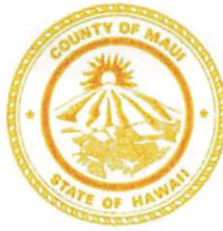


MICHAEL P. VICTORINO
Mayor
MICHELE CHOUTEAU MCLEAN, AICP
Director
JORDAN E. HART
Deputy Director



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

OFFICE OF THE
COUNTY CLERK

December 21, 2021

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

APPROVED FOR TRANSMITTAL

Michael P. Victorino 2/23/21
Mayor Date

For Transmittal to:

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

Dear Council Chair Lee and Councilmembers:

SUBJECT: A BILL FOR AN ORDINANCE ESTABLISHING
CHAPTER 19.98, MAUI COUNTY CODE, DECLARING
A MORATORIUM ON NEW TRANSIENT
ACCOMMODATIONS (BILL 148 (2021))

By letter dated October 29, 2021, the Department of Planning transmitted to the Maui County Council a proposed bill to establish Chapter 19.98, Maui County Code (MCC), declaring a moratorium on new transient vacation rentals. At that time, the meeting minutes from the Maui Planning Commission public hearing held on September 28, 2021, were not available and the summary minutes were sent to the County Council. Attached please find the complete meeting minutes.

Should further clarification be necessary, please feel free to contact me.

Sincerely,

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

MICHELE CHOUTEAU McLEAN, AICP
Planning Director

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COUNTY COMMUNICATION NO. 22-10

**MAUI PLANNING COMMISSION
PORTION OF REGULAR MINUTES
ITEM B.3
SEPTEMBER 28, 2021**

Ms. McLean: Yes, Chair. The next public hearing item is another resolution from the County Council. This is Resolution 21-98 referring to the Maui Planning Commission, a proposed bill to amend the Maui County Code by adding new chapters 19.98 and 20.41 and temporarily stop the approval of new transient accommodations and provide time to address related impacts of tourism. The moratorium would remain in effect and maintain the number of current transient accommodation units until the County Council enacts responsive legislation or two years from enactment, whichever is sooner. And once again, Administrative Officer Jacky Takakura will present this item.

Mr. Tackett: Thank you, Director.

B. PUBLIC HEARINGS

3. **MS. MICHELE CHOUTEAU MCLEAN, AICP, Planning Director, transmitting Resolution No. 21-98 referring to the Maui Planning Commission a proposed bill to amend Maui County Code by adding Chapters 19.98 and 20.41 to temporarily stop the approval of new transient accommodations to provide time to address related impacts of tourism. The moratorium will remain in effect and maintain the number of current transient accommodation units until the County Council enacts responsive legislation or two years from enactment, whichever is sooner. (J. Takakura)**

The entire text of the proposed bill for ordinance is available at <https://www.mauicounty.gov/DocumentCenter/View/127726/Resolution-21-98-referring-to-the-Maui-Planning-Commission-a-bill-for-ordinance-declaring-moratorium-on-new-transient-accommodations>

Ms. Jacky Takakura: Thank you, Chair. So, this one. I do have a PowerPoint, quick though, and so I'm going to share screen. Can I get a thumbs up if you can see that and hear me, okay?

Mr. Tackett: Yes.

Ms. Takakura: So, this public hearing is regarding a proposal from the County Council to create a moratorium on new transient accommodations on the Island of Maui. The moratorium is proposed for two years with a possible six-month extension. The moratorium proposes revisions to two parts of Maui County Code Titles 19 and 20. For us at the Planning Department, our area of responsibility is Title 19, Zoning, and so that's what we're going to be looking at today. Um, although if you did compare the two, they are the same, but our swim lane is 19, and so that's our lane that we're staying in is 19.

So, the proposed bill, defines new transient accommodations as any structure intended to be used for transient accommodation including hotels, timeshare, short-term rental homes, transient vacation rental units that is not in operation as a transient accommodation as of the effective date of the ordinance but excluding bed and breakfasts. The bill proposes that no permit applications

or permit be accepted or granted by any board, commission or agency for new transient accommodations.

So why? Why a moratorium proposal? The proposed bill states, the Council believes a moratorium on new transient accommodations will maintain the status quo and allow the county time to adequately study and enact legislation relating to better management and regulation of transient accommodations, tourism industries impact the county's environment. residents' quality of life, provide the county with clear policy direction for day-to-day decision making.

So, let's look at status quo. What's the status quo? And this is a chart that I received from the Real Property Assessment Division, Department of Finance, and in total there's about 24,000 visitor lodging units, according to Real property.

Another word that was used in the reasoning for this was resilience, to work towards resilience. And there's a lot of debate what resilience is and these are two definitions I've found in my research. And one of them is pretty simple, the ability of a system to cope with shocks, keep functioning and...(inaudible)...same kind of way. The other one is a little more scientific, and that's from the Intergovernmental Panel on Climate Change, and it's the capacity of social, economic and environmental systems to cope with a hazardous event or trend or disturbance, responding or reorganizing in ways that maintain their essential function, identity and structure while also maintaining the capacity for adaptation, learning and transformation.

So, when we need to make a decision about things, one of the best places to look at is the long-term guiding documents and see what they have to say on the subject. The first one is from 2010, the Countywide Policy Plan, you probably hear that one a lot referred to and it does have some guidance on vacation rentals, transient vacation rentals...(inaudible)...support the renovation and enhancement of existing visitor facilities, limit the number of visitor accommodation units and facilities in the community plan areas, maintain a sustainable balance between resident, part-time resident and visitor populations, and discourage new entitlements for residential, resort or commercial development along the shoreline.

The other long-term planning document is the Maui Island Plan, and that's from 2012, and establishes growth areas that indicate where development is intended and will be. The plans, goals, policies, programs and actions are based on an assessment of current and future needs and available...(inaudible)...And Chapter 4 specifically addresses some of these. That's the chapter on economic development and it includes the following, comprehensively manage future visitor unit expansion, allow were permitted by the community plan, the development of business hotels and small sensitively-designed inns, manage impacts from transient vacation rentals, hotels, bed and breakfasts, I'm sure, I'm sure some resort condominiums, residential communities, public infrastructure and community facilities, discourage supplanting of existing island housing to visitor accommodations that may have a negative impact on long-term rental housing, price of housing, and price of land. Community plans should consider establishing standards such as limits on building size, room count, and the number of inns, if any, that will be allowed in small towns. And also manage transient accommodation rentals through permitting in accordance with adopted regulations and community plan policies, developed programs and/or regulations to allow for the development of small, locally owned inns and B&Bs in the commercial

cores of Maui's country towns and business districts if permitted, cap the number and type of visitor accommodations that can be permitted, and manage the number and type of visitor accommodations that can be permitted. And we all know this last one, promote a desirable island population by striving not to exceed an island-wide visitor population of roughly 33 percent of the resident population.

That said, it's hard to say the moratorium is inconsistent with the long-term plans of the county. However, the Department does have some proposed revisions if the Planning Commission pursues this. One of them is adding a way to determine use, verification of use. And you can see this additional sentence that's underlined, verification of use may be determined by real property tax class, payment of general excise and transient accommodations tax and advertising. And these are ways that we currently verify use.

Another revision that we would propose is regarding exceptions for existing and nonconforming uses. We want to avoid confusion for those that are operating as a nonconforming use. So, we'd like to add some clarification. And let me just back up a little bit, a nonconforming use means it was a use that was allowed at one time and then the laws or the rules changed but they've continued that use, and so they're allowed to continue until they, you know, either stop or no longer meet the criteria of nonconforming. And so, what we propose to add is what you see, Number 1 and 2 underline here, that transient accommodations operating zoning districts where this is a permitted use, may do renovations or repairs, do not increase lodging capacity or expand the structure beyond the boundaries of the existing structural footprint, and transient accommodations operating as a nonconforming use under 19.04.040, that's where our general provisions and definitions are, and 19.500.110 and that's where the nonconforming information's at. They must continue to comply with those two sections of Maui County Code.

Proposed revision Number 3 is about exceptions for providing affordable housing. Right now, the proposal allows an exception if housing is provided to very low income or low income. We propose to add below moderate- and moderate-income residents also because the middle-income groups still can't afford market rates for housing and they're thus left out of the housing market altogether. And by including more income brackets, it could help increase the number of people who can qualify from...(inaudible)... We'd like to add what you see underlined here.

And then Number 4 is taking into effect sea level rise, and we'd like to propose that an exception be allowed for properties that are willing to move out of harm's way, out of sea level...the sea level rise exposure area of 3.2 feet or the Coastal Flood Hazard Zone with sea level rise. And so, it's kind of long, excuse me, there's a whole underlined section, replacement of buildings in areas subject to sea level rise, by buildings outside of these areas, and I'm going to show you some images from the State of Hawaii, Sea Level Rise Viewer hosted by the Pacific Islands Ocean Observing System, and you can see where the existing buildings are, that are either in the 3.2 feet sea level rise exposure area, sometimes you hear this term SLR-XA or the Coastal Flood Hazard Zone with Sea Level Rise. That new buildings be constructed outside of both the Sea Level Rise Exposure Area and the one percent Coastal Flood Hazard Zone. The existing buildings be removed and construction of the new buildings begin within ten years after Public Works, DSA issues the permits for the demolition and removal of the existing buildings. The new buildings not be occupied until the demolition begins on the existing buildings and the number of

new units or rooms is either less than or equal to that of the existing units or rooms that will be demolished and removed.

So, the next images are just ones that I looked at. On the left you can see North Kihei and the red line is the coastal erosion line and the blue is the flood hazard zone. And I can go to the website and we can look at particular areas if you want to, but you can see for North Kihei as you go up towards Maalaea, you can see the bigger blue but some of that is going to be, you know, inundated or part of that hazard zone. But then also, as you go further south it's not quite as bad, but you still do see properties in the...(inaudible)...West Maui, you can see a little bit of the blue from Kaanapali to Kapalua and the erosion, the red lines, and Lahaina, you see it a little bit more, the blue, and then Maalaea, you see the erosion line is actually behind most...(inaudible)...sea level rise, it looks pretty grim. Anyways, so the proposal is to allow some of these properties to move out of these...out of harm's way into a safe...(inaudible)...

And then the last proposed revision is that if the intent is to prohibit building permits for new transient accommodations, there should be revisions to Chapter 19, I mean, s 16.26B which is the Building Code because that would temporarily stop the construction of new transient accommodation on properties that are currently zoned for such use.

Oh, as you're aware you have options. You can recommend approval of the proposed bill, recommend approval of the proposed bill with amendments, you can recommend denial, vote to defer action and gather more information. So, that's the information I have to share. Like I said, I can...I'm going to stop sharing this, but if you want to look at a particular area for some of the sea level rise, I do have that open and I can...(inaudible)...That's all I have prepared for you for this one.

Mr. Tackett: Thank you, Jacky. Commissioners, does anybody have any clarifying questions? Okay, Director, could, could we open the floor for public testimony, please?

Ms. McLean: Chair, I believe Vice-Chair La Costa had a question.

Mr. Tackett: Oh, sorry, I didn't see you. Go ahead P Dee.

Ms. La Costa: Actually, my comment was I have so many questions, but some of them may be answered with public testimony so I will wait until we're finished with that. Thank you, Chair.

Mr. Tackett: Okay, thank you, P Dee. And then we will go to discussion after for you guys. So, go ahead Director, if you could please open the public testimony for me please.

Ms. McLean: Yes, thank you, Chair. And as Mr. Hopper indicated, testifiers don't need to be sworn in, but of course, the Commission would always appreciate truthful testimony. So far there are 13 individuals who have signed up to testify starting with Bruce Uu who will be followed by Christopher Delaunay. Mr. Uu you're on.

Mr. Bruce Uu: Hang on one second. Hello, can you guys hear me?

Mr. Tackett: Yes, we can.

Mr. Uu: Good morning. My moderator just muted my video.

Mr. Tackett: We can, we can hear you and see you.

Mr. Uu: You can hear me, okay, awesome. Good morning, everyone. First of all, my name is Bruce Uu. I am a life-long Maui resident and I'm a field representative with the Hawaii Carpenter's Union. Thank you, guys for serving the community, and Happy Birthday to Mr. Thompson. I sit here in disagreement with what is being proposed. I think you take this resolution/ordinance on a good, on a good year for our County and it will be hard to take in. You take this in during a pandemic, you're hamstringing ourselves and I think that is part of the problem what I see. They always go back to the residents/visitor ratio which I get, and we always working on the visitor side, right, and...but we should be really focusing how we maintain and keep our residents on Maui to bring up the ratio.

Having said that, I agree with tourism management though, I really agree with the management part of tourism. I think we need to go after some of the illegals that is happening. At one time I've heard that one in eight transient vacation rentals are legal, and the effects of tourism coming to Maui is I think because again, in my neighborhood in Paia, I probably got three legal TVRs and the rest illegal 'cause they right next to us now. I think keeping them in the zoned areas is part of the management plan, not the total management plan, but I always going back to the people like myself in the construction industry. We are losing state and county fundings, we should be encouraging private investors to take us out of this hole. This is self-inflicted. We've been looking for bailouts from the Feds for the states, and we come to the private guys to help offset this burden which we saying might recovery 2025, but we don't know that 'cause we on the second wave. We've not got no cure for us.

My own personal note, my wife been off a whole year because of this. And if you take someone who worked in the visitor accommodation which this is, and the construction part, good luck. We are losing more Hawaii residents the last four years our total residents drop, people are moving. We should be focusing on the big picture into retaining and bringing back and giving more opportunities for local folks and again, not hamstringing ourselves during a time of need. So, that's my two cents. I would love it if you guys would deny it. I would love it if you guys could wait for they TIG report to get some type of suggestions what they're looking at, but to go out and say no building—

Mr. Takayama-Corden: Three minutes.

Mr. Uu: --will be a blow to us. Thank you, guys for your time. I'm here to answer any questions.

Mr. Tackett: Thank you, Mr. Uu. Commissioners, anybody have any questions for Mr. Uu. Thank you for your testimony.

Mr. Uu: Thank you.

Mr. Tackett: Director, can we have the –

Ms. McLean: Chair, the next testifier is Christopher Delaunay who will be followed by Charles Andrion.

Mr. Christopher Delaunay: Aloha Commissioners. Chris Delaunay with Pacific Resource Partnership. I am a registered lobbyist. So, so in December of 2019, 13,200 in Maui County, where employed by the accommodations industry, many of those jobs have not returned and a large share of those that offer employment have shorter hours. Limiting visitor accommodations inventory via a moratorium of construction and renovation will also limit the growth of other industries. The list of victims include construction, retail, restaurants and many of our small businesses. These industries provide an important employment opportunities for local residents who depend on these jobs, which make it possible for residents to stay in Maui. Between 2010 and 2019, there was a significant decline in Hawaii born residents and an increase in U.S. citizen-born and foreign-born residents on Maui. A moratorium will likely accelerate this trend. A moratorium meant to weaken the visitor industry will force residents to leave Maui.

While Maui has seen a huge increase in the number of visitors, it has approximately the same number of hotel rooms as it did 25 years ago. A moratorium on visitor accommodations will not stop or limit visitors from flying to Maui. Instead, a moratorium would likely force visitors to stay in residential neighborhoods that were never designed nor intended to support visitors and remove much needed housing units for local residents. Moreover, building new hotel rooms requires developers to also build a corresponding number of new workforce housing units for Maui residents.

