the cap. But there's still are areas where people can have short-term rental homes without permits. I believe Historic District

in Lahaina Town you can do a short-term rental without permit. Planned Development like Puamano, Puamana, they are allowed to do short-term rental without permit. All the apartment based short-term rental usage I think like Napili Ridge and Hololani and all those ones, they can do short-term rental by zoning. So there's --

Mr. Tackett: I agree. I agree with what you're saying. I'm just saying what is, what is your opinion on like the people that came before us in 2020 and they were told they could, and now they can't? But if you're in Kahana you can, but if you're in Lahaina, you can, but if you're -- you know what I mean? As long as there's room in the cap. You know what I mean?

Council Member Paltin: Yeah, yeah.

Mr. Tackett: So that, that's what I'm -- that's all I'm saying.

Council Member Paltin: Yeah, I think, you know, to that point, we, on this Council right now are trying to be more responsive to the public views and these caps are just that for right now. In the future if people, like, clamoring and saying, we want more short-term rentals. And there's thousands of people saying we need more short-term rentals. Then we can adjust the caps.

Mr. Tackett: Yeah, but that's not the intention. I love the caps, you know. I think the caps should shrink, you know what I mean? But, what I'm saying is that or what I'm trying to understand is do these people in that district, do they forfeit just the standard allowances that the other districts on that side? You know what I mean? Like, does it turn out, if we approve this, does it turn out everybody can apply for one if there's room under the caps except for guys in, in Napili? Do you know what I mean? And that's what it reads like. It reads like, hey, we're, we're, we're going to, we're going to go this way and we're going to start with you. And it just so happens that that district is district where, like Croly said, people have vacant lots that they've been paying accelerated taxes the whole time when they purchased it that way. And then these other people, they purchased it that way. And we're not saying that they're going to get through or not get through. But they're wondering way they don't even have a process. Like, they can't even, they can't even try to get through because the place where they bought and they were told it was okay, is, has now been the number one place that has been stopped. Like I said, I'm, I'm completely for it.

Council Member Paltin: Yeah . . . (inaudible) . . . your point.

Mr. Tackett: I'm just saying . . . (inaudible) . . .

Council Member Paltin: My suggestion, my suggestion now that I'm -- sorry -- now that I understand, I would say, like, you know, maybe say within the Napili Bay Civic Improvement District, if you to do short-term rental usage, you need to have a permit as well. West Maui is currently over the cap, but if we go below the cap and people want to apply for that short-term rental home permit in Napili Bay Civic Improvement District, they're on the same footing as everyone else in West Maui except for the Historic District and Puamana. I mean that's totally a viable option as well so that it doesn't create that, oh now Napili Bay Civic Improvement District is not allowed to have short-term rental even with a permit. We could allow short-term rental

with a permit if that's what you're leaning towards. But, you know, it's, it's pretty saturated that area. But I -- if, if you, if that's your concern that Napili Bay Civic Improvement District is being hurt unnecessarily in comparison to the rest of West Maui, you could say, no short-term rental without a permit, you know, that might be one way to address your concern.

Mr. Tackett: I appreciate that. Yeah, so that was my concern, so I'm glad that, glad that, that you, you and me were at least talking about the same thing. You know what I mean? Because I think you understand completely what I was saying.

Council Member Paltin: Yeah, I didn't understand at first. Thanks for clarifying.

Mr. Tackett: Thank you so much. I appreciate it. I got one more question from you from Ashley. Go ahead Commissioner Lindsey.

Ms. Lindsey: Hi. So I see what you're trying to do with limiting the short-term rental. But my concern is like a little bit more mauka, still below the up road. Do you have any understanding of how many units . . . (inaudible) . . . would be under 60 property . . . (inaudible) . . . condominiumized? Do you have any idea how many . . . (inaudible) . . . mauka of the SLR-XA zone in the Napili Improvement District? Because those are the ones that will be affected, like --