Legal and illegal vacation rentals are likely to exacerbate the affordable housing shortage if the moratorium is passed. Furthermore, the proposed bill lacks data showing that a moratorium on visitor accommodations will limit the number of tourists visiting Maui. Nor does it provide data showing the impacts that tourism is having on the county's environment and resident's quality of life. Instead, the bill mentions of this investigative group. But shouldn't you...Shouldn't we have the findings and recommendations precede the passing of any, any legislation, especially a moratorium? We need to have the data first before we even taken into consider any legislation to best manage, manage and our practices for the visitor industry and have potential solutions. So, we respectfully request the commission to defer decision making on this proposed bill until it has more data information regarding the impacts that tourism is having on our local communities, the source of the problem, and potential solutions or management practices. Thank you for this opportunity to testify.

Mr. Tackett: Thank you. Commissioners. Does anyone have any questions for our customer? P Dee, go ahead, please.

Ms. La Costa: Thank you, Chair. Thank you, Mr. Delaunay, for testifying. You mentioned that the number of hotel rooms is substantially the same when we have had new hotels. From where, what year did you get those statistics, please?

Mr. Delaunay: I would have to check with...I could get you that the exact data. I have to check with our researchers. But the let's, see the actual...that was about 25 years ago when this and in comparison, to today. So, our understanding, my understanding and based on our research there was...it hasn't changed dramatically at all. Yeah, but I can get you that more information on that. I just have to go back to our research guys.

Ms. La Costa: If it's 25-year-old data then, I don't know how pertinent it is, but thank you for your testimony.

Mr. Delaunay: Oh yeah, oh, sorry, to clarify, it's 25 years ago, the rooms have been the same. So basically, so number of visitors have increased, but the same number of hotel rooms are almost the same as 25 years ago. So, the room count hasn't changed dramatically at all that's, that's the point. Thank you.

Ms. La Costa: Yeah, I, I would disagree with that because of the new construction over the last 25 years, but I do get your point and thank you very much.

Mr. Tackett: Thank you, P Dee. Commissioner Pali, go ahead please.

Ms. Pali: I'm gonna just help on this so we can get better communication from the witness, the testifier, can you confirm that your data collecting people they pulled information twice? They pulled information from 25 years ago, and the compared it to information you pulled today. I think that's what's being lost in translation. Is that a yes or a no, please.

Mr. Delaunay: I'll have to get back to you on that once I meet with them.

Ms. Pali: Okay, thank you.

Mr. Tackett: Thank you. Any other questions for the testifier? I got a question for the testifier. So, if we're, if we're building more hotels, and we're ending up with less people, what is the reason for that, and we're ending up with less accommodations. How, how did the math on that work?

Mr. Delaunay: Yeah, so I mean, we've seen a trend already occurring, right. More people are leaving since 2010 to 2019, and to limit the amount of employment opportunities on Maui by putting a moratorium in that's not based on fact or data or you know, research that's what the investigative group was for. But that hasn't completed its findings yet, if we do that and there's going to be less opportunities on Maui, and not only in accommodations but the...with construction, retail, restaurants just across the board, there's multiple impacts that this will have directly and indirectly. So, what are people going to do? They're going to leave because there's no job opportunities. You know, there's no housing opportunities too because if a hotel is built, it's my understanding that they have to have...also build affordable housing. So, this is a way to create more affordable housing is to have hotels, you know, do construction within the resort area or the hotel district where it's controlled and maintained. And so, basically, you are also losing housing units because, you know, people are still going to come to Maui, visitors and then they're going to go into neighborhoods in legal and illegal units. So, they're going to be in the neighborhoods, you're going to have more people, visitors in the neighborhoods, and you're going

to create a huge problem, you know, with regards to the quality of life for Maui residents, too. So, and people in Maui are more likely to rent to a visitor than a local resident because they can make more money per day. So, there's huge problems related to this. And we don't have the data, the information to make an informed decision. And we need to make...get all that together and understand what the problem is exactly, we don't even know. That's why I thought they were trying to create this investigative committee. So anyway, I think more time is needed and we recommended a deferral on this.

Mr. Tackett: Thank you for your testimony. Commissioners, anybody else got any questions? Thank you. Director, can we have the next testifier, please?

Ms. McLean: Yes, Chair. Next is Charles Andrion, who will be followed by Ivan Lay.

Mr. Tackett: Go ahead, Charles. You have three minutes.

Mr. Charles Andrion: Thank you. Can you folks hear me okay?

Mr. Tackett: Yes, we can.

Mr. Andrion: You folks aren't able to see me, but I'll go ahead and get started. Aloha Chair Tackett, Vice-Chair La Costa and Commissioners. My name is Charles Andrion and I'm testifying today on behalf of ILWU, Local 142 has thousands of members who depend on a vibrant hospitality industry to oppose the proposed transient accommodation moratorium. I originally started in the plantation industry, which ended back in 2016. I spent close to a decade employed for HC&S. Although the closing of the mill was hard for myself and my family, the ILWU assisted in helping members find work. Early after I lost my job at HC&S, an opportunity presented itself which allowed me to work in the hospitality industry. Since then, I've been able to provide for my family. Maui's working families have benefited from the hospitality industry for decades. If hotels offer union jobs and good pay and benefits that have helped generations of families. Today about 75 percent of private sector jobs are tied into the visitor industry and will continue into the foreseeable future. Visitors and local families have all benefited from using new roads, water pipes, sewer lines and other critical infrastructures funded by new hotels. As legal and illegal vacation rental units have spread throughout the county, Maui has felt the impact of neighborhood crowding, disruption of residential way of life and degradation of our natural resources. Now residents who are expressing concerns about the impact of visitor industry are asking for action. However, the Council's proposed solution to pause new visitor accommodation for two or more years is not based on actual data showing it will slow the number of visitors to Maui. The moratorium will delay implementing real solutions to rebalance tourism to resort areas for visitor impact can best be greatly managed. It will also result in more visitors staying in residential neighborhoods, resulting in less affordable housing for our local families. On behalf of ILWU, Local 142, I'm respectfully asking commissioners to defer the decision making and request additional data and scrutinize the rationale for the moratorium. In the end, this moratorium...in the end, the moratorium will negatively impact the real work, smart management we must do to create model responsible tourism future. Thank you.

Ms. McLean: Chair, you're muted.

Mr. Tackett: Commissioners, does anybody have any questions for the testifier? And I did that to myself, sorry, guys. Hearing none, could we have our next testifier, please?

Ms. McLean: Yes, Chair. Next up is Ivan Lay who will be followed Jerry Gibson.

Mr. Tackett: Go ahead, Ivan.

Mr. Ivan Lay: Can everybody hear me? Aloha, and good morning Commissioners and Chair Tackett. My name is Ivan Lay and I appreciate you giving me a voice on agenda item B.3. I am not a registered lobbyist. Maui deeply appreciates the time and effort that you've taken out of your personal lives to, I'll call it, being the watchdog of Maui County's development. I have a past of being on the planning commission as Vice-Chair and Chair and understand the dedication that you all have ensuring the love for the aina and the people of Maui County. Covid 19 deeply impacted Maui County, Maui County's economy and many kamaainas are still struggling to recover and rebuild after losing their jobs, businesses and even their homes. Many employers have had to make the difficult decisions about keeping employees on their payroll, letting some go and trying to figure out the future of their business. Many businesses have closed and will never reopen their doors. A moratorium will result in the loss of loss of jobs and paychecks for many more of these families and the possibilities of future businesses. The Council's moratorium experiment will come at a real cost to the families who depend on a paycheck in the retail, hospitality, skilled trades and the construction industry. It will become an uncertainty for businesses that are hoping to open in the near future. I have faith in the work of the Maui Planning Commission, and I know that every project and development that comes before you is highly scrutinized to ensure that the right thing is done and all concerns are felt being an approval or disapproval. The pandemic itself has already caused the moratorium. When the battle is over, Maui County is going to have to have the ability to jump start our economy so struggling families, local families and businesses can once again support and regain the pride that was lost during this pandemic. Who needs a moratorium when we have Maui County's Planning Commission is working to ensure that the best intentions move forward from Maui County. So, your comment to the Maui County Council should be, no worry, we get 'um. And gain, Maui County thanks you for the work that you're doing. Thank you.

Mr. Tackett: Thank you. Commissioner, does anyone have any questions for our testifier? Thank you.

Mr. Lay: Thanks.

Mr. Tackett: Director, can we have our next justifier, please?

Ms. McLean: Chair, the next testifier is Jerry Gibson, who will be followed by John Simpliciano.

Mr. Tackett: Go ahead, Jerry, you have three minutes. You there, Jerry?

Ms. McLean: Jerry Gibson?

Mr. Tackett: Jerry...

Ms. McLean: It looks like he's muted on his end.

Mr. Tackett: So, nobody can hear you right now, Jerry. Can you turn off your mute, Jerry? Director, maybe we could move onto the next one, and then we can let Jerry come back when he's got his, his audio/visual in working order.

Ms. McLean: Okay, then we'll go to John Simpliciano, who will be followed by Mike Moran.

Mr. Tackett: Thank you, Director. John, you have three minutes.

Mr. John Simpliciano: Thank you. Aloha, good morning, Chair Tackett, Vice-President La Costa and Commissioners. My name is John Simpliciano and I oppose the proposed bill to stop new visitors' accommodation for two or more years. I've been employed in food and beverage at Kaanapali Beach Hotel and a member of ILWU, Local 142 for 17 years. Kaanapali Beach Hotel in recent years have gone through a major facelift which include room renovations and building a new restaurant which seats at a capacity of 250, twice the size of the old restaurant on property. We went from a team of 34 now to 81. Having the hotel complete the expansion became financially beneficial for us even with more employees, our guests doubled so did our income. That income provided a very comfortable living for my family. Then the Covid 19 pandemic hit which caused record unemployment throughout Hawaii and because of the outsize importance of tourism, it affected Maui County the most. Almost one in every three residents were unemployed that included me and my co-workers at the hotel, which became unemployed overnight. And overnight, we became reliant on unemployment benefits, which was the only source of income. While there are helpful signs of recovery, we're still not out in the woods. We are fortunate many workers have returned to work at the hotels. However, there are still thousands of workers without jobs. Many more are cautiously looking ahead to see if the impacts of Delta variant will continue to depress visitor arrivals and delaying Maui County's full economic recovery. The proposed moratorium will unnecessarily slow our economic recovery, and it will limit job prospects for ILWU members and all of our residents who would benefit from private investments and the resort properties. These improvement projects and smart plans for growth in existing resort areas are critical to stay competitive and grow their economic impact on the island. It will also allow our hotels to host more arriving visitors, diverting them from staying in countless legal and illegal vacation rentals, disrupting residential life across the islands. This bill targets the visitor industry as a whole, which is responsible for employing thousands like me with good paying jobs or local residents born and raised in Maui instead of elements like vacation rentals, that need fixing. Unfortunately, this comes at a time when many locals are making the heartbreaking decisions to leave the island to give their families a better shot getting by, eventually getting ahead. I respectfully ask commissioners to vote to defer the proposed moratorium or at minimum, to defer decisions on this matter until we have been presented with additional supporting evidence showing the moratorium will have the intended impact and at what cost? Thank you so much.

Mr. Tackett: Thank you for your testimony. Commissioners, does anybody have any questions for our testifier? Thank you. Director, may we have our next testifier, please?

Ms. McLean: Yes, Chair. Next up is Mike Moran, who will be followed by Pam Tumpap.

Mr. Mike Moran: Good morning, Chair Tackett and Commissioners. Mike Moran for the Kihei Community Association. Apologize for the rough voice this morning. I will try and be brief, maybe you'll have a half-day meeting today. First, we always like to remind the community that all of you are volunteers, that these are not paid employees these are volunteers who devote a lot of time, and we realize that you as commissioners are very knowledgeable of the situation. You have a ton of homework to do. We feel this particular item the community is generally quite aware of it. We base that on what input we get from our, our community, from not only our members, but from people who live, you know, in South Maui district and there seems to be quite a bit of knowledge of this on the media and so forth. So, we are speaking in favor of the pause, the two-year pause for a few reasons. We believe it would be prudent for you as commissioners to make adjustments to it. That seems to be the purpose of it coming to you that you can say yes or no, and if you're saying yes, you can make some adjustments. And we think that that's a certainly a reasonable thing to do. We know that you are much aware of all the plans, the community for us, the 1998 South Maui that then Kihei-Makena community plan we're now starting...going through the process of renewing our, our community plan now called South Maui Community Plan, and the Planning Department has been doing extensive outreach to the community. That's one of the reasons we feel this is timely for our district. We would like to hope that our community plan would be maybe finished, I don't know, two years, that seems like a stretch, but at least it would be a lot more community input on what we expect to see in our community. And we look back at what's in our current plan, which says infrastructure is supposed to be concurrent with development, and we can see over the 20 some years that has certainly not happened in South Maui. We are in dire need of the infrastructure. We've got the development has moved along, and so we're hoping this pause might help with that. And one closing issue, which, again, I expect you folks are much aware, but when we hear others saying that there's so much illegal short-term, that's what all this growth is. We, we have heard what your Director said, and we expect you did too that, that doesn't seem to be the case. That it does not seem to be a overwhelming amount of illegal short-term rentals. And, you know, obviously, don't, don't ask me ask me directly what, what the Planning Department has come up with when they've done that research. We all have one. I personally have one, that I know doggone—

Ms. Takayama-Corden: Three minutes.

Mr. Moran: Okay, thank you for the opportunity to testify. Aloha.

Mr. Tackett: Thank you, Mike. Commissioners, does anybody have questions? Go ahead P Dee.

Ms. La Costa: Thank you. Thank you very much for your testimony. You started to say I personally have, and then you were cut off, would you finish your sentence and sentiment please? Thank you.

Mr. Moran: Thank you for the opportunity and I think we all, many of us can have it...I have one in my neighborhood that sure has all the earmarks of an illegal, but nobody can catch them at it. They school people that come in and say, tell them you're my cousin, so you know, it's hard to

pin them down, but I think that when the professionals do it, and the Planning Department has hired a firm to look into it, that they come up with pretty, a pretty good estimate. Thank you for the opportunity to allow me to finish.

Ms. La Costa: Thank you very much for that.

Mr. Tackett: Thank you, Mike. Commissioner Lindsey, she has a question for you.

Ms. Lindsey: Hi. So, I was wondering how large is your membership for your Kihei Community...Am I frozen?

Mr. Tackett: Just for a second.

Mr. Moran: Yeah, I think you did freeze up for a second but I think I got the gist of your question. How we always try...that's always a valid question and to be a dues paying member we request a \$25.00 per year membership fee. The general answer that we get from much in our community is I have all the benefits of what the KCA can offer. I can go to all the meetings, I can get the website, I can get the newsletter—

Mr. Tackett: Mike, Mike that's not what she asked. She asked for a number.

Mr. Moran: A number, I couldn't give an exact number, commissioner. I would say about 200 paying members.

Ms. Lindsey: And of those members, how many are using their places as vacation rentals, legally?

Mr. Moran: Well, I would have no way to give an honest answer to that. My expectation, is I would expect very, very few. I would guess probably none, because the ones we communicate with are not those type of people. Our members are anything from, from large builders to, you know, to individual residents. So, we have a wide spectrum of paying members. My guess would be very, very few if any, or illegal short-term.

Ms. Lindsey: Legal or illegal, both.

Mr. Moran: Legal, again, I don't have a current way to answer that.

Ms. Lindsey: Okay, that's fine.

Mr. Moran: I don't think is very many. I would say there's probably very few, but that's only a guess.

Ms. Lindsey: Thank you.

Mr. Moran: You're welcome.

Mr. Tackett: Commissioner Edlao, go ahead please.

Mr. Edlao: Thank you, Chair. Mr. Moran, do you think that this moratorium would probably add to illegal short-term rentals or increase the illegal short-term rentals, bed and breakfasts or whatever?

Mr. Moran: I think where the bed and breakfast numbers are increasing, that seems to be and our general understanding of it, the bed and breakfast are quite different from the short-term rentals where the bed and breakfast are require the owner to be there. So, I would expect that there might be a continuing increase in bed and breakfast. Short-term rentals, you know, we have that situation here in South Maui where we have thousands and thousands of legal short-term rentals from the Minatoya decision. So, we have literally thousands and thousands of legal short-term rentals here now. That's a fact. So, the ones that we're talking about the new permitted ones we have a cap of 100 and that cap has just been...I don't know if it's been reduced or will be reduced to the current number. Am I going –

Mr. Tackett: Mike, Mike, I believe the question was, the question was do you believe that the moratorium will increase illegal short-term rentals, I believe that was the question?

Mr. Edlao: That was the question.

Mr. Moran: I don't expect it will in our district at least and that's all we look at. Our bylaws require us to look in our district.

Mr. Edlao: Okay, that's all. You answered my question. Thank you, Mr. Moran.

Mr. Moran: Thank you.

Mr. Tackett: Thank you. Commissioners, does anybody else have any questions for Mike? Thank you. Director.

Ms. McLean: Chair the next testifier is Pam Tumpap, who will be followed by Cara Flores.

Mr. Tackett: Go ahead, Pamela.

Ms. Pamela Tumpap: Thank you so much. Aloha and good morning, again. Chair Tackett, Vice-Chair La Costa, Members of the Planning Commission and Happy Birthday Commissioner Thompson. I hope it's a good one. We wanted to talk about the moratorium bill. And unlike Bill 60, which was not referred to the Planning Commission, we are glad that the Item B.3 was referred to you to look at enacting a moratorium on new visitor accommodations on Maui and the creation of a TIG. It gives us the opportunity to share our strong concerns about the potential negative consequences this bill would have on residents, businesses and the entire community. We feel this for the following reasons. First, the Chamber opposes moratoriums in general. We find that they're inflexible and bad...a bad management tool. And I do want to say at this point, we also have shared our written testimony. So, in the interest of time, I'm going to kind of summarize our key points. But hopefully you can read more details on our written testimony. But, you know,

especially in this time when we need great flexibility with covid-19, we're still in a global pandemic. We're concerned about anything as rigid as a moratorium. A lot has and continues to be done in managing the visitor industry. And we all agree that this needs to occur. It's also important to remember and covid heightened this, that we are the County most reliant on the visitor industry's success for our economic success. So, we saw at a heightened level how that trickle-down effect impacts many businesses beyond those directly related. Some have already talked about activities, event planners, all the services event planners, planners hire out farmers, restaurants, retail. But we also sat down to local florists, hairdressers, and more. So, we need to have flexibility will, as we work to better manage this industry, to also ensure that they can be competitive, and can, and continue to remain and continue to employ people here on our island because a lot of our people employed through them. When this industry suffers, many jobs are lost in the industry alone. But then there is a broad wave of affected industries and the negative impact ripples down throughout our community. We also want to see sustainable outcomes through sustainable solutions. One of the challenges that we have is when you look at putting a moratorium on this industry, you also delay progress on other critical projects such as affordable housing and rentals, infrastructure, traffic mitigation, and ways to improve resident's quality of life. If the industry is suffering or we hamper the tax that can be collected from that industry, it impacts a lot of different projects that we're working on. We forget when we look at one element of this, the significant tax base generated by the visitor industry. So, we need to look at sustainable measures sustainably. And we felt that before a moratorium is considered, that should be a last resort, not a first resort, that a community advisory group with broad participation of all affected industries—

Ms. Takayama-Corden: Three minutes.

Ms. Tumpap: --should be established, and work with the Council. So, lastly, just to sum up, you know, we feel there also is a strong rational for this.

Mr. Tackett: Pamela, your three minutes is up.

Ms. Tumpap: Oh, thank you so much. I'll end there, and you have our written testimony.

Mr. Tackett: Okay, thank you, Pamela. But we do have questions for you.

Ms. Tumpap: Awesome.

Mr. Tackett: Awesome. Okay, go ahead Kellie.

Ms. Pali: Yeah, you sound super smart and I would love to hear your in summary please.

Ms. Tumpap: Thank you, if I'm allowed, I will. Just for all those reasons, you know, we would ask that you vote against this proposal or at the very least defer any decisions until you've been presented with compelling evidence that illustrates a strong rational for why a moratorium would work. Because we hear that they feel it will deter visitors from coming and there have been other examples that have been presented by the Hotel Lodging Association that we've heard about a moratorium in Asheville that absolutely didn't work. We continue see numbers rise, and, and, I

know, you know, today there's been some question about number of hotel rooms, whether, you know, the amounts of whether they're about level or from when the industry was first started or have been increased. But we know accommodations have increased and we certainly don't want to be driving more illegal TVRs. We want to protect our legal TVRs, but we want to ensure that we don't drive an industry there. And we just haven't seen the evidence to say that the outcome that they think is going to happen will actually happen in reality, and without having that, we don't think this moratorium should be moved forward. Mahalo for asking the question.

Mr. Tackett: Does that answer your question, Kellie? Okay, Commissioners any other questions for Pamela? Commissioner Thayer, go ahead please.

Ms. Thayer: Thank you, Chair. You mentioned there was a case from Asheville where the moratorium didn't work. Can you explain how or why that didn't work and what were the outcomes of that?

Ms. Tumpap: I believe I might be able to pull something up very quickly for you. It was presented previously in testimony before the Council by Rod Antone who used to be with the Maui Hotel and Lodging Association. And so, it was a hotel in Asheville and they had put a temporary moratorium and they found their numbers actually increased versus decreased. And let me see if I can pull something up really quickly. If you don't mind, I can maybe take another question and circle back if that's okay.

Ms. Thayer: Can you say what increased instead of—

Ms. Tumpap: Their visitor counts. So, while the moratorium was in place, it didn't prevent visitors from coming.

Ms. Thayer: And do you know where they stayed instead or where they—

Ms. Tumpap: I don't know where they stayed but I know they ended up ending the moratorium because it was, it was such an issue and it won't take me too long to kind...I might even have...I don't know if I have counts, but I have more details on that region.

Ms. Thayer: Did that moratorium have a time limit?

Ms. Tumpap: I believe it did and I believe they ended it early. The best, the best source for that would be the Maui Hotel and Lodging Association, but I'm...there was a report that was made at our board meeting recently and that's what I'm trying to pull up for you, and I think I'm gonna be very close in just a second. I'm pulling up some notes that came out of our minutes. Give me just a second. I apologize.

Mr. Tackett: No problem. I believe Commissioner Freitas has a question. Commissioner Freitas.

Ms. Tumpap: Okay, great. Thank you.

Mr. Freitas: Ms. Tumpap, can I ask the question while you're finding that file?

Ms. Tumpap: Yes, absolutely.

Mr. Freitas: Ms. Tumpap, it sounds like your testifying today not supporting the moratorium. However, I do believe you were a committee member on the ...(inaudible)...map destination management action plan which actually—

Ms. Tumpap: Yes, I was.

Mr. Freitas: --supports the moratorium for controlling tourism. So, it kinda contradicts something that was kinda overwhelming in that committee. Can you tell me why you are now feeling the way that you do which is in contrary?

Ms. Tumpap: I would say that, I guess Kawika the issue would be the level of concern and the way we need to look at doing things. I agree, and again, when you're part of a group as we work on solutions we look at the whole and you know, we have a process for refining and grouping and looking at how we manage tourism. I think there were also many other areas that didn't specifically address a moratorium. And I do absolutely, and the Chamber absolutely stands for better management of the visitor industry. So, I appreciate you asking this question, but we are concerned about the hard line that comes with the moratorium that's very inflexible. And it's not just this specific instance, the Chamber opposes moratoriums in general because we feel there's better ways to create solutions. And in this case, we don't feel that the work or justification has been done to validate the need for a moratorium at this point. We haven't seen the work being done and we prefer to see the community come together on solutions and work on it first. I hope that answers your question. I'm happy to take a follow on before that, and I did find some notes on that other in the Asheville situation.

Mr. Freitas: No, that's good, you answered me. Thanks, Ms. Tumpap.

Ms. Tumpap: Thank you so much. My apologies, I did find some notes and this was reported at a Chamber board meeting from Rod Antone with the Maui Hotel and Lodging Association at that point. And this was last week Wednesday, and he reported that there was a moratorium period for a County of Bruncome, no, not Brun, Buncome, B-U-N-C-O-M-E in which Asheville is located, and they saw visitors numbers go up significantly even before the pandemic started in March 2020. Lodging sales were up 10 percent on the pace for a record year, while hotel room nights sold were up two percent during the entire moratorium period. He said the pace of short-term rental nights booked also went up significantly by 33 percent. So, that was, that was reported by the Maui Hotel and Lodging Association Director. And unfortunately, I don't have more details beyond that.

Mr. Tackett: Thank you, Pam. Kim, did that answer your question?

Ms. Thayer: Yes, thank you.

Ms. Tumpap: Sorry, I know, I wish we had brought information. We too asked for it and I know that they were going to work on it.

Mr. Tackett: Thank you. Commissioner Freitas and followed by Commissioner Pali.

Mr. Freitas: Thank you, Chair. I want to thank Commissioner Thayer for asking that question and clarifying. I really appreciate providing a comparison with something similar to drive your point. However, this area that you folks...that you are comparing to is quite different than our industry and being resort. That kind of looks like a college town sort of in the hicks, sticks or whatever you want to call it. I don't consider that to be a fair comparison because of our heavy resort tourism difference from that one. We just want to share that. Thanks.

Ms. Tumpap: Thank you, and I think the reason, and again, I can't speak for the Hotel and Lodging Association and how that comparison first was derived at other than to say it was the only comparison of a moratorium example, and so I believe it was on that basis, but I would let them speak to that themselves.

Mr. Tackett: Thank you. Commissioner Pali. Commissioner Pali did you have a question?

Ms. Pali: Yes, I do. Thank you, Chair. Thank you for your testimony. I just wanted to have a clarifying question going on Commissioner Thayer's question, was it Commissioner Thayer's? I want...oh, actually it was Commissioner Freitas' initial question. I wasn't sure if I heard it specifically, but he had asked you about being on a group that in general the group as a whole said we're for something. You didn't really say it, and so I wanted to clarify, were you saying that although with a group that was for something it is oftentimes likely individuals have different perspectives but the majority wins and then you support the group. At least that's what happens on commission. Is that kind of what you were saying 'cause I just want to make sure that you know, there are some people that were fully for something originally and then changed their minds or you were really never for that but the group majority won and you are part of the group that presented this, so I'm just trying to see what category to put you in, in that particular circumstance.

Ms. Tumpap: Thank you for asking. You know, as you point out, in any group situation and we just did judging for the Imi Pono contest the other day and people have to, you know, make...they have their, their top favorite things and then their least favorite things, and then they have to try and come up with winning solutions in the middle and figure things out. The Chamber has always been, and I, you know, the Chamber has always been against moratoriums in general. So, in that stance, we would always be against a moratorium in general because they're inflexible. Whenever you're in a group dynamics, it doesn't mean that we didn't hear and agree with the sentiments being expressed. We do. We did agree with the sentiments being expressed. We do agree with better management of the visitor industry and have stood for that all along. As...but in a group setting for those who would want to support an absolute moratorium, at the end of the day, that wouldn't be something that we would champion for because we don't agree with that mechanism. We think there's other ways to do it. But if you've got a vote where people want to move forward with something and they've got a majority and everybody's vetted, you know, and had appropriate opportunities to share, which we all did, then that should be the case.

Ms. Pali: Thank you for clarifying.

Ms. Tumpap: Thank you for asking.

Mr. Tackett: Thank you. Commissioners, any other questions at this point? Thank you, Pamela.

Ms. Tumpap: Mahalo for the opportunity. Aloha.

Mr. Tackett: Director.

Ms. McLean: Thank you, Chair. The next testifier is Cara Flores followed by Jordan Hocker.

Mr. Tackett: Cara, you have three minutes.

Ms. Cara Flores: Thank you, can you hear me?

Mr. Tackett: Yes, I can.

Ms. Flores: So, I'm...I've never testified here, I'm not sure who you guys serve, if you guys serve the public, if you serve businesses, if you serve the lobbyists in any way or if you serve the County plan, but I do know we have a one to three ratio that we're trying to follow and that is part of the County plan. I'm wondering if more visitor accommodations are built where would the sewage and water come from for these since we're already having issues with our infrastructure? Also, hearing people say that it would cause more short-term vacation rentals seems like a false equivalency. Two wrongs don't make a right. We can crack down on short-term vacation rentals and limit the amount of visitor accommodations that we have on island by not increasing them. I'm the founder of an advocacy group called Hale Hawaii, and we have quite a few members. I'm also an admin of a very large Maui residents' group. And during this testimony, I decided to run a poll and almost everyone who saw the poll so far has participated. It shows that there were actually 75 people who saw the poll, and of those 75, only one person voted when I said, should we build more hotels on Maui, one person voted yes, 55 people voted no out of 75 residents who saw this in the last 29 minutes. So, I just say that to say it's not just my opinion that we need to stop bringing in more visitors and limit the amount of visitor accommodations. I would say it's largely and overwhelming the public's opinion and most residents feel that way.

Please just don't choose business interest over residence interest, because this impacts our quality of life, it impacts the ability to grow other things when we use up our infrastructure for one thing, and our airport runway is failing, we're paying a fine for that, right. We have our sewage treatment that's failing and we're paying fines for that. We're running out water upcountry, so our infrastructure needs a lot of work. To add more infrastructure to accommodate people who don't live here does not make sense at this time. So, I support this temporary moratorium on transient accommodations. Thank you.

Mr. Tackett: Thank you, Cara. Commissioners, any questions? Commissioner Pali, go ahead, please.

Ms. Pali: Hi, thank you for your testimony. I would like to ask if you have any other thoughts on other ways to be able to do exactly what you're looking for outside of this moratorium. Are there other suggestions that you've considered or thought of?

Ms. Flores: Well, because we are a state of the United States, we do have limits on what we can do. We can't necessarily just tell people they can't come. As far as I know, there's, there's a constitutional right for people to have interstate travel. So, it seems the most basic thing we can do is limit the amount of accommodations available and then crack down on any illegal accommodations. So, it would need to be a multi-pronged approach to limit the amount of people coming here. But I think this is a very important step in doing that.

Ms. Pali: Okay, thank you.

Mr. Tackett: Thank you. Commissioner Freitas.

Mr. Freitas: Thank you, Chair. Ms. Flores, I want to say that was a very good first testimony, very good. I like what you did because so far we've had I think two for and about six that are against the moratorium and to me, that's a lot of people that have interest whether it's development or whatever versus your poll that you did real quick in 29 minutes and it really shows that the community outside aren't aware of these and that's a great voice that you just shared, 50 people that are against it. I want to thank you for sharing that today.

Ms. Flores: Thank you.

Mr. Freitas: Thank you.

Ms. Flores: And I can share the poll with you guys if you want, if anybody wants me to email it to them.

Mr. Tackett: Commissioner Pali, go ahead.

Ms. Pali: Does your poll, I know sometimes when I've taken polls before it will ask me my age, my gender, it will ask me like data background of who I am. Is your poll like that so we can see are these people kamaaina, are they...were they born and raised here or did they just move here, does it give geography like where they lived? Does it give any of that data about the person who took the poll?

Ms. Flores: No, you can see whatever they are...have shared but it doesn't ask them that data. But you could definitely look individually at them and kind of assess for yourself. But we do screen everyone in a group and make sure they're Maui residents, that's one of the requirements, so...