Council Member Paltin: Yeah, I think there are quite a few. My -- so my intention is not to, like, make them to stop. But, you know, they would be like legacy propertyed in. But no new ones because, you know, everything is unique to the area of, of what's going on. And in that area what's going on is the quality of life of our local people is squished out because, you know, I mean, the pandemic over there was kind of great. Anytime I went to Napili Bay, front row parking, you know. Now, I won't even go to Napili Bay. And it's just, you know, at some point it gets too much when you allow everybody in this certain square mile footage to have the ability to do short-term rental. You're going to get to a point where it's just too much. And think we've hit that point for Napili. And, and you know, I'm sorry if you didn't get a chance to cash in and take advantage of the money that your property is worth. But we're at this point where it's too much right now. And so, you know, to be fair, I'm not saying people that are currently doing it needs to stop, but we have enough. And, you know, if down the road it attritions out so where there's only like a handful of short-term rentals, then we can reevaluate and, and maybe roll it out in a more managed comprehensive way where, you know, people can do it. But I guess, you know, a lot of the short-term rentals within Napili Bay Civic Improvement District are not the types that have permits. And so the permitted short-term rental homes are really well-managed. You know, if people make complaints, they jeopardize being able to renew or whatever. But that's not the case in Napili Bay Civic Improvement District. There's hardly any oversight. Nobody can say I don't want to live in this neighborhood with 20 short-term rentals because everybody has the ability to do just short-term rentals. And so it's icing out the local population and we're at that point right now. And, and, you know, ordinances don't always last forever if you have a responsive elected, elected officials and they say like hey, you know, that was then. In 2021, we were maxed out, but now it's 2030, we want more tourists, then we can adjust it, as the situation calls for.

Ms. Lindsey: Thank you.

Mr. Tackett: Anybody else have any questions? Thank you. Thank you. I appreciate it. That was super helpful.

Council Member Paltin: Thank you. Glad I could be helpful.

Mr. Tackett: Director, could we have our next testifier please?

Ms. McLean: Kai Nishiki is the next testifier, and she will be followed by Keani Rawlins-Fernandez.

Ms. Kai Nishiki: Good morning Chair. Good morning Chair. Good morning Commissioners. I'm very thankful for Council Member Tamara Paltin's response to community concerns, and fully support the height restriction, in addition to adding two-stories. But I think that the issue about short-term rentals is a valuable and important piece of this legislation. And I think that the Tatmans kind of illustrates the...how out of touch investors are with the true needs of the community. They're getting all upset and indignant about an investment and saying that they don't understand. So if they don't understand, then they probably aren't really members of our community, and hence probably why there should be even a longer time period than five-years before someone, you know, can even put in an application for a short-term home rental. And if these people think that they're going to do bed and breakfast, you know, I hope that we further curtail B&Bs and limit them to a single property and it has to be your primary residence, and you have to actually manage it, not have somebody else manage it. We need to do everything we can to prioritize the quality of life for our residents. And please support all things that limit short-term rentals. There's no shortage of it and . . . (inaudible) . . . rentals. So that's what I would support and I would urge this Planning Commission to please read the . . . (inaudible) . . . I'm pretty sure, like, you know, read the newspaper, we can see that our community is crying out to stop the proliferation of visitor accommodations. We have too many. Please, respond to the needs of the community and not to the needs of investors from outside who are just here to siphon money with a straw out of Hawaii and obviously don't care about our people. So, thank you very much.

Mr. Tackett: Thank you Kai. Does anybody have any questions for Kai? Thank you so much. Director, our next testifier please?

Ms. McLean: The next testifier is Keani Rawlins-Fernandez, Council Vice-Chair.

Council Vice-Chair Keani Rawlins-Fernandez: Aloha. Aloha Chair and Vice-Chair, member of the Commission. This is Keani Rawlins-Fernandez, Council Vice-Chair. Mahalo for this opportunity to testify in support of agenda item C.1. I plan to make this real quick, and I wanted to echo everything that Council Member Paltin explained and just add a couple things. That this bill is about enforcement and the policies and specific project designs. And I'm sure the Director will speak a little more to this when this agenda item comes up.

In other parts of the zoning code and other special districts, we've amended the arbitrary two-stories to a specific number of feet. And it boils down to making the Code more black and white

for easier enforcement on our Department. And this bill will also make the height limit in Napili Bay Civic Improvement District consistent with other zoning districts.

And then Chair, I heard your concern, and the Council is working on better controls over vacation rentals, the vacation rental situation as Council Member Paltin spoke to we're decreasing the number of STR that will be allowed in this area.

I also heard your concern about variance, and I think it's important to remember that a permit is never a guarantee thing when someone purchases a property. A permit is not right. It's an option. And to clarify, the last thing I heard was about taxes. And so any property classified as an STR would pay an STR rate for real property tax. Mahalo for this opportunity to testify.

Mr. Tackett: Thank you. Commissioners, does anybody have any questions? Commissioner Lindsey, go ahead.

Ms. Lindsey: So -- hi -- so for the STR rate, this district doesn't have short-term rental permits. So, so where do they fall if they're operating B&Bs and things? I'm not sure if the question is for you -- but I don't know the answer.