Ms. Pali: And you screen it by validating that they have like an electricity bill to their name with a local address? How do you screen them?

Ms. Flores: No, we do a questionnaire. So, it's, it's more based on I guess from telling that truth, and also, we kind of look through their information and try to figure it out ourselves. So, yeah, not a hundred percent I would say, I know a lot of them personally and they live here. So...

Mr. Tackett: Thank you. Commissioner La Costa, has a question.

Ms. La Costa: Thank you, Chair. Thank you, Ms. Flores. So, I have a couple of questions. First of all, you say, we, what group are you representing and do you have authority to speak for them?

Ms. Flores: I don't...I didn't ask for authority to speak for any group other than Hale Hawaii, which I do speak for them, and we do have hundreds of supporters behind us. But I did not poll them about this specifically. For as far as the people I speak for at this moment, it's just the people who answered that poll and I'm just presenting their answers. So, that's, that's, you know, that's all them I'm speaking too, is these people answered a poll that I ran during this meeting and overwhelmingly said they don't want more hotels on Maui.

Ms. La Costa: Thank you. And, and just for some clarification, those of us who sit on the commission are volunteers. We represent our community. We don't represent business groups, we don't represent special interests. We are here to make sure that we listen to the community's voices and make our decision based on input, knowledge and what the groundswell wants. So, I just wanted to let you know that and thank you for your testimony.

Ms. Flores: Thank you so much.

Mr. Tackett: Commissioners, does anybody else have questions for the testifier? Commissioner Thayer.

Ms. Thayer: Thank you. Can you just read to us verbatim what the poll question was exactly?

Ms. Flores: Yes, it says, should more hotels be built on Maui?

Ms. Thayer: Okay, thank you.

Ms. Flores: and it's a yes, no question, yeah.

Ms. Thayer: Okay, thank you.

Mr. Tackett: Thank you. Commissioners, any other questions? Commissioner Edlao.

Mr. Edlao: Cara you mentioned you're part of a group. What group was that?

Ms. Flores: We have the Maui Covid 19 Facts Group and we also run, Enough Tourists Already which I didn't run the poll on that group. It's in the Maui Covid 19 Facts Group 'cause that's one's exclusively for Maui.

Mr. Edlao: So...didn't you mention another group though that you were part of?

Ms. Flores: Yes, I run advocacy group called Hale Hawaii. And so, we advocate on the part of the whole state. We advocate for people who don't have necessarily a voice and try to do good by people who are generally not heard, so...

Mr. Edlao: And how big of a membership is this?

Ms. Flores: That one has around 200 members.

Mr. Edlao: Did you poll any of them?

Ms. Flores: No, because that's a statewide group, so this is a specific—

Mr. Edlao: Well, don't you have members, don't you have members here on Maui?

Ms. Flores: Yes, we do.

Mr. Edlao: And did you poll them?

Ms. Flores: Many of them are in this other group, so some of them did reply...let me look, I can tell you. There's probably about 20 of them are in both groups, so...

Mr. Edlao: Twenty of the ones of the 75?

Ms. Flores: Yeah.

Mr. Edlao: Okay, thank you.

Mr. Tackett: Commissioner Pali, go ahead.

Ms. Pali: Sorry, just in fairness to just disclosure, you named three groups. One was Covid 19, what was...what did you...can you repeat those three groups?

Ms. Flores: It's Maui Covid...Maui Covid 19 Facts.

Ms. Pali: Okay.

Ms. Flores: That's where, that's where I ran the poll if you want to go look at it.

Ms. Pali: Okay.

Ms. Flores: It's now up to 66 people saying no, and one person saying, yes.

Ms. Pali: Yeah, and then you said that you had the, did you say Maui Residents Against Tourist was the second one?

Ms. Flores: No, that one is not my group. It's just one that I'm part of, it's Enough Tourist Already.

Ms. Pali: Oh, okay.

Ms. Flores: That's a state, yeah, that one's a statewide group.

Ms. Pali: Okay, and then you have yours which was?

Ms. Flores: Hale Hawaii.

Ms. Pali: Hale Hawaii. Okay, and then you made a comment that you didn't run it on the Enough Tourist Already 'cause that was statewide, but some of those members are on the new Covid 19 Facts which you believe are mostly Maui residents?

Ms. Flores: Yes.

Ms. Pali: Okay. Okay.

Ms. Flores: Yeah, and I'm looking at the people who voted so far and so far, all of them are Maui residents who I know personally, the ones who I know, I don't know everybody on it, but I know most of them.

Mr. Tackett: Thank you. Commissioners, does anybody else have any questions for the testifier? I have a question for the testifier. I'm interested in who testifies and what their, what their viewpoint is, it's like all of us that sit on the, on the planning commission come for different backgrounds, so my question to you, are you from Maui and then my question for you is, what do you do to provide your living, and my third question to you is, do you pay for your own place to live?

Ms. Flores: Okay, so let me try to remember all of those. I have lived here for seven years, approximately a little over seven years. I have a rental car business that I'm in the process of trying to sell off because I don't want to do that anymore. The pandemic did change my viewpoint on tourism and I saw it was doing a lot of harm. So, that is my personal viewpoint. No, I don't want to end it, but I do think it needs to be much better managed because I've seen the harm. I also have been selling real estate since 2007. I don't know if I answered all your questions.

Mr. Tackett: And the last question was, do you maintain your own residence? Do you pay your, do you pay your own rent and for your...(inaudible)...

Ms. Flores: Yes. Yeah, I own my own home here in Maui, yeah. Actually, my own home and I have rental property, so yeah.

Mr. Tackett: Thank you. Go ahead, Jerry.

Mr. Edlao: Just a comment Cara, next time, you know, when you come out with a list of people that vet, you know, I think a yes, no question is not enough when you come before the

commission. We do need to know if they are residents here on Maui, where and all of those things, not just a yes and no and take their word for it that they are Maui residents. So, it's just a comment next time you come before the commission.

Ms. Flores: Okay. I really didn't plan to present this, it just...hearing the testimony being so different than what I've experienced from talking to other residents, I wanted to share it, and so...and I can share it, you can look at each person individually and some of them have their information shared.

Mr. Tackett: Okay, thank you Cara. I believe Lindsey...Commissioner Lindsey has a question for you.

Ms. Lindsey: I just wanted to clarify, I looked up that...I'm in the group, it is a group on Facebook, and the it was...the poll that she polled was about an hour ago, so people who are able to access Facebook within the last hour that was the poll just for clarification for commissioner.

Mr. Tackett: Thank you. Commissioners, any other questions for the testifier?

Ms. Flores: And it's now up to 79 noes and one yes just for your information.

Mr. Tackett: Thank you. P Dee go ahead.

Ms. La Costa: Thank you, Chair. Just, I'm not sure if this is appropriate but Commissioner Lindsey said that she was part of the group that we're talking about with, et cetera, is that correct?

Ms. Lindsey: Yes, it's a Facebook, it's a Facebook group on Facebook, so there's like 1,200 members or so in that group. She did a poll in the Facebook group. And it was whoever could respond in the last hour, just to make it clear for everybody, who it was, where these people are coming from. It is my understanding also that most of the people are residents of Maui. Yeah or at least spend a lot of time here.

Mr. Tackett: Thank you. Any other questions Commissioners? Thank you. Director, could we get our next testifier please?

Ms. McLean: Yes, Chair. The next testifier is Jordan Hocker, who will be followed by David Jorgensen.

Mr. Tackett: Jordan, you have three minutes.

Ms. Jordan Hocker. Okay, thank you. Thank you for your time today, Commissioners, Chair Tackett, Vice-Chair La Costa and Happy Birthday Commissioner Thompson. I hope you get a special treat today that's not just all of us wishing you a happy birthday. Okay, so my name is Jordan Hocker I live Upcountry Maui. I'm also a Sustainable Science Management major at UHMC. I'm really happy to see this moratorium in front of you folks. I've been following this concept since Bill 60, and I believe this group of people has the ability to look at it in a balanced way and serve the people of Maui and not just maybe the industries that have a lot of money and

contribute to our current pretty unbalanced economy that we saw with the pandemic. I hope you see that the Planning Department did offer their support. The Planning Department was not completely against it, which honestly was surprising for me. I was listening to their amendments on, you know, their suggestions to you folks. And what they do suggest sounds very reasonable, you know, with the, with the shoreline management as well as, you know, just amending the current code instead of creating a new chapter, and so, these amendments seem reasonable, and I hope that you'll really take them into consideration. The Planning Department has a very clear picture of how the code works and cause and effect, in this sort of thing.

What concerns me here and part of the reason that I've come to testify is because I do support a moratorium, and it always concerns me on public testimony when I hear lobbyists who are literally paid to represent their industry's perspective and they paint a huge doomsday scenario around this moratorium and I don't think that has to be the case. Tourism isn't really struggling. We're at pre-pandemic numbers, and that's pretty common knowledge. Many small business owners that I've talked to report that their businesses are alive and well. Again, I can't find parking anymore. I can't get in and out of Rodeo General Store in Makawao in a timely manner anymore. I mean, as far as my, my experiences is that there's a lot more people on the road, and, you know, I think us as residents, we know what that looks like and feels like. And so, in terms of traffic, sales, and incoming flights, I mean, all of that is, it's pumping along. And so, for me, there's no doubt that the rising cost of living and the cost of our median home price is directly related to the tourism industry. People who come here and like it here and have the money to buy homes here, that's what they do. Most of the homes that have been bought up during the pandemic were not by people who lived here. It was by out-of-state people. And that process alone, you have to come here and be, you know, and visit here in order to know what it's like. People aren't buying, you know, people who have been to Maui before. And so, for me, it's like watching, you know, watching that process happen and hear lobbyists say, well, we don't know why people are leaving. Well, I know why people are leaving our housing costs up. And quite frankly, you know, the tourism industry doesn't pay a living wage. If you're paid \$17.00—

Ms. Takayama-Corden: Three minutes

Ms. Hocker: Okay. Can I finish up my statement real quick here?

Mr. Tackett: No, three minutes is the rule for everybody.

Ms. Hocker: Thank you.

Mr. Tackett: But you may, there may be questions for you. Does anybody have any questions for the testifier? Go ahead, Kellie.

Ms. Pali: I actually have a question on what you said earlier. Where'd she go? Oh, there you are. You like jumped over there. Can you just restate your background real quick, again? It was very intriguing to me. I started to write it down, but I didn't get it all. You said something about ...(inaudible)...scientist?

Ms. Hocker: Yeah, I live in Upcountry Maui. I'm pursuing a degree as a Sustainable Science Management major.

Ms. Pali: Okay, I would love to hear about that. Is there anything that you've learned under that field that you feel could be applicable to what we're talking about today? That just, I love when people have these kind of specializations, especially education. And I'm just curious if there's any application there that you think also could further your testimony here today?

Ms. Hocker: Sure. I can just, so when people talk about the concepts of sustainability, we hear it in like, okay, I have a light bulb that's more energy efficient so it's sustainable, but really what sustainability honestly plays into a lot of indigenous thought processes, which is that everything is connected and relies heavily on the precautionary principle, which is that if it is going to affect future generations ability to live, right, and my perspective is always water, food security, those really basic needs, if the decisions we're making now are going to affect the future, our children and our children's children negatively, then we don't do it. It doesn't matter how much money it's making somebody, we find a different system in a different way and that's the perspective that I come from. Right now, as a sustainability major it's really hard not to see all of our natural systems being overrun and see how closely tied a lot of our commerce industries are tied to that. And we know that tourism is our one of our major industries, and in terms of the precautionary principle, it does a really poor job of ensuring its self in the future because endless growth is not sustainable, and so that's really the perspective that I come from.

Ms. Pali: And then one last question, because it sounds like...I'm picking up that you do agree that because you named a few pieces for sustainability, you cannot...sounds like you, you recognize you can't focus on one area that as a whole they work together. So, would you agree or disagree with there potentially, if we're focusing in today on this one item and an intent might be one thing, but the reality is it might...you know, we don't know yet the effects, so we can only speculate. Would you have an idea of other measures besides going straight to the moratorium that could still be put in effect, that would still accomplish the same thing? Have you had thoughts on that?

Ms. Hocker: That's a great question. Give me just a moment.

Ms. Pali: And while you're thinking, I did like one of the testifiers saying that moratorium usually would be the last resort. There would usually be other measures before we go straight to a moratorium while we have more public input, data collection, those things, and so having this as a first measure seems pretty kind of abrupt and like, you know, so I'm just curious to know, is there a happy medium somewhere?

Ms. Hocker: Yeah, I don't see this as necessarily a first measure. It's very hard to ask industries that have a lot of money and are very set in their way of doing things to modify that. And, you know, from my standpoint, if the industry doesn't keep the needs of the people in mind, then it is government's need and absolute ability to step in and make sure that the will of the people and future generations are being taken care of. So, from my standpoint, I know that the moratorium to some people seems very abrupt, but I think that you know, in, in past testimony, I've heard that the industry doesn't have a plan to unfetter their growth. They don't have a smart growth plan.

And that's the part that's deeply concerning to me, and that's why I'm supporting the moratorium. A two-year break, I don't think is too much to ask. Yeah, that's, that's my that's my perspective on that.

Ms. Pali: Okay, thank you.

Mr. Tackett: Thank you, Kellie. Commissioner La Costa, you got a question?

Ms. La Costa: Thank you. Yes, you were, Jordan you were finishing your summation and your time was up, and I'm always interested in people's final thoughts so could you please finish up for me? Thank you.

Ms. Hocker: Thank you so much, Vice-Chair La Costa. Essentially, I was going to say that tourism directly...(inaudible)...being outlined like...(inaudible)...and ability, people's ability to be here. And so, in that, I think that I was going to sway that I would love to see the industry address the fact that, you know, you need to be making \$20 to \$40 an hour if somebody with dependents in order to keep your family afloat with the cost of living here that's the absolute minimum. So, you know, in terms of solving some of the problems, like the Commissioner Pali asked, they could pay a much higher wage than they pay. But I was also going to say, my last point was that we really don't have the water infrastructure we need to, to, to accommodate more people coming here. We have a water meter waiting list that it's hundreds of families long at this point, to the point where if you have a couple of acres you cannot even subdivide to your children, okay, and that like gives me chicken skin to think about. We just do not have the infrastructure to keep growing endlessly. We just don't. And if this moratorium gives us a chance to get it together, then let's take that chance. Let's use these two years to find out how to crack down on illegal vacation rentals, you know. We have an opportunity, but we cannot keep growing, and like it keeps me up at night, the water does. So, that's, that's the, that's the end of that. Thank you so much for giving me an opportunity to finish.

Ms. La Costa: I appreciate your input.

Mr. Tackett: Commissioners, any other questions for Jordan? Jordan, I'm going to have the same question for pretty much all the testifiers coming through, because it interests me your perspective, where you come from, what your background is. So, my question to you is, is, are you a lifelong Maui resident or how long have you lived on Maui? What do you do for a living? And are you able to support your own, your own bills in that situation? Because what we're talking about today is that, you know, it is exactly what your, what, what, what I just asked you, you know, so that's it interests me, the perspective that each person that comes up, if I, if I don't know them personally.

Ms. Hocker: Yeah, so I've been on Maui about a decade. I originally came here for a job. I have seen it change, and even the ten years that I've been here in a way that you know, I've heard lifelong residents echo. I am, I kind of wear many hats. Currently, I'm a student, I'm also a student researcher working on a research project to find resources for student parents, and that is part of the way that I pay my bills. I'm a renter. I, you know, and my, my, I live in a two-adult household and we both we both, you know, we both work functionally full-time. ...(inaudible)...works in

packaging in a local business. And then, you know, I do research work. Previously, before the pandemic, I was employed by a small shop that did have to close down for a while, and due to my own health concerns, I wasn't able to continue putting myself in the situation with potentially infectious people and bringing that back to my family, and my elderly landlord. So, I did, I did shift my...the way I make money after the pandemic.

Mr. Tackett: Thank you, Jordan, I appreciate it.

Ms. Hocker: Yeah, thank you, Chair Tackett.

Mr. Tackett: Thank you for your testimony. Director.

Ms. McLean: Yes, Chair, the next testifier is David Jorgensen to be followed by David Dorn.

Mr. Tackett: David.

Mr. David Jorgensen: Good morning, Chair Tackett, Vice-La Costa and Members of the Planning Commission. I apologize, my voice is coming and going, but my name is Dave Jorgensen. I'm an attorney in Wailuku and I'm testifying on behalf of the American Resort Development Association or ARDA Hawaii which represents the timeshare industry. I'm a registered lobbyist and I'm here today to testify in opposition to Resolution 21-98 establishing a moratorium on building permit for transient accommodations.

The stated purpose of the resolution is to establish a moratorium to comply with visitor resident ratios specified in the Maui Island Plan by pausing the increase of transient accommodations. However, there's no data to suggest that stopping the development of transient accommodations will decrease the number of visitors to Maui. We believe it's simple that it won't do that. Visitors will still come to Maui and seek other accommodations, even if the supply of lodging is limited. As we've seen, visitors will seek lodging in residential neighborhoods and long-term apartments and lead to an increase in short-term vacation rentals, which is the fastest growing segment within Maui's visitor accommodations industry. If the purpose of the bill is to ultimately decrease the visitor count, perhaps further regulation is needed on the number of legal and illegal, especially short-term vacation rental units.

On the other hand, the moratorium allows substantial economic impacts on Maui's economy. It's troubling that the County would seek to deter capital investment in a time when we're still trying to recover from the pandemic. The County would risk forgoing substantial amounts of investment, tax revenues and job creation for Maui's economy. For example, the timeshare industry is currently a major contributor to Maui's economy by providing more than \$73 million per year in state and local taxes, and supply, and well compensated jobs to Maui residents.

The proposed ordinance would enact a moratorium to maintain the status quo. While the Council establishes a tourist...tourism management temporary investigative group is studying endorsed legislation to better manage the tourist industry impact on the environment and resident's quality of life. However, given the potential negative economic impacts, there's no reason why the TIG cannot be conducted while the industry continues to operate and invest in Maui. If this were done,

it would be unnecessary to implement a policy which will prohibit economic growth. This poses significant risk to Maui's economy, excuse me, without first obtaining information to better manage the industry. Instead, the TIG, in collaboration with the tourist industry—

Ms. Takayama-Corden: Three minutes.

Mr. Jorgensen: --could address the Council's concerns prior to the moratorium to prevent—

Mr. Tackett: Dave, your three minutes are up, so I'm gonna have to, I'm gonna have to rely on questions from my Commissioners.

Mr. Jorgensen: Okay, thank you, sir.

Mr. Tackett: You're welcome. Commissioners, does anybody have questions for Dave? P Dee, go ahead please.

Ms. La Costa: Thank you, Chair. Mr. Jorgenson, thank you for your testimony, and you weren't quite finished, so could we please hear the, the end of your testimony? Thank you.

Mr. Jorgensen: Yeah, just real briefly, regarding timeshares, timeshare owners have the exact profile, the type of visitor we should be welcoming with higher income levels, more spending off property and restaurants and local stores, and they're more likely to take care of the property, which is for most a home away from home as they're owners, not transients. ARDA Hawaii strongly agrees that some sort of resolution is needed to provide our residents with the ability to continue to work while at the same time addressing the significant impacts of the influx of visitors until Maui can transition to a more diverse ...(inaudible)...economic base. But this moratorium is not the answer. ARDA Hawaii respectfully asks that you wait for the results of the TIG, defer this measure and recommend to the Council that further regulation of short-term rentals be pursued prior to implement any form of moratorium. Thank you for your consideration of my comments.

Mr. Tackett: Thank you. Anybody else have any questions for Dave? Dave, I have a question for you. I think I found the reason why that the first guy said that there's less hotel rooms than there were. Are, are you saying that vacation rentals are considered ownership and, and they're not considered transient rentals? Are you saying that they're in a different category? Because that could be a reason why we have the, the differences in numbers that was mentioned earlier from the earlier testifier. So, if all the hotels that were converted to vacation rentals are no longer falling under that category because they're considered ownership, then there's the reason why you have the same amount of hotel rooms as you had 25 years ago. That is my question. If that—

Mr. Jorgensen: I'm sorry, I'm sorry if I misspoke. Thank you for your question. I was talking about timeshares.

Mr. Tackett: I believe I misspoke, I was talking about timeshares as well. So, I know that some of the hotels got converted to timeshare, so if some of the hotels are converting to timeshare and they're not being grouped in that other group, then that could be a reason why we're, we're ending

up at the same amount of hotel rooms we had 25 years ago. Is that correct or is that not correct? Because you—

Mr. Jorgensen: Honestly, sir, I don't, I can't really answer that question. I don't know, but I mean, your...your comment is a logical you know, it would be logical that there were some hotels that were converted to timeshare properties.

Mr. Tackett: But you're, you're saying that those timeshare properties, you consider them ownership, you don't consider them transient vacation rentals is that, is that what, that's what I thought I heard you say.

Mr. Jorgensen: Yes, I consider timeshare...timeshare properties are owned by the people who stay in them. So, if they are owners, not, not transient...they're not renting transient accommodations. They are owners who own that unit. So, yes.

Mr. Tackett: Thank you, Dave. Yeah, I think that clarifies and I believe that's probably what the earlier testifier was trying to say because I know that quite a few of our hotels are no longer hotels, that they are timeshares now. So anyways, thank you. Thank you. Commissioners, any other questions? Thank you, Dave.

Mr. Jorgensen: Thank you, sir.

Mr. Tackett: Director.

Ms. McLean: Chair, the next testifier is David Dorn, who will be followed by Brandi Corpuz.

Mr. David Dorn: Good morning, Commissioners. My name is David Dorn testifying today on behalf of myself and the Sierra Club of Maui. We support this bill. I've personally lived here for 30 years. I own a home. I work in the tourism industry. I'm a business owner and I work with the non-profits and environmental groups.

We all agree that over tourism is a problem. Tourism's...tourism or tourists have reached 49 percent of the local population, far exceeding the prescribed 33 percent limit. This means that every third person walking around the island is a tourist, not every fourth person. We do not need more hotels because we are already experiencing over tourism and a water shortage. More hotels will be detrimental to our limited land and water resources. There is already not enough water for our streams and ecosystems, let alone for more hotels. This directly impacts the quality of life for our local families as well.

This bill will benefit our farmers by making current levels or more water available for them. It will benefit our families. It will benefit people waiting for water meters. It will benefit our environment. All of these members of our community will benefit from this bill. Existing hotels and visitor accommodations will also benefit and no current tourism jobs will be impacted.

The construction industry reps we have heard from seem to be out of touch with these conditions and they need to pivot and to adjust to new conditions and not contribute to the island's

degradation from over tourism. This argument that locals will leave without, you know, these particular construction jobs doesn't hold water because there are plenty of construction jobs on Maui building new housing. It is mostly the high cost of living and the high cost of housing is what drives people to move to the mainland. Construction crews can already travel for work and interisland or to the mainland, and you can buy a ticket to the mainland for under 200 dollars return. Oahu crews regularly come here for work, Alaskan crews come to Maui, Florida crews come here, demolition crews to blast our aquifers. Plus, there's no guarantee that any hotel projects will actually be given the work to the local workers. It could be crews from out of state.

Building, unsustainable hotels now rather than later does not justify maintaining these few construction jobs, especially if it harms the island's basic resources. The lobbyists for these groups, well-intentioned, need to change their focus to build sustainable projects like affordable housing instead of more unsustainable hotels. Building less hotels will actually allow the existing hotels to charge more money and pay their workers more. They'll be able to hire back all of the workers they laid off during Covid. This bill will help hotels make more money from the same number of tourists and eventually help rebalance the ratios of tourists to locals to where they are meant to be.

This bill will not affect illegal vacation rentals. It's a different issue altogether, illegal TVRs are illegal. Some of this is an enforcement issue. This bill is designed to limit legal visitor accommodations of new legal—

Ms. Takayama-Corden: Three minutes.

Mr. Dorn: --new legal visitor accommodations for two years. Please support this bill. Thank you.

Mr. Tackett: Thank you. Commissioners, do we have any questions for David? Thank you, David.

Mr. Dorn: Thank you.

Mr. Tackett: Director.

Ms. McLean: Chair, the next testifier is Brandi Corpuz, who will be followed by a friend of the commission, Livit Callentine.

Mr. Tackett: Brandi, you have three minutes. Brandi Corpuz, I believe you may be on mute 'cause none of us can hear you yet.

Ms. Brandi Corpuz: Hello, can you hear me?

Mr. Tackett: Yeah, we can hear you. Good job. Yeah, you're good to go.

Ms. Corpuz: Oh, all right. Thank you. Thank you, and I'm a little bit nervous because I've now written all kinds of notes everywhere so excuse me if I get off track. My name is Brandi Corpuz, and thank you for letting me speak to you today. I'm a resident, homeowner of Kihei. I also, am

a small business owner and the director of a non-profit community program in Kihei, Molokai and Oahu. We work with our community and we help to support resiliency and the environment and, and all of our communities of Hawaii. I live on a, of one of the oldest streets in Kihei, and our neighborhood has only one entrance and one exit. The newest hotel at Maui Lu is already causing extreme traffic problems for us and will get worse when it is completed.

In the last few years, four houses have been purchased or sold in our neighborhood for cash or extreme amounts of money by nonresidents. One recent home was sold for a million dollars this is a major cause of concern for our taxes and for our housing problems. The biggest fear is that these homes are going to be used as vacation homes for the wealthy since they are the only ones who can afford to pay the mortgage or pay the rent on a million-dollar home in our community. Every home that is out of reach for our local community means that our locals will be forced out of Hawaii or even worse, become homeless. We have too many visitors here already, so we must put a pause on the gold rush of Hawaii. Even Molokai is finding a lot of people from the outside coming in and purchasing all the homes...I mean, all the lands and all the homes, which makes it hard for local people to be able to afford anything.

If we don't do something soon, I'm afraid we will lose so many of our locals that we will never recover from that. I work in the tourism business as a condo cleaner and there is no shortage of condos to be cleaned. So, therefore, I believe that we already have too many visitors here and accommodating more or building more just seems very dangerous. Once the land and homes are sold to tourists, they will no longer be available for locals. That means that more of our people will be moving away. There's also no shortage of construction jobs as far as I've seen, because the construction workers and building has been going on this entire pandemic. I believe that I support this moratorium.

Ms. Takayama-Corden: Three minutes.

Ms. Corpuz: I support this moratorium. Thank you for listening.

Mr. Tackett: Yeah, Commissioners, does anybody have any questions? P Dee, go ahead, please.

Ms. La Costa: Thank you, Chair. Ms. Corpuz, thank you for testifying today. You mentioned that you represent a nonprofit on several of the islands, can you please share with us what that is and what your role in that nonprofit is? Thank you.

Ms. Corpuz: Thank you. I'm the Executive Director of Rooted Kekahi Me Ka Aina, and we grow food and family together, and I, as a representative, as the executive director, I should say, I am speaking for our community that we are trying to, you know, bring back. We're trying to form communities or bring back our communities like they once, like they once were, and part of the problem that we face is, that a lot of people have lost hope in our communities as we have more tourists or more outsiders than we've ever had it seems ever. So, we're trying to grow food and family together on all the islands and use place-based education which means, you know, where you're from, it's important to know where you're from and a lot of places like Kihei people don't even know that this is a wetlands. I, myself, did not know that this was a wetland since my...it's

very dry here and it's hard to grow things because all of the water has been diverted which is actually another problem having to do with tourist accommodations is because all of the water and natural resources are diverted so that they can build more homes or more vacation rentals in those areas. I hope that answered your question.

Ms. La Costa: Thank you. It does, and thank you for working on our food, sustainability and security.

Ms. Corpuz: Thank you.

Mr. Tackett: Thank you. Do we have any other questions? Director, our next testifier please?

Ms. McLean: Yes, Chair, next testifier is Livit Callentine to be followed by David Goode.

Ms. Livit Callentine: Aloha, Chair Tackett and Commissioners. It's been a while since I've seen you, but I've been listening to meetings and following along with all your good work and thank you so much for the work that you do. I'm speaking today in support of Item B.3, Resolution No. 21-98, proposing a temporary moratorium on developing most new transient accommodations on Maui Island. The moratorium would allow time for a temporary working group proposed by the Council to assess impacts and develop a robust tourism management plan. There has been much worthy testimony submitted and given today regarding application of the county's long range plans in particularly the Maui Island Plan for the management of tourism and on the impact tourism has on our fragile island environment.

In 2012, just nine years ago, the community, including this body, decided to include the following policy in the Maui Island Plan, promote a desirable island population by striving to not exceed an island wide visitor population of roughly 33 percent of the resident population. I would ask, are we now striving to meet this policy? It is clear from the data provided by the Hawaii Tourism Authority that Maui Island has regularly exceeded this desirable percentage. It is also clear that both the tourism industry and the construction industry will never support a limit on new visitor accommodations, in spite of the fact that there are hundreds of unfilled jobs at hotels listed on several employment websites right now. It is up to our commissioners and County Council who represent and protect the community. If the County continues to support and permit new hotels and other visitor accommodations, then it is not in compliance with its own long range plans. We disagree with the long range plans. We should not ignore the plans, we should change them.

In making your decision today, please consider the intent and language of the County's long range plans and vote to support a temporary moratorium on new visitor accommodations. Otherwise, why should we continue making long range plans? Thank you.

Mr. Tackett: Thank you. Commissioners, does anyone have any questions? Go ahead, Kellie.

Ms. Pali: Hi Livit, thank you so much for testifying. I appreciate the time you took to give us that information. I have a question for you. I think the big...what I'm hearing from the testifiers on the different sides is we do have a working group that's been working on, on this, and we're waiting for results. It sounds like there's other factual data collecting things going on. And so, the question

is, in your opinion, because it's your testimony, why rush to this prior to getting information versus backwardly getting the information and then putting something that's a little bit more just established versus like a temporary Band-Aid? That would be my first question.

My second question is, as you know, you know, directly that it takes minimally a decade to get something built around here, right a decade with all the different, you know. So, if it takes a decade to get something built and we like for instance, we know that in ten or twenty years or whatever, you know like, for instance, the Maui Prince, right, we lost the Maui Prince, and we've lost other older buildings, and so, if we're doing this long term planning and we do it correctly, wouldn't be wise to say we need some started because in ten years, in these next ten years, we're going to lose these and, and we have these replacement wheel revolving kind of in and out. I mean, is that not been discussed or what's your thoughts on those things? Because I feel like this, although I agree and I'm grateful we are being mindful of the visitors and mindful of the ratio and mindful of these things with smart growth that is music to my ears because I don't ever desire to live in Waikiki, nor will I ever live in Waikiki, and I don't want that here. So, I'm grateful for that, but I also want to be wise and balanced and and patient, because those things, when you have those virtues, good things come to those kind of attributes. So, can you kind of just...your thoughts on those two questions?

Ms. Callentine: Yes, thank you so much for those questions, Commissioner Pali. I will try to address them succinctly. Your first question, I boiled it down to why rush? So, jump in there if I misconstrued that question.