Council Vice-Chair Rawlins-Fernandez: Mahalo Commissioner Lindsey for your question. So if...if a property --. So a property can operate as an STR without an STR permit as Council Member Paltin explained if they're in a couple of zonings that allow for that activity to occur. So if they're operating as STR regardless of whether they have an STR permit or not, then you classify it as an STR and would be taxed accordingly. Does that answer your question?

Ms. Lindsey: Yes. That verbiage is in the property tax, so we don't really need to worry about that right now.

Council Vice-Chair Rawlins-Fernandez: That's correct.

Ms. Lindsey: Okay. Thank you.

Council Vice-Chair Rawlins-Fernandez: You're welcome.

Ms. Lindsey: That's all Chair. Thank you.

Mr. Tackett: Thank you. Commissioners, anybody else have any questions? I got, I got just one clarification. So, so if I'm reading it right, what you, what you, what you're saying is that they can have it without permits now. They don't need a permit, they just go through the process. They don't even have to go through the process. They just make it happen. And, and what you're writing in is that they don't have a process after that. And so, like, I hope you write them all out. Like, you know, I'm, I'm totally okay with you writing it them all out. I mean, the hotel workers, they need a place to work. And, and guests have places to stay. And they're not at . . . (inaudible) . . . most times anyway. So I totally agree with what you're saying but I think, I think where we missed the boat is like, these people that were purchasing, even there's a loop hole, they did the research and put themselves in there, and so there is something already there

promised to them. Something I don't even agree with, you know. I mean, I don't agree it, you know. I don't like it all. But that's been there since 1960 which is, like, that's 12 years before I was born, you know, so. But I understand there's problems, but what I'm trying to figure out is, is the right thing to do, to, to -- say your cap is ten and there's ten already. Well, then nobody gets one. So one guy drops off and now you've got nine, and now you've got this one opening. Under the way that it's drawn up, it's my, it seems like everybody except for Napili can, can apply for it. Which seems kind of, kind of weird because they were the guys that had the easiest rules now and some of those guys were paying a higher rate on vacant lands taxes. And now, they don't even have the normal process. So I think if you were going to take something away from somebody you should take it away from everybody, not just, like, one guy. You know what I mean? Like, if short-term rentals are going go down and you're going to say a cap, and we're going to allow this many for the west side, then I believe Napili should be counted as part of the west side, not because I like it. You know what I mean? I'm not in favor of short-term rentals. I believe we've got enough tourist destinations. I, I got them in my neighborhood, right across the street, you know, so. And they were the first ones so they didn't even have to go in front of anybody, you know. They just did it because there's no one else. They were like the first ones. But anyway that's my question to you, like, do, do you really think that it's appropriate to, to take Napili out all the way, or do you feel like we should just make Napili conform to the same rules that everybody else has to conform to until such a time you guys decide to make it all encompassing? You know what I mean? As opposed to saying, hey, you guys had . . . (inaudible) . . . do whatever you want whenever for so long, and now we're going to take it all away even when you bought it like that, but these other guys can still do it. You know what -- do you see what I'm saying? Like do -- what is your feeling on that?

Council Vice-Chair Rawlins-Fernandez: Mahalo Chair for your question. I'm going to try to summarize and I repeat back to you what I think I understood your question to be. Okay, so -- and I want to say that I agree with your premise on consistency, consistency throughout the Code is really important to me as well.

So I, I understand your question to be...whether we start here with Napili in limiting the ability to do STRs or we wait until we do the entire island in limiting STRs in zoning that is permissible. Is that your question?

Mr. Tackett: Well, I'm --. In my opinion it's coming from . . . (inaudible) . . . So the west side people are saying, hey, we got enough. You know what I mean? We have...we have plenty, we have plenty over there. So I don't believe we have to wait for the entire island but I do kind of think that, that whatever, whatever you choose for the west side to be your choice for the west side and it shouldn't exclude anyone from, from Napili to, to Lahaina town. Do you know what I mean? Like it would be --. Like, if, if there's still a route for short-term rentals and there's a spot, then wherever you live you're still west side. Do you know what I mean? And if there is no spots, then there is no spot. But for those guys that purchased it thinking that they had a right with no rights, and then telling them that, that they have even less rights than the rest of the west side would be kind of...strange to me.