Ms. Pali: Yeah, only to why rush, since it takes forever for them to pop up anyway—

Ms. Callentine: Right.

Ms. Pali: We don't necessarily have our backs against the wall because we're still years and years even for a project that might already be in that process. So, the question is why do a knee jerk reaction?

Ms. Callentine: Well, I...it's my opinion that we aren't rushing, that this isn't rushing, that we've, that we've had a policy in place for nine years that hasn't been met and followed and we're not in compliance with. So, I don't see this as a rush. Yes, indeed, it does take a long time to develop and build new commercial property. But, you know, the result of all these working groups that are, that are discussing this and debating this, the result of the community getting involved and providing their input could be in the end that we have enough accommodations as it is right now. There is, there's nothing set in stone anywhere that says you have to keep growing, you have to keep building. every piece of land should be covered with a building. There's nothing that says that, you know. So, I absolutely agree. Your second question, with your second question, the cycle of building and rebuilding.

Ms. Pali: More like maintenance, like maintaining—

Ms. Callentine: Maintenance, well this bill and this moratorium would not stop any of that. Absolutely hotel rooms need to be refurnished, the hotel buildings need to be maintained, painted,

all kinds of, you know, ongoing maintenance. And this bill won't stop any of that, nor would we want it to because that would reduce the quality of the existing, a pool of visitor accommodations. So, I, so, I don't see, I don't see this moratorium for two years as being very long when it, when we do consider how long it also takes us to hold meetings, have working groups, draw conclusions, write a report. I see that that could easily take the next two years. And in the meantime, in an effort to try to get back to what our long-range plans are guiding us to do, this moratorium might help us at least state the intent that we want to meet our long-range plans, we want to go along with what the community and this body and many other bodies reviewed and came to when they created Maui Island Plan.

Ms. Pali: Okay, and then just to follow up on the question, you don't feel like waiting a little longer for the TIG to come back to us and the community plans, you don't feel like that would be necessary before we make sure that this is the next step? That's just a follow up question. And lastly, the same question I've been giving everyone else, you don't think that there's other avenues that could do exactly what this could without it being a moratorium?

Ms. Callentine: Okay, so, I, yes, I do not feel that the going forward at this time would really swerve any other efforts that are going on. And because you have asked several other people about alternatives to this, I have been racking my brain, sitting here racking my brain and looking up other place's moratoriums and all of that, and I am sorry to say that I do not have any alternatives to recommend at this time.

Ms. Pali: Thank you so much.

Ms. Callentine: But if I come up some, I'm gonna let you know.

Ms. Pali: Thank you, thank you.

Ms. Callentine: Thank you.

Ms. Pali: Appreciate it.

Mr. Tackett: Commissioners, any other questions? Livit, I have a question for you. You said that they can paint their buildings. As I understand it, if somebody wanted to...say earlier we had a testifier come on and they doubled the size of their restaurant and they added a wing, you know, and from what I've heard, that would not be allowed under the moratorium which means that the...those people that came on and testified that that remodel allowed people to sit outside, you know, so, because of the Covid thing and more people to be employed and those things that that they said added to their ability to support their family, what you're talking about if that moratorium had gone in a few months ago, they would not have been able to do that work. Is that correct?

Ms. Callentine: Well, I'm not going to profess to be the expert on the language in this bill or this resolution. We're all in this together. But as far as my understanding is, the bill would limit expansion and whether that would extend to a restaurant I had not really looked into. I was really looking at the expansion of additional lodging accommodations. So, additional rooms for rent, whether they be hotel rooms, timeshares, transient vacation rentals or rentals. I believe the only

thing that's excluded from the bill for restriction would be bed and breakfast home permits that's my interpretation of it. In fact, it's called out that bed and breakfasts are...would not be restricted. So, I did hit your point?

Mr. Tackett: That's how I...I understand it that same way. So, yeah, that was, that is, was my my question, if you understood it the same way I understand it.

Ms. Callentine: Thank you.

Mr. Tackett: Thank you.

Ms. Callentine: Maintenance can definitely be continued.

Mr. Tackett: Correct, just no, no new wings, no, no basically new construction.

Ms. Callentine: No expansion of the foot print.

Mr. Tackett: No expansion on those particular properties.

Ms. Callentine: Correct.

Mr. Tackett: And no new properties. So, that's how I understand, so I just wanted to be clear that that is the case if you understood it—if you understood it the same way as me.

Ms. Callentine: Yes.

Mr. Tackett: Thank you. Commissioners, any other questions? Director, could we have the next testifier please.

Ms. McLean: Yes, Chair the next testifier is David Goode who will be followed by Dick Mayer.

Mr. Tackett: David, you have three minutes. I can't hear you right now, you may be on mute.

Mr. David Goode: Can you hear me now?

Mr. Tackett: I can hear you now.

Mr. Goode: Okay, great.

Mr. Tackett: Can't hear you now, I don't know what happened, but when you video came up and you're showing on mute on my screen. So, when your video came up, your mute came on, so I—

Mr. Goode: How's this?

Mr. Tackett: There you're good now.

Mr. Goode: Okay, all right. Good morning Chair Tackett, Members of the Commission, David Goode here speaking as an individual. I'd like to speak today on bill before you, mainly from a good governance standpoint. I think the bill needs some explanation from the Council before you folks can act. And I want to thank Livit for bringing up the community plan stuff it's going to save me some time here. And the justification for all the bills come from that one paragraph, among others in the 2010 Community Policy Plan, Countywide Policy Plan and the 2012 Maui Island Plan, so it's been a decade. So, one of the questions I have from a good governance standpoint is why hasn't this work been done previously? And now we're going to rush into it and tap on a moratorium on top of it? That doesn't seem like good governance to me. I would ask the Council why they can't start the study now without the moratorium.

Again, looking at language in the Maui Island Plan about the 33 percent, the first word is promote, is to promote as roughly that balance of 33 percent. So, what levels of are available, what levers can the county government employ to help achieve that percentage. How do you promote that? Is the only lever to establish a moratorium on building a handful of more transient vacation rental in an already pretty good-sized stock? I doubt it. Ask the Council, what are these percentages been for the last ten years since the plan was enacted? What applicable studies have been done and what levels are also under consideration besides this one?

Turning to the bill itself, the bill has two Code Chapters 20.41 and 19.98. The department in their staff report said they had no idea why they there were two and what the purpose of one of them was. So, you need to ask the Council what is the purpose of the two separate ordinances listed in the bill. How else can you comment if you don't know what the purpose was having the two. If you're inclined to pass on comments to the Council today rather than deferring and ask me some questions then the grandfathering section in Chapter 20.41 should be reflected in 19.98, and what that basically is, is saying, hey look, if you already submitted an application, you're grandfathered in. This has been standard practice for all planning and construction related bills as long as that around for the County Council, which is about 25 years now, people need to know what the rules are when they start the ball game. You can't have the kick off and change the rules at halftime. The reason these grandfathering clauses are consistent in this way is because if you don't do it and you're setting yourself up, you or the County in particular is setting yourselves out to get challenged—

Ms. Takayama-Corden: Three minutes.

Mr. Goode: --for damages. My three minutes, yet?

Mr. Tackett: Yep, three minutes are up Dave.

Mr. Goode: Okay, thank you.

Mr. Tackett: Commissioners, anybody have any questions? Commissioner Lindsey, go ahead please.

Ms. Lindsey: I'd like to hear the rest of your testimony please.

Mr. Goode. Oh, mahalo Commissioner Lindsey. I was basically at the end. The only last point would be I believe planned developments should be looked at differently. You know, planned developments were planned for mix of residents and visitors and those that have planned development approvals should be exempted. And finally, good governance needs good information to make good decisions, and so I think we're at the point here we need good info first before we can make new rule changes. Thanks, that it.

Mr. Tackett: Commissioners, any other questions? Thank you, David.

Mr. Goode: Mahalo.

Ms. McLean: Chair, the next testifier is Dick Mayer who will be followed by Christopher McGee.

Mr. Tackett: Before we start with Dick Mayer, can I just ask everybody, I know nobody's gotten a restroom break yet. Does anybody need a restroom break or anything like that? So, I would go ahead and if before we start with Dick Mayer if we could take...could I get a show of minutes on the hand how many we need? Could we get a five-minute break? Right now, it's 11:31 so could we get a break from now to 11:36 please for everyone that needs it? Thanks, you guys. You guys did great. That was a long run.

A recess was called 11:31 a.m., and the meeting was reconvened at approximately 11:38 a.m.

Mr. Tackett: Carolyn, can we restart the recording? Thank you. And then Mr. Mayer, you have three minutes. Thank you so much.

Mr. Dick Mayer: Let me give you some background on the Maui Island Plan and the County Wide Policy Plan. It was put...I was the Vice-Chair of that...those committees. It was put together by this 25-member citizen group. I know you've been asked questions about the background of people. The plan itself was put together by residents picked by the Council and the Mayor from all corners of the island, great variety of occupations from construction to teachers, et cetera. Secondly, it was then adopted by the...recommended by the Planning Commission, your commission and it went to the Council where they finalized it. So, the wording is very broadly representative of the community.

In particular, I think what we were trying to do with this section that has been referenced several times today is the economic development chapter and tourism is one component of economic development. And what we looked at, at that time, at that time, 28 percent of the resident population were tourists on an average daily basis. And we were concerned that it would keep growing and growing and become a problem. And we were trying to accomplish two separate things. One was to protect the tourist industry itself from being overdeveloped and destroying the quality of the tourist industry itself. That's one reason why we recommendation for limiting further accommodations. The second element was that we wanted a balanced economy. And at that time, it was almost like we were foretelling the future, we never knew of our Covid, obviously, but when we had Covid, we saw how unbalanced our economy was when we had such high unemployment rate.

So, let me look at the items in the Maui Island Plan that are related to this issue, and I'm going to read four of them. Number one, and these were read earlier to you, but I think they're important. To protect the quality of Maui's visit industry and the island lifestyle, the county must carefully manage and control any future expansion of visitor units on Maui Island. Number two, comprehensively manage future visitor unit expansion. Number three, mitigate the impact of tourism on the host culture, natural environment and resident lifestyles, and four, develop programs and regulations to cap the number and type of visitor accommodations that can be permitted, and manage the number and type of visitor accommodations. So, all of those strong statements were made in addition to the one that's oftentimes been cited, the one tourist for every three residents. This...the tourist industry has bounced back and the written testimony I gave you, you saw a chart that showed in July we were 49 percent, in other words, the tourist number, 75,000 made up 49 percent of the resident population of 154,000. So, we're way over the one-third, and that's why I think the Council is asking for a moratorium.

Several questions have come up about are there alternatives.

Ms. Takayama-Corden: Three minutes.

Mr. Tackett: Thank you, Dick. I believe Kelly has a question for you.

Ms. Pali: Yes, I do. Hi, Mr. Mayer, thank you so much. I do want you to finish, but I have a question of the comment you just made about the 75,000 visitors to the 154 residents, what time frame was that? Was it, was it recent, was it just a week period, was it an average of the last twelve months? What was...how did you...how did those numbers come into play?

Mr. Mayer: If...I put it in the public testimony, the 75,000 is the number for July of this year, so it's the most recent. The August numbers will come out tomorrow, actually, and then you'll see probably a somewhat comparable number, not very different. The population number was based on the 2020 Census, and it shows that the population was 154,100 compared to ten years ago when the Maui Island Plan was being developed, at that time, the island resident population was 144,000. So, the resident population grew 10,000 and the number of tourists went up significantly more rapidly.

Ms. Pali: Great, thank you. And I'm pulling up your testimony now to just...to cross reference. Okay, great. And please finish your thought assuming it's not going to go more than another 30 seconds or so.

Mr. Mayer: No, I was going to say, besides a building accommodation moratorium, there are other tools that can be used in addition to that. One would be to limit the number of rent-a-cars on the island. I think the County probably could do that. A third one... a second...a third way of doing things would be to raise taxes on the property values. Right now, almost all of the hotels are under assessed. In other words, many of them have assessments that have not changes in a decade or only moderately changed compared to what they were ten years. The County could, a, get more revenue to do things like the affordable housing and b, perhaps put higher rates on the visitor accommodations. And now with the three percent that the County will be probably

instituting on the visitor accommodations, the TAT, the County will get...be able to perhaps increase revenues.

And the last point I would want to make on that, let me just finish that...I want to finish, the people say they're going to go to vacation rental, the illegal accommodations, actually, even with the 75,000 we had on the island, most of the hotels, we're only about 75 percent to 77 percent full, in other words, they had lots of capacity at the various hotels and other accommodations. So, we still have room without having people having to flee into residential neighborhoods.

Ms. Pali: Thank you. Thank you for finishing that thought and if I can, Chair, finish my line of questioning. So, I think help me through this, I like, I like what you got to say often, if the goal is to help restrict the visitor one, three to one ratio, 33 percent, and you just testified that this July we had 75,000, a 50 percent ratio and our hotels weren't full, it definitely points to we might have enough accommodations, but it's also clear that this is not going to get us where we want to be. I mean, because we're...with our current accommodations, we already have more than where we want to be. So, stopping it is not going to get where we want to be, although it might eliminate an increase does that sound logical?

Mr. Mayer: It sounds logical in what...exactly what you said, but it's a first step, if we do increase the number of accommodations, that will mean more people can come and stay in those accommodations because they—

Ms. Pali: But that's not long-term, right? Like the people...the future will come, it doesn't help like today, like now, right? I like your other ideas, sorry Dick, I'm sorry, I liked your other ideas that are to me sounds more immediate. If we're in a crisis of too many visitors I loved your suggestion of limit the rent-a-cars because that is an immediate effect. You can book all the hotels you want, but if you don't have a place to get around you're biking it or you know, and I do...I know this sounds awful, but I do love the raise the taxes on the people who don't live here. I know that they just went through a big reform on taxes and I think they've done a really good job, but if we look at other municipalities, we still have a long way to go with the property taxes and really subsidizing for our homeowners that actually live in it. And so, do you have any other thoughts on other ideas to finish my line of questioning? Thank you, Mr. Mayer.

Mr. Mayer: Thank you. Yeah, I mean, increasingly, the staffing of the zoning and other departments to make sure we have fewer illegal units on the island. In other words, I think if we had...I mean, you know, we could go through many, many scenarios but I think your job and please excuse me if I say...am presumptuous, I was a planning commission myself years ago, but our job should be not just to react to the proposals that come to you. I would love to see a planning commission that say, we see particular problem on the island and I'm not saying just this one, but whatever it might be, whether it be watersheds or, or areas where there's water flooding or whatever it might...that you would actually be able to take the initiative as a planning commission to do things on this island. That's been a problem and so in other words, a number of ideas have come out today, I've given you some, why doesn't the planning commissioners come up with their own proposal. You don't have to wait for Michele and the Department to say this is on the agenda, you can develop your own agendas and be proactive in making Maui the type of place we all want it to be.

Ms. Pali: Thank you, Mr. Mayer. I have no further questions.

Mr. Mayer: Thank you. I appreciate your question...your question, line of questioning is exactly right.

Mr. Tackett: Commissioner Lindsey, go ahead please.

Ms. Lindsey: Just for clarification, I believe that the State regulates the rent-a-cars at this point. I believe that we are trying to get it back to county, but it is in the State level, that it isn't in our jurisdiction.

Mr. Mayer: Right, I agree. We do have to recognize that Maui has more rent-a-cars that Oahu does. And I believe, somebody told me recently that we actually have more rentals taking place than all the other neighbor islands put together. So, this is an issue if it—

Mr. Tackett: Thank you.