Council Vice-Chair Rawlins-Fernandez: Okay, so it kind of sounds like you may have answered your questions. And, you know, we're policy makers, right, so we're looking out for the best

interests of our County, of our community, of the people that live here, of the environment, and you know, the health and wellbeing of all of it. And so if we determine that something that was permissible at one point is too taxing and diminishing the quality of life for our residents is impacting our resources and our environment, then as policymakers that is our authority to amend the, the law, to protect the health and wellbeing of our County. So while you may characterize it as strange, that is, that is what we do and laws are meant to be changed and evolved with in time. You know, with time, with society, and as we learn from the impacts of laws we passed, you know, in one point in time, with the benefits of time passing, we can see whether that law, when we passed at the time, has had a positive or negative impact. And if it's been negative, then it's not only our ability or authority, but it's our duty to amend the law that's hurting our people. I hope that answers your question.

Mr. Tackett: No, not really, but I totally understand. You know, we'll go with it. I just think that, I just think that you --. Anyway, it doesn't matter I think. I appreciate your answer, you know. Thank you. Thank you Keani.

Council Vice-Chair Rawlins-Fernandez: You're welcome Chair.

Mr. Tackett: Commissioners, anybody else have any questions as to that? Thank you so much.

Council Vice-Chair Rawlins-Fernandez: Mahalo. Mahalo everyone. Aloha.

Mr. Tackett: Aloha. Director, do we have anymore testifiers?

Ms. McLean: No, Chair. No one else has indicated that they wish to testify.

Mr. Tackett: Commissioners, does anybody need a restroom break? You guys have been holding on there for a while, yeah.

Ms. McLean: Chair, you might want to make a last call for testimony, for example, for those who are calling in.

Mr. Tackett: Sure, last call, last call for testifiers. Do we have anymore? Going once, going twice...I believe we have Peter Savio. Go ahead Peter. Are you there Peter? Maybe that was a mistake. One more time, I'm going to close testimony. Going once, going twice, going three times, testimony is closed. Anybody have an idea as to how much time they need? Five minutes? Three minutes? I may go with the bigger of the two. Let's go with five minutes. It's -- just to make it easy we'll give it six minutes so we'll be back here at 11 o'clock if that's acceptable to all.

Ms. McLean: Chair, if I can just make a clarification for those on the call, you closed public testimony for the first item only.

Mr. Tackett: For the first item only, correct. Thank you for the clarification. See you guys in five minutes.

(The Maui Planning Commission recessed at 10:54 a.m., and reconvened at 11:00 a.m.).

Mr. Tackett: Alright, do we have all of our Commissioners back? I think we're still waiting for Jerry. I don't see Kellie, yet. Kellie, are you there? Director, do you see, do you see Kellie? Oh, there she is. Hi Kellie. I believe we have everyone. Do you see the same thing? Alright. Director, discussion, correct? So Commissioners, discussion on B.1. I got Kellie, followed by PD. Go ahead Kellie.

Ms. Pali: Yes, thank you Chair. I think I just -- my discussion on this topic is that I actually agree with your point you were attempting to make with a couple of the testifiers. And so my discussion would be instead of agreeing to just saying no permits available, that we at least allow the people in this area to be able apply for the STR permit like all of the other Maui County residences. I think that's what you were getting at, right? And I'm agreeing with you that it's one thing to say, hey, it's a free for all, and now saying, hey from now on no more. And now we're almost targeting them, where everyone else has a right that they don't have. So I was following you. And in the sake of time, I think that I agree with that theory. It sounds like we're at the cap anyway which would do what the bill intends which is to eliminate future new permits. But in the event one permit holder drops off, and like you said comes available, it makes sense that everyone on the west side no matter where you're at would have access to at least applying for that one permit. So I would like to make that amend in this especially since Council Paltin mentioned that she kind of attempted her best effort into kind of throwing something together temporarily, and I know that she'll tease this out later. So that would be my first recommendation for discussion.

And the other thing is I, I am learning patience and so bear with me. But we have all just suffered with really long, long agendas. And so I just want to just, as a friendly reminder, kind of go back to the trainings we've had a couple, the last couple of weeks. And just that when the testifiers testify we're asking for clarification on their testimony. But we're not asking them new questions because they're not doing the presentation. They're not the ones presenting. We're just clarifying what they said, and we don't need their opinions because they already gave their opinion in the three minute testimony. So really for the sake of time management here because I really can't be here for 12 hours today. And I just would respectfully remind everybody that we all get kind of caught in this curiosity, but if we can just kind of pull it back and just focus. And then what I do is when testimony people, testifiers, bring up items, I just write it down. And then we can go -- we should be going through the whole testifiers, let Christian Tackett, Chair, close testimony and then let's go back to these questions that they arose. And then we'll go to planner and ask those questions. So that would be the appropriate way to handle it. And that's really going to help us get through the agenda in an appropriate hour. So that's all I've got to say. Thank you.