Mr. Mayer: I'm trying to answer the question. If we want to make act, we can go to our legislators and try to get the authority for the county to regulate on this island things and convert, you know, the rent-a-car situation—

Ms. Lindsey: Thank you.

Mr. Mayer: --to transportation.

Ms. Lindsey: Thank you.

Mr. Tackett: Commissioner Thompson, go ahead, please.

Mr. Thompson: Thank you, Director...Chair. Uh, Mr. Mayer, a question for you. So, way back when, when they did that, 33 percent was that based on anything or they just picked it out of the air and said, here's our number, because I think Maui gets, what, maybe three million and Oahu who gets eight million people a year, maybe more, of course, and they're smaller than we are. So that's why I have a disconnect there. Was that just picked out of it or we did some sort of scientific research?

Mr. Mayer: I think, I think...the three million, eight million, those are the number of people who come to the island. The length of stay it becomes very important, on Oahu, the length of stay is—

Mr. Thompson: So, ...(inaudible)...33?

Mr. Mayer: Let me, let me, let me complete my, my thought please.

Mr. Thompson: Your thought, okay.

Mr. Mayer: On Oahu, on Maui, the length of stay is much longer. So, what we need to do is look at the average number of people on the island at any one time, and that's why we did look at that. We said, that one in three. Now at that time, it was 28 percent back when we were making the recommendation from the GPAC to Council. And we had a... (inaudible)... like any group of people like yourselves, we had 25 people, some represent the industry, some represent other areas and we thought that a appropriate number would be one-third. It was not based on science. We didn't know what one-third would even mean at point, but we knew that 28 percent was high, one-third sounded like an upper limit.

Mr. Thompson: Okay, thank you very much. It was based on science. Thanks.

Mr. Mayer: Yes.

Mr. Tackett: Commissioners? Commissioner Freitas, go ahead please.

Mr. Freitas: Thank you, Chair. Mr. Mayer, when you, you folks wrote the Maui Island Plan in what was that, eight, nine years ago...

Mr. Tackett: Somebody's giving their phone number over my testimony, if you could please mute your, mute your screen so that my, my, my commissioner can finish. Hey, somebody is still giving their, their phone number over—

Ms. Takayama-Corden: I got it.

Mr. Tackett: Thank you, Go ahead, Kawika, sorry about that.

Mr. Freitas: Okay, so Mr. Mayer, I'm curious, it would have had to have passed the County Council for the Maui Island Plan to be passed. Was there big... do you remember if there was big support by the County Council at that time?

Mr. Mayer: As far as I remember, the Maui Island Plan was... somebody else was talking... Maui Island passed I think unanimously from the Council and then it was signed by the Mayor at that time. So, it was adopted. Now, actually the GPAC met in around 2007 to 2009 and during that period of time, it was adopted because it went through the Council. It took several years to go through the Council after wordsmithing and whatever, they could have modified anything they wanted on it, but the one that was passed in 2012 was passed unanimously, I believe, by the Council.

Mr. Freitas: Okay. So, you had mentioned, and I can't... I didn't write it down fast enough, you used a term, accommodation management or control? And then you gave some examples. Why didn't some of these policies or ideas be put in place right after the plan came up? Because they would have given everyone, it's fresh on their mind, it almost seems like what we're talking about today should have been done right after that Maui Island plan went up and that other, the G whatever you're talking about. It kind of lost steam and then we're all saying eh, this is too much people, too much people, yeah, you folks saw it ten years ago and nothing was done. So, to me, what we're talking about right now, today is eight years, nine years too late, so I'm very supportive

of it. So, I wanted to ask you is that why wasn't it more steam and pressure to those in...that we're making our decisions back then, ten years ago.

Mr. Mayer: There were some people who are pushing for it to be implemented right away. You have to remember, when we did that, there was only 28 percent, not 33. So, there was still a gap there in terms of...so, people did not feel the immediate pressure nor did people know how fast it would grow thereafter, and what a large influx would come in. So, that is the time, that's a time lapse that always seems to take place between people making decisions and when we may see the results of that thing, probably in retrospect now, in hindsight, hundred percent, 2020, we can see that we should have done it then. It wasn't done. But that does not mean it shouldn't be done now. And I think that's really what's, what the question that's before you and before our County Council on this item, that, yes, we, we want to make...and I think a big part of this that's been missed is we want to keep the present tourist on Maui healthy, and that's what this would do. If we keep building, we deteriorate the project, Ms. Pali made the statement she wouldn't want to live in Waikiki. What we don't want is Maui to become a Waikiki. We want to preserve the quality. We have superb tourist industry. We've been coming number one in the world for years. That's what we want to keep, and we want to do that for our residents as well that they will have a place that they think is a number one place to live as well. That's what the plan is all, that's what the plan is all about.

Mr. Freitas: Thank you. I appreciate that Mr. Mayer.

Mr. Tackett: Commissioners, any other questions? Thank you, Mr. Mayer.

Mr. Mayer: Thank you all, and I would say if any of you ever want to call, call me I'm in the phone book, we can talk about it.

Mr. Tackett: Thank you. Next, testifier, please Director.

Ms. McLean: Chair, the next testifier is Christopher McGee, who will be followed by Tom Croly.

Mr. Christopher McGee: Hello everybody.

Mr. Tackett: Thank you, Christopher.

Mr. McGee: Hi, my name is, my name is Christopher. This is actually my first time testifying on anything like this so, I'm just gonna follow everyone's lead. I'm not a paid Lobbyist. I'm just a resident, local business owner, one of them, one of my businesses is a hundred percent tourism based so that into consideration. I want to thank all the commissioners, wish Commissioner Thompson a happy birthday and Vice-Chair La Costa it's nice to see that you take your chair very seriously.

I wrote my testimony during the five minutes that we had the bathroom break, so bear with me. On the side of the, on the side of the bill, people supporting it, I'm hearing keep the status quo. What they mean by that is no more rooms. On the side opposing, I'm hearing I think it was Dave Jorgensen that let's keep the status quo and from others, why rush into this? Just as an observer

and I have not studied this extensively by any means. The status quo is as follows, in the last decade, we've gone from 28 percent to 50 percent and that's a 33 percent increase. And I'm not making this up, this is all just the things that I've just been hearing over the last little bit here. If we keep the status quo in the next 10 years, we'd have an additional 33 percent bring us from three million to one million, which is a lot...one million additional to four million, which is a lot closer to Waikiki than we realize. Who isn't actually eight million? It's six million. This is as of the July...this is released September 1st, as of...the numbers, I think are for July. We keep hearing that visitors will increase. I'm not sure that that's the case. We're already back...and that we're going to lose jobs. We're already back where we were pre-pandemic with more domestic travelers than we had in July of 2019. Again, I just look at trends. I just...I'm a business person and I look at, I look the numbers and I'm looking at this from the time that we implemented that plan, which what was her name, Livit said...Livit, she said let's stick to the plan. From the time we stuck to the...we run that plan here is the median sale price of homes. I think it might be a mirror image, but that is going up. Prices are very, very high. And here is the home inventory going down, but we don't have a lot of inventory for sale for people that want to live here. We're talking about losing construction jobs and things like that. I think we do need to be building more homes and hotels. Anybody that had...that took advantage of took advantage of...not took advantage, but enjoyed the seven months of, of peace and quiet, of no tourists on the road can agree, I think that Cara's poll of 79 to 1 is a pretty accurate representation of the public sentiment of all the people that I know as they feel in regards to tourists and building more hotels, specifically in places that are in beachfronts and the beaches that we like and we'd like to enjoy and continue to enjoy.

Ms. Takayama-Corden: Three minutes. I would be happy to take any questions. Thanks for listening.

Mr. Tackett: Thank you. Commissioner Pali, go ahead please.

Ms. Pali: And I'm sorry, Commissioner Lindsey, in a desire for a quick and efficient meeting, I am really trying to withhold my questions. Hey, Mr. McGee, thank you. First of all, I welcome all perspectives and, and you're bringing a really great perspective. I think there's a few things, though, if I may be fair, you know, a July 2021, summer month may not be an indication of the other 11 months, and that poll would not be a yearly average on that one summer month after Covid, after people were trapped and scrambled up \$500 for that cheap ticket to get to Maui, so I would disagree that that would be reflection or accurate reflection of an average. So, when you present information it's helpful when it is a little bit more balanced and not kind of like extreme. The only other thing that I would like to just help balance is real estate goes on trends. We have upswings, we have downswings, and if you look at the last 50 years we upswing seven to ten years, downswing seven to ten, we bottomed out in 2011, so naturally in this season, you're showing an upswing which is naturally in real estate which may not be tied to any other item except for you're in an upswing. Had you don't this presentation in 2009, real estate would have been a downswing and then what would we attribute that to? So, I would just be cautious of using data like that to push a point if it's not fully taken out of...you know, it's taken out of context. But I do enjoy your perspective on the other things 'cause that's what I want, I want your personal knowledge, something that we won't hear from all the other database things. So, in that desire, do you have anything personal with your opinion, with your experience that you can help

contribute to the testimony so that I can get something tangible from you to help use as my basis for decision?

Mr. McGee: Sure, yeah. Personally, I feel as though if we build more hotels, you would end up with more people needing to work here. Again, trying to adjust that ratio, ratio of 33 percent. More hotels does mean more people. It doesn't...and stopping it doesn't mean that there will be more people. We saw two percent increase in Asheville. That's hardly a, you know, supply and demand follow each other. So, supply goes down, if we limit the supply, demand goes up, meaning that rooms will cost more, meaning that, yeah, more Airbnbs will pop up, illegal ones great we need to enforce. But in my view, having those go to individuals that start a B&B in their home and work for it and that money going to those families versus, you know, billionaires on the mainland, I feel like that's probably a good thing. And more people being able to afford to own homes if the same people that were building the hotels, built homes, we wouldn't have the lack of inventory, the inventories, homes for sale, this is the inventory, I'm not...this is, this isn't just, this isn't just a swing, we're just not building. The focus is elsewhere right now.

Ms. Pali: Well, thank you, sir, I appreciate that.

Mr. Tackett: Commissioner La Costa, you have the floor.

Ms. La Costa: Thank you, Chair. Thank you so much for testifying today. You mentioned that you have a couple of businesses may ask what those are, please?

Mr. McGee: Absolutely. So, the first one is the Avocado Group, this one, this one right here is my office. We do web marketing. We help small and local businesses reach more customers online. So, we actually service a lot of businesses that do tourism and drive a lot of our business via data. The other one is Hawaii Camera Rentals, again, a hundred percent tourism driven during the seven months that we had the shutdown, I had not one rental as in not a single penny through that business to my pocket as a result of it. So, I'm very aware of our dependence on it and as far as looking at, you know the future of where we could shift and find more money, I would...I do have ideas, I do have ideas that would, that would be able to shift the economy from relying so dependently on tourism. That's coming from me with you know, almost half my income coming from a tourism related business.

Ms. La Costa: In 30 seconds, can you recap one or two or three of those points of wisdom that you're...your opinion.

Mr. McGee: Doubtful, doubtful I could so in 30 seconds, but I would be happy to share otherwise, people care to hear.

Ms. La Costa: We would care to hear, but we don't have a lot of time. So, that's why I thought maybe you could capsulize it.

Mr. McGee: I think, I think we could focus a lot more instead importing money via tourism, that means people, that means cars, that means damage to our beaches, to our reefs, pollution. Instead of importing people to get money, we can export media and technology and information.

We can, we can raise up smarter people and import smarter people to be living here, to be working here, incentivize them. One of the things that we talked...somebody talked about, and I'm not going to be able to find it off the top of my head was about the, you know, trying to make it accommodating to investors to put their money here and by investors they're talking about developers to build mega, you know, complexes to host people. We can have other investors come here and we can have other industries, and it doesn't need to be tourism driven. There are plenty of industries, specifically technology, information and media that can be exported, I mean, when you talk about the easiest thing to export right now, it's probably bikini's because they're expensive, high margin, and easy to ship. But when you talk about information and media, it's very easy to ship because there is no shipping, and that's what I do here at this business, and it's a lot of fun, and I think I could empower more people to do that given the opportunity, and a two-year pause isn't rushing into it, and it's by no means a long time, you know, we're talking about ten years that things are going to be getting...ten years that things are going to be on, you know, to get built.

Mr. Tackett: Mr. McGee, you're well over—

Mr. McGee: Thirty seconds is over, I know.

Ms. La Costa: Thank you, Mr. McGee, and I will turn it back to the Chair to ask his questions. Thank you.

Mr. Tackett: Commissioners, any other questions for Mr. McGee? I just have one question for Mr. McGee. How long have you lived in Hawaii?

Mr. McGee: So, I am actually a fairly recent transplant. If you, if I, I have been here two years and ten months, but due to an odd circumstance of life events, this is the longest place I've ever been anywhere and I'm here to call it home.

Mr. Tackett: Thank you. Commissioners, anybody else got any questions for our testifier? Thank you, Mr. McGee. Director.

Ms. McLean: Chair, the next testifier is Tom Croly and so far, he is the last who has indicated they wish to testify.

Mr. Tom Croly: Aloha, Commissioners again, and thank you for your due diligence all morning here. I've been listening intently with you. If someone asked me right now, does Maui or Kihei, where I live, need another hotel? I'd say no. I'd say no, we don't need another hotel here. But if a owner of a land that's permitted, allowed to build a hotel came before this commission and said, I'm meeting all of the requirements, then he should be allowed to build his hotel. And I think this this moratorium is not a good tool to be using to achieve the goal that they have set out, which is we want less visitors here. Now, let's take a question. Who are Maui's transients? Sometimes people are calling them tourists. Sometimes they're calling them visitors, but this bill calls them transients. And I want to point out that anyone who is not a full-time resident and doesn't file their income taxes as a Hawaii resident is a transient. Maui has about twenty or twenty-five thousand people who are part-time residents. So, when we talk about these numbers, what's the number

of tourists coming to Maui, do understand it includes all of that twenty or twenty-five thousand part-time residents in there. Why do we have a huge jump in numbers for July? Because all of those part-time residents said, I got to go check on my place, I got to go to Maui. So as soon as the, the gates were opened up, those visitors came here as part-time residents to check on their condos and their homes and so forth. My neighborhood during the past year has been bought up by people who want to move to Maui either part-time or full-time because they've realized what the last testifier said, I can do my business online from my home. So, now they pushed up prices and they, they pushed out some, some rentals and so forth. So, do we solve any of these problems by a moratorium? We don't, okay. I also want to take time to point out some of the numbers that have been thrown around, this 33 percent number. Do recognize that from 1995 through 2008, we were exceeding that 33 percent every year except for right after 9/11, okay. So, we have been exceeding that 33 percent visitors to, to residents' number for many, many years. Then for two years we had a recession. I don't know if you guys remember, but it was a pretty bad recession, okay. And during those two years is when the number dropped to that 28 percent that that Dick pointed out. There weren't many jobs, everyone was hurting, okay. The economy came back and we have exceeded those numbers again, just like we had in the past. But we pulled a number out of the air and now everyone's like, oh, that's the golden number that we have to aspire to and we have to do whatever we can to get to that number. But recognize that many of the people that are that 33 percent are those part-time residents.

Ms. Takayama-Corden: Three minutes.

Mr. Croly: And we're not going to change any of that with, with, what we're proposing there.

Mr. Tackett: Mr. Croly, I think your three minutes is up.

Mr. Croly: Yes, I hit my three minutes. Thank you.

Mr. Tackett: Commissioners, does anybody have any questions for Mr. Croly? Commissioner Pali, and then...

Ms. Pali: I just...thank you for...I mean, I don't have a way of validating what you said. Just like most of the testimonies here. But I do appreciate getting more data, because I think when we, people start throwing out numbers and they take it out of the bigger hole, there's some translation...translation that gets lost. And so, I forgot that second homeowners are part of that number—

Mr. Croly: Very important.