Mr. Tackett: Thank you Kellie. PD, go ahead please.

Ms. La Costa: Thank you Chair. Can you hear me okay? I don't see the icon on. Okay. Thank you very much. Along the line of Commissioner Pali, I just put some verbiage together that -- I know this is probably Director McLean's kuleana, but along the lines that STR permits may be granted to residential homes if they meet the criteria set forth in the STR rules, and the permit

does not exceed currently allotted caps. If the number of permits drops below the current cap, then any applicant can apply for that position. So that's, that's the verbiage that I put in light of everyone's testimony today. Thank you Chair.

Mr. Tackett: Thank you PD. Director, do you have some input on that?

Ms. McLean: Yes, thank you Chair. In response to that, if you look at the memo and the Department's recommendation, it says the permitted uses shall be as provided in the residential and apartment districts as listed in Chapter 19.08, and 19.12. So that means they would be treated the same as the residential districts when you can apply for an STRH permit and you can apply for a B&B permit. And if you meet the criteria you can get them, including the caps and so forth. So by saying that the uses in the district are restricted down to districts where those permits can be granted, then I think it would achieve what you're, what you're recommending which is that yes, those properties would be eligible to obtain this permit. The same as anybody else in the residential district.

Mr. Tackett: So you're saying that if we, if we approve it as recommended with amendments, that they will be afforded the same rights to apply for a permit that anybody else has?

Ms. McLean: Correct. With the, with the Department's recommendation as listed on page-2 of the memo.

Mr. Tackett: So, so the Tatmans, they still have, they still have a direction they can go. They might necessarily get it, but they have the same rights as everybody else.

Ms. McLean: Anybody else in the residential district, yes.

Mr. Tackett: In the residential district. Okay, well sorry for wasting all of your guy's time. Because I read, I read that -- or I thought I read that, that there would be no more in that place, you know what I mean? So that, that's how I understood it, so sorry you guys.

Ms. La Costa: I don't think it's a waste of time of any of us. This is why we're here is to get clarification and get our thought on the table. So I appreciate what you bring up and everyone else because that's how we get clarification and we can go in a, the best direction for the County of Maui.

Mr. Tackett: Thank you. Commissioners, anybody else have any discussion? I believe I have Jerry followed by Commissioner Thayer. Go ahead Jerry.

Mr. Edlao: Okay. Tom Croly made a comment that these guys don't need the permits because transient rentals are allowable in this area. Can somebody clarify that's the difference of why? I mean, it's kind of weird.

Mr. Tackett: Director?

Ms. McLean: Thanks Commissioner Edlao. In the past the Department has treated single-family homes in the hotel zoning district and in the Napili Bay Civic Improvement District as being able to do vacation rentals because hotel use is allowed in the district. Because of the Greg Brown property and community concerns over it, we started looking into that really carefully, and it's a little bit problematic. But other than the past few months when we've been reexamining this use, it is true that in the past you could have a single-family home in this district or the hotel district and be able to do vacation rental without any kind of permit or any kind of review. And we're taking a new look at how we administer that. Because even though it says hotel use is allowed, these single-family homes operating as vacation rentals aren't typically what you think of when you think of a hotel. And so we are reevaluating how we administer that.

Mr. Edlao: Okay, thank you.

Mr. Tackett: Thank you Commissioner Edlao. Commissioner Thayer?

Ms. Thayer: Thank you sir. Director, I think I have -- I just want to further clarify what the implications are on this. So as the Code reads now, like, everything in this improvement district is looked at as under hotel zoning, right? Homes, apartments, condos, they're all according to the hotel. Okay, so then what the proposed change does is switch it from all being treated as hotel to all being treated as either apartment or residential, right? Okay, so then I'm wondering what the implications are then for if that change goes through everything in there, existing transient uses, would be existing non-conforming.

Ms. McLean: Correct.

Ms. Thayer: In which case so if --. So then I have two questions stemming from that. So one is if there are like existing single-family or, I guess, condo apartments that are currently operating rentals that don't need a permit, would they ever be prompted to get one?

Ms. McLean: No. It would be like you said existing non-conforming or grandfathered. And grandfathered uses there's a specific provision in the Code for non-conforming uses. They can continue. They can maintain and refurbish, but they cannot expand in a way that increases the non-conformity. There would have to be different language in bill to require them to someday get a permit. The way the bill is drafted now, whether the original language or our proposed language, any existing vacation rental operations would continue and would not have to get a permit.

Ms. Thayer: Okay, thank you. So then if -- like if somebody wanted to like add rooms to their existing rental that would be, like, other --. If they're renting out a home, if they wanted to add a room or ohana unit or something, they would have to come in for a permit in that case?

Ms. McLean: For that additional rental area, yes.

Ms. Thayer: Okay. And then for the existing, like, condo hotels that are there, if they want to add any rooms, they would have to come in for a permit?

Ms. McLean: If they wanted to use them for short-term rental, yes.

Ms. Thayer: Okay. That's all my question. Thank you.

Mr. Tackett: Thank you Commissioner Thayer. I believe Commissioner Lindsey has a question. Go ahead.

Ms. Lindsey: Expanding on what she's saying, why does the 3.2-foot SLR-XA area -- where does that apply to the, the existing nonconforming? Is that the, the two-point, the SLR-XA area stay in hotel zoning and then above that is existing nonconforming or am I understanding this correctly?

Ms. McLean: Right, the bill as proposed would say that if you are within the SLR-XA you can still conduct hotel uses. If you're outside the SLR-XA and --. Let me, let me expand from that. If you're within the SLR-XA, you can continue to do hotel uses and new hotel uses can start. Existing hotel or vacation rental uses can expand just like it is today. If you're outside the SLR-XA and you're doing vacation rental use, you can continue as, as grandfathered. If you have not started vacation rental use, you cannot start without getting some kind of permit.

Ms. Lindsey: Thank you.

Mr. Tackett: Thank you Commissioner Lindsey. Commissioners, any other discussions? Go ahead Commissioner Lindsey.

Ms. Lindsey: Do you have any idea how many properties that affects actually because it sounds like majority of it is within SLR-XA but they're -- do you have any idea like approximate numbers? That is doesn't have a permit, that is outside of SLR-XA, or doesn't have existing use?

Ms. McLean: No, we did not look at that because the Department isn't recommending that the SLR-XA play a part in the bill. So, yeah --. I mean, I can, I can look really quickly and give an estimate if you'd like to know. But that's why we didn't look into it because we're not recommending the SLR-XA be -- that there be any difference whether a property is inside or outside.

Mr. Tackett: Is that something that you want Commissioner Lindsey or not?

Ms. Lindsey: If it takes a few minutes that would be ideal. But if it take, if it takes us into an hour, I don't want it.

Ms. McLean: Okay Commissioners I can share my screen. Let's see if this works. Can you see that?

Mr. Tackett: Yes we can.

Ms. McLean: Okay, so this is the SLR-XA with 3.2-feet of sea level rise. And then if we, you

know, also look at the zoning map that's on your, that's in your packet, you can kind of go back and forth between the two. So there's some --. So the SLR-XA if you can see the cursor on my screen, the SLR-XA doesn't impact any properties mauka of Lower Honoapiilani Road. And then in most areas it looks like it's about halfway between the shoreline and the Lower Honoapiilani Road. When you get to the more southern area of the district, it's really only the coastal portion. So I would guess maybe a quarter of the properties in the district are within the SLR-XA. That's just a rough estimate. So about 15 or so.

Mr. Tackett: So does that answer your question Ashley?

Ms. Lindsey: Yes.

Ms. McLean: Okay, I'm going to stop sharing.

Mr. Tackett: Awesome. Thank you, thank you Director. Commissioners, any more discussion on this item? If not --. Okay, I believe Kellie was first and then Ashley has more questions after.

Ms. Pali: I don't have a question. I was just going to put something on the table. So if Ashley has got a question, I can kick it to her.

Mr. Tackett: Okay, go ahead Ashley.

Ms. Lindsey: I was just wanting . . . (inaudible) . . . in discussion that I would like both the height and the, the number of stories and the 30-feet to be both included on any . . . (inaudible) . . .

Mr. Tackett: Thank you. Thank you Commissioner. Any, any other discussions at this point? So we'll, we'll get the, we'll get the recommendation. And then after our recommendation, then we'll get any motions, seconds, and, and call a vote after that. Director?

Ms. McLean: Thank you Chair. Jacky, do you want to give the recommendation or it's, it's laid out in the memo, the provisions where it indicates the Department's recommendations?

Ms. Takakura: Thank you Director. The Department is recommending approval of the proposed bill with amendments. And just as a recap, the amendments are that the permitted --. Sorry, back up. That the building height -- I mean, structures must be limited to 30-feet in height including all appurtenances such as elevator shafts, stairwells, vent pipes and antennae. Also that the permitted uses shall be as provided for in the residential and apartment districts as listed in Chapters 19.08 and 19.12. And also that location of accessory uses must be to the rear or interior of the lot. Signs and advertisements shall not be gaudy or excessive in size, and must comply with Chapter 16.13 of this Code. And Special Use Permits may be granted pursuant to Section 19.510.070 of this Code for marginal uses that would conform with the intent of the civic improvement district as approved by the Maui Planning Commission.