Ms. Pali: --and so, take that out, it's a very different story. And also, I forgot to ask Dick and I'm going to ask if you know, he talked about length of stay, he didn't give us that average number for Maui. Do...would you know that by chance?

Mr. Croly: Yeah, it's 8., it's 8.6 days, and that number has been going up year by year by year as more of those, you know, people who stay a 180 days get factored in with the person who's staying three days, you know.

Ms. Pali: Oh, so when they get that visitor eight-day average it's including the second home visitor?

Mr. Croly: Exactly, yeah.

Ms. Pali: Oh, that's not a good...oh, that's...yeah, oh...that's...I wonder if we have to work with...I love Dick's recommendation about working with the State. I wonder how we can get that data to be better presented.

Mr. Croly: You know, there's better data right now that's available since the Covid because they're collecting this data from the Safe Travels thing and there the person is exactly saying here's where I'm staying, and that kind of thing, so there actually is more accurate data that that's become available in the last year—

Ms. Pali: They need accurate data.

Mr. Croly: --but I don't know how the County gets that.

Ms. Pali: Thank you. But we all agree that we don't need more hotels right now necessarily, but thank you, thank you, Tom.

Mr. Croly: Sure.

Mr. Tackett: Commissioner...I believe Commissioner La Costa had her hand up previously and then Commissioner Thayer after.

Ms. La Costa: Thank you, Chair. I am just going to ask Mr. Croly to please continue what he was gonna say because he always has such valuable insight, at least for me.

Mr. Croly: Thank you, Commissioner La Costa. I did have a couple more points that I wanted to make. I support in this bill, if this bill do...were to go forward, the exemption for bed and breakfast, owner-operated bed and breakfast these are already residents of the island and so forth. But I also think that the bill should have an exemption, as was pointed out, by, by Mr. Goode for applicants who were in the process for a short-term rental permit. If there's an applicant and I know some who made application two years ago and they're still in this process and now you're changing the rules on them and saying, sorry, we can't, you know, grant your permit. If this went forward, then at least let those guys go forward before the, before this, this thing kicks in. So, so, that was, that was the, the one other point and then the other thing that was...point that I wanted to make was the Department put forward some of the goals that were put in the Maui Island Plan, and said, in some way this moratorium conforms with them. I want to point out that the short-term rental ordinance and the bed and breakfast ordinance conform one hundred percent with what was put in the Maui Island Plan. It said, we should have a cap on the number of, of these visitor accommodations, which we now do for short-term rentals and bed and breakfasts. It said, we should regulate them, which we are through these permitting processes. So again, there's...those parts as you well know, I'm involved in that end of the industry should not be part of this

moratorium if it should go forward. But I encourage you guys to defer, completely defer this, because there's so many unanswered questions. So, this afternoon, get together your questions, ask those questions, try to get some answers before you move forward with anything else. That would be the summation of my, of my testimony. Thank you for your question.

Ms. La Costa: Thank you, Mr. Croly.

Mr. Tackett: Commissioner Thayer go ahead and then followed by Commissioner Lindsey.

Ms. Thayer: Thank you, Chair. So, I just want to make sure I'm hearing and understanding this correctly about part-time residents being included in that visitor count. Is that right? Okay, and so, I'm wondering then if their home, so this is assuming they own second homes that they're staying in for part of the year?

Mr. Croly: Correct.

Ms. Thayer: Okay, so the Department gave us this count that there are 24,000 or so visitor lodging units. So, are those people's homes included in this count?

Mr. Croly: Some of them are, some of them are not, let me explain. Of the 24,000, about 7,500 of those are hotel rooms, okay, I think they gave you a breakdown there. Another 3,500 of those are timeshares. Then another 9,000 of those I think they put down are short-term rentals. Now within that short-term rental, these condos, some of those condos are second homes, okay, and they're used both as short-term rentals and as the person's home. But then there's properties that are allowed to make short-term rental uses, but the owner has said, I do not make short-term rental uses. I live in it full-time, and those are not accounted for as part of those numbers that that you were given by the Planning Department. So, so, so there are, by my estimation, about 20,000 units that, that, that includes single-family homes and condos that are not used for short-term rental, but are used exclusively by the owners, but I understand those owners might also be letting their kids use it, their friends use it, and they may be some of these identified illegal short-term rentals, although they're saying, I'm not renting it, I'm just letting my son use it or my daughter use it or my, my, my friend that I gave to. So, so understand just how big that population is of the second homeowner who uses it himself and lets his friends and family use it and certainly looks a lot like a short-term rental.

Ms. Thayer: Okay, all right, thank you.

Mr. Tackett: Commissioner Lindsey.

Ms. Lindsey: I just wanted to make a comment. I'm not sure when I think, I'm not sure we can defer it too long because I think we received it, I think we only have till the 26TH to defer this agenda item because when we received it and the 120 days.

Mr. Croly: Awesome. Corp. Counsel will let you know.

Ms. Lindsey: Yeah.

Mr. Tackett: Commissioner Lindsey, did you have a question or was that it? Okay, Commissioners, anybody else have any questions? Commissioner La Costa go ahead.

Ms. La Costa: Thank you, Chair. In response to the last question and comment, if Mr. Hopper is available, do we have a timeframe on this in which to act if we defer it? Thank you.

Mr. Hopper: Yes, I don't know if it's in the Department's report, but there's a Charter deadline. I think it's, it's when you, when you close the public hearing on this, there's a certain amount of time, I believe you can check with the Department. I can look that up for you as well. It may be 90 days, but after that time, the Council can then act on it without your recommendation. I believe.

Ms. La Costa: Thank you, sir.

Mr. Croly: Aloha.

Mr. Tackett: Any other questions? Thank you, Mr. Croly. Director.

Ms. McLean: Chair, we did have one more person sign up to testify and that is Albert Perez.

Mr. Tackett: Mr. Perez, you have three minutes.

Mr. Albert Perez: Aloha, Chair Tackett, Vice-Chair La Costa, Commissioners, I'm Albert Perez, I'm with Maui Tomorrow. So, local residents' sentiment about the visitor industry has fallen to an all-time low and this problem is continuing to grow. The first step in solving any problem is to stop making it worse. So, we need to pause the continued expansion of the already overbuilt tourism industry. This does not mean that there would be less visitor accommodations. We would just stop building more, jobs in the industry would remain. Saying that a moratorium will lead to more illegal vacation rentals assumes a lack of enforcement, and that is not acceptable. If tourist accommodations are limited and we have strong enforcement Maui will return to being a premier destination and existing accommodations will be more profitable with more benefits, more jobs and a better quality of life for residents. I would also like to add that there was already a Maui hotel moratorium that was passed in 1991 for a duration of almost two years and sky didn't fall. We're still here. This proposed moratorium is intended to pause further development of new visitor accommodations for two years or when solutions recommended by a temporary investigative group are passed by the Council. That group has already had two meetings and is scheduled to finish its work by December 10th. A moratorium will give us time to address the problem. This ordinance is designed to help implement the Maui Island Plans that call for capping the number of visitor accommodations and promoting the 33 percent ratio that we keep talking about. A number that we passed years ago. The Maui Island Plan is law and it needs to be followed. This pause is a first step and there is broad public support. So, I urge you to support the proposed ordinance, send it back to the Council so that they can take action as soon as possible. Mahalo.

Mr. Tackett: Commissioners, any questions for Albert? Thank you, Mr. Perez. Director, has anyone else signed up?

Ms. McLean: Chair, someone did indicate they wish to testify and I asked their name. They haven't responded yet.

Mr. Tackett: Yeah, please come forward if you wish to testify.

Ms. Nancy Hague: Hello?

Mr. Tackett: Yep, I can hear you. You have three minutes. Please state your name.

Ms. Hague: My name is Nancy Hague and I just wanted to throw something your way as far as what I've heard recently. Two things as far as our tourist population is concerned, yes, there is a big interest in coming to Hawaii because it's considered a safe vacation. Well, we may know otherwise, but going to the beach, going for swimming in the ocean is considered a safer activity than say, going to other places. So, this is also what I heard, I just read yesterday that 35 percent of our normal tourists are international, and we want to get that international travel back. That's a large percentage. And I know in Maui, Canadians are really big, maybe in Oahu, Japanese. So, I think that needs to be considered because, yes, we are going to have more tourists and we do have to look at this. The other thing is we're, we're just so many more people want to come here. Well, now the airlines to get more business because they were down for so long, let's see, Hawaiian Air started three new direct routes to Maui. Did you know that? That was also in the papers. One was to Orlando, Florida, nonstop direct to Maui. I think one was in New York or Newark, New Jersey that another one air flight. These are three brand new markets. Also, United started also three new direct nonstop routes to Maui. So, this is increases tourism. We do need to look at this, and to have some...(inaudible)...number is the best number, but we need to look at this. And Albert is right, people are getting a little bit disturbed with having so many tourists on our island. One thing I know from being a resident since 1975 is one of the reasons that Maui was so great and so special and no ka oi is because we kept a balance of tourism and beautiful scenery and you know, what we had here was really special and it wasn't overrun like Waikiki. We don't want that. People don't like to live in it. The locals don't like it. The tourists don't like it. You want to keep a number one experience, you've got to look at the balance between tourists and residents and how many people you want on this island. However, you do it, however, you can stop it, yeah, more units, more tourists. It's now you get the flight from Orlando, now you go to find a place to rent, right? You got to find a condo or a hotel. And a lot of those people that are second home owners, you know, they come over for their two weeks. They might stay a month, but they're renting it out. I know these people—

Ms. Takayama-Corden: Three minutes.

Ms. Hague: --by the way there's a lot of Canadians that own condos, and—

Mr. Tackett: That's three minutes. The rules gotta be the same for everyone, but there may be questions for you.

Ms. Hague: Thank you.

Mr. Tackett: Commissioners, does anybody have any questions for our testifier? Commissioner La Costa, go ahead.

Ms. La Costa: Thank you, Chair. Thank you for your testimony. Are you involved with the tourism activities or anything to do with tourism in your livelihood?

Ms. Hague: Actually not. I've been involved more with the teaching in the community. I've been in real estate and so, that, that in a way is, is a lot to do with tourism, real estate. But I haven't done it for many years, but I do see when I see testifiers that are from development and real estate, I understand what that perspective is because they want to keep on going. They want to keep the mean machine going of construction. And I know that we need jobs for our people, but someone said earlier, like, what is it, we just have to keep on building and building to keep people working. We need to look at this. I think we should look at...talk to that one guy that was testifying earlier about exporting media and all that. I mean, we really got to get connected and figure out some alternatives to say just building and giving the guys construction jobs.

Ms. La Costa: Thank you very much. I appreciate your testimony. Thank you.

Ms. Hague: But let's build more affordable homes for our families here in Hawaii. These people are suffering. Homeowners are—

Mr. Tackett: Excuse me, you to stick to answering the questions. We cannot, we cannot travel through opinions it would take forever.

Ms. Hague: Sure.

Mr. Tackett: Although we agree with your opinion for sure.

Ms. Hague: All right, thank you.

Mr. Tackett: But my last question, and if anyone else has a question after they're welcome to ask it, but you said that you're aware of...you said, number one, you've been here since 1975 which interests me because it interests me perspectives of people that have been here for a long time. That's very interesting to me. The second thing is you said you know other people are coming here buying stuff and renting stuff out. So, I don't need to know who or what or whatever because I don't think putting somebody in that position is, is, is something that I need to do. But I do need to know, do you feel like there are a lot of illegal vacation rentals or do you feel like that is not an issue because we've had multiple people come on here and say that no illegal...illegal vacation rentals is really not an issue. So, I would like to know your opinion on that.

Ms. Hague: My opinion is, yes, there are illegal vacation rentals. People are doing it all the time. Okay, I've even known people in this community that have been doing it because people like to make money or they need money, you know, and probably as the price of real estate, like somebody said, a million dollars for a house, they're going to have to find some way to pay for it because, you know, let's be realistic. We're baby boomers. We already got our place. But all these young people, they can't get into a place unless they did something like ohanas, two

ohanas, vacation rental something. We've got to look at it. We've got to figure out a plan and I think you Planning Commission people should get involved and go forward with helping out the finding solutions. Okay, that's my opinion, sorry.

Mr. Tackett: Thank you. Commissioner La Costa go ahead.

Ms. La Costa: If you're aware of illegal vacation rentals I would highly encourage you to file an RFS report with the County so that you can stop the illegal rentals because it would help tremendous what we're talking about today. So, please do your—

Ms. Hague: I'm not into, into them as well, but they have stopped the ones that I know, so...and you know who was stopping it is our Mayor Tavares was trying to stop them but she didn't get elected again 'cause people didn't like it.

Ms. La Costa: Thank you, thank you. Appreciate.

Ms. Hague: Thank you.

Mr. Tackett: Commissioners, any other questions? Are there any other testifiers, if you, if you wish to testify please come forward at this time? Going once, going twice, going three times, can I please close public testimony, Director.

Ms. McLean: Yes, Chair. Public testimony is closed.

Mr. Tackett: Does anybody need a break before we get into our discussion? We have a lot to discuss I'm sure. Everybody good? All right, well, let's get into our discussion. Does anybody have things that they would like to discuss that we've heard? Commissioner Thayer followed by Commissioner La Costa.

Ms. Thayer: Thank you, Chair. I have...well, I think I have a lot of questions, but just for starters, I want to ask a couple of clarifying things to the Department to make sure I'm working with this information correctly. So, one question I have is, are timeshares counted as transient units?

Ms. McLean: In general, yes.

Ms. Thayer: Okay, so in...oh, sorry.

Ms. McLean: Transient is anything less than six months.

Ms. Thayer: Okay, so in, in Jacky's table that she presented with the tally of numbers of each type, the timeshares are included in that table, so in that 24,000 units?

Ms. McLean: Yes.

Ms. Thayer: Okay. And so, this moratorium would also put a hold on construction of timeshares?

Ms. McLean: Well, right now, because the bill does not amend anything in Title 16, it would not stop the issuance of building permits. But if there are other entitlements needed, then those would be stopped, and that's why we recommended the same language be added to the, the Building Code.

Ms. Thayer: Okay, and then a related question is, are part-time resident homes counted in that 24,000?

Ms. McLean: If they are used for short-term rental, yes.

Ms. Thayer: Okay.

Ms. McLean: If they are not used for short term rental then, no.

Ms. Thayer: Okay. Thank you. That's all my questions for now.

Ms. McLean: Chair, I see Mr. Hopper jumping in.

Mr. Tackett: Yeah, thank you Director. Corp. Counsel.

Mr. Hopper: To provide a little extra clarification there is a definition of new transient accommodation that does include timeshares, that's what's prohibited. And on the issue with building permits, there's a couple exceptions in 20.41.040, it states that the chapter does not apply to any new transient accommodation that has received its last discretionary approval or that doesn't need its last discretionary approval, and not require any additional discretionary approvals prior to operation as of the effective date of the ordinance. So, if a project only needed a building permit, this bill wouldn't prohibit that project from going forward anyway if the building permit was the only thing they would need because that's a ministerial approval. This would only apply to projects that require additional discretionary approvals as of the effective date of the ordinance. So those would include SMA permits, changes in zoning, things, things of that nature. But if all they need is a building permit they would be allowed to build whether or not you would amend Title 16 under this, under this bill.

Mr. Tackett: Mr. Hopper, so if a, if a, say the Grand Wailea wanted to build a large outdoor restaurant in their...on their facility, would that be included in this moratorium?

Mr. Hopper: If they needed discretionary permits