Ms. McLean: Chair, if I can, based on what Commissioner Lindsey suggested and I saw Commissioner Thayer nodding in agreement, if you look at the Department's recommendation

on page-1 that could, that could read to say structures must be limited to two-stories with a maximum height of 30-feet including all appurtenances etcetera.

Mr. Tackett: I believe it looks like from . . . (inaudible) . . . everybody or a majority is kind of in agreement, so let's start with that. Kellie, did you have something to add?

Ms. Pali: Nothing to add. I just was going to make a motion, Chair.

Mr. Tackett: Okay. Well, the floor is open for, for motions and seconds at this point.

Ms. Pali: Thank you Chair. I would like to motion to adopt and recommend Resolution No. 21-66 in accordance to the Department's recommendations and changes on the memo, with the friendly amendment that the Director just gave us.

Mr. Tackett: Okay, we have a motion by Kellie, and we have a second by PD. Would either -- well, I'll let you start because it's your motion. Kellie, would you like to speak to the motion?

Ms. Pali: Yeah, I think a couple of things that I've been jotting down which resonated with me is firstly, I think that when people use the word "community" they toss it around like love. I love you. You tell a stranger, oh, I love you, and the love just has lost its true intent and value. So I just want to caution us when I hear people testify and they say the community this, the community that. We have 160,000 residents plus; that's the community. It's not five people. It's not ten people. It's not even 50 people. So, just be cautious when you hear the word "the community says." That frustrates me because we know we have families that are working two and three jobs and they can't here full-time and testify. So just be cautious of that.

But I believe that this bill, with the revisions, for now temporarily, will affect what would be beneficial to all. There are pieces I don't agree with it. There are pieces that I know if we say, hey, if we just eliminate the tourism or limit it, something else is going suffer because of it. So, moving forward with smart growth and making balance approaches, that's important. But this again could be temporarily in nature and we can evolve it with maybe these town hall meetings moving forward I think would be the best foot forward. So that's why I think it's a good start. That's it.

Mr. Tackett: Thank you Kellie. Would you like to speak to your second? I mean, PD, would you like to speak to your second? There's, there's no sound PD.

Ms. La Costa: Can you hear me? Can you hear me now?

Mr. Tackett: Yeah, we can hear you.

Ms. La Costa: Okay. I think that it has been said by those who testified and those who asked questions. I concur with Commissioner Pali. I think they reference to community and I'm -- this is my conjecture. I doesn't have anything to do with speaking Council Member Paltin. But community when you represent a specific area you are inclined to say community I think. And the west side is different from the central, and the east, and the north, and everything else. So,

I, I hear what you're saying about community and it does need further...further investigation, and town halls, I think, would be, would be very helpful. And also Council Member Tamara or perhaps Vice-Chair said, nothing is set in stone. But I think this a good place to start for all concerned. Thank you.

Mr. Tackett: Thank you PD. I believe Dale would also like to, to speak to this discussion. Go ahead Dale.

Mr. Thompson: Thank you very kindly Chair. And I am familiar with this project and what happened to it and why. And . . . (inaudible) . . . speaking he was trying to do the end around instead of getting the SMA to do it, and that's where it went all array. It's a big place. However I'm not firmly convinced that these knee jerk reactions are the right ones. And we didn't really hear from any of the community there. We didn't hear from, you know, Napili Beach or the Maui inns local owned and run. And none of those people were here speaking. We only heard from the --. Again, it's very easy to . . . (inaudible) . . . and I understand why especially with that one. But I would prefer actually a deferment then a town hall and hear the rest of the community that lives there. I'll go along with the crowd, but that's my take. Thanks guys.

Mr. Tackett: Thank you Dale. Commissioners, anybody else wish to speak on this motion before we bring it to a vote? Hearing none, Director, could we please have roll call vote?

Ms. McLean: Yes, Chair. Commissioner Edlao?

Mr. Edlao: Yes.

Ms. McLean: Commissioner Hipolito?

Mr. Hipolito: Yes.

Ms. McLean: Commissioner Lindsey?

Ms. Lindsey: Aye.

Ms. McLean: Commissioner Pali?

Ms. Pali: Aye.

Ms. McLean: Commissioner Thayer?

Ms. Thayer: Aye.

Ms. McLean: Commissioner Thompson?

Mr. Thompson: Aye.

Ms. McLean: Vice-Chair La Costa?

Ms. La Costa: Aye.

Ms. McLean: And Chair Tackett?

Mr. Tackett: Aye.

It was moved by Ms. Pali, seconded by Ms. La Costa, then

VOTED: To Adopt and Recommend Approval of Resolution No. 21-66 to the County Council as Recommended by the Department with the Additional Amendment.
(Assenting – K. Pali, P D. La Costa, J. Edlao, M. Hipolito, A. Lindsey, K. Thayer, D. Thompson, C. Tackett)
(Excused – K. Freitas)

Ms. McLean: Chair, that's eight ayes, no noes, and Commissioner Freitas is excused.

Mr. Tackett: Thank you Director. Could we start our next order of business please?

Respectfully Submitted by,

LEILANI A. RAMORAN-QUEMADO
Secretary to Boards and Commissions II
For CAROLYN TAKAYAMA-CORDEN
Secretary to Boards and Commissions II

RECORD OF ATTENDANCE

Present

Jerry Edlao
Ashley Lindsey
Mel Hipolito, Jr.
Kellie Pali
P Denise La Costa, Vice-Chair (excused @ 5:40 p.m.)
Christian Tackett, Chair
Kim Thayer
Dale Thompson

Excused

Kawika Freitas

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Others

Michele McLean, Director, Department of Planning

Michael Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel

Jordan Molina, Deputy Director, Department of Public Works

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TESTIMONY

Submitted by Anne Rillero and Arnie Koss

July 22, 2021

RE: Relating to the preservation of and improvements to Baby Beach (Paia) including public safety and litigation issues

OFFICE OF THE
COUNTY CLERK

Aloha Maui County Council Chair Alice Lee, Vice Chair Keani Rawlins-Fernandez and Maui County Council Members,

We are testifying in reference to Item #21-362 on the July 23, 2021 Maui County Council Agenda. We support the County's acquisition of the 30 acres surrounding Baby Beach, including the current parking lot, and urge the County to begin maintenance of this very unique and treasured beach area on Maui.

As Kula residents, Baby Beach in Paia is our closest beach and one of our favorites on Maui. Our son and later our grandson enjoyed countless hours playing in its protected, usually calm, sparkling waters.

While the County pools were closed due to COVID, we both swam laps at Baby Beach in the early morning hours. We'd arrive for our swim around 7 am. Before the parking lot was barricaded and closed, we'd often arrive to find several camper-style vehicles parked there. Clearly the vehicles had camped overnight. The parking lot often smelled of urine and we could see toilet paper in the surrounding bushes. It was unsanitary and troublesome to see the abuse of this beautiful area.

We were slightly inconvenienced when the parking lot was shut down and barricaded, but it made a lot of sense to us. This fragile area needed to be protected.

We still believe that this area needs protection. We urge the County Council to move forward on purchasing the surrounding 30 acres through the Open Space Fund, so it can forever be protected as a Maui County public beach park.

However, we also see that improvements need to be made to protect this fragile area:

1. A gate should be installed at the entrance to the current parking site and locked each night to keep out overnight campers, and then opened each morning for beachgoers. This gate can be locked and opened each day by the same Parks and Rec Department employee responsible for opening and locking the gate at Baldwin Beach.
2. Portalets – or preferably a permanent bathroom – should be installed and maintained. (The nearest bathroom is a half mile walk down Baldwin Beach. The bushes and dunes should not become a de facto bathroom area.)

3. Professional environmental consultants should be hired to evaluate the soil erosion that's occurring at the parking lot site and create a management plan to slow the erosion rate. If necessary to prevent erosion, parking should not be allowed at the current parking lot site.
4. Homeowners in the streets adjoining and near Baby Beach should not be allowed to place boulders or other landscaping features to prevent legal street side parking by beachgoers. Rocks, fences and landscaping that block legal parking should be removed. Baby Beach is a public beach and the public has a right to legally park on the roadsides near the beach.
5. If the beach parking lot is closed due to erosion, the County should consider adding other parking options for residents who wish to use this beach, such as purchasing the informal parking area at the corner of Paani Place and Nonohe Place, or investigating the feasibility of providing weekend parking at Kaunoa Senior Center with a free shuttle bus to/from Baby Beach.

Baby Beach is an important community resource and needs County protection to ensure that future children – and adults – are able to enjoy this unique and beautiful part of Maui. Please use the tools available to you as Councilmembers, including proceedings in eminent domain, to protect this valuable beach area.

Thank you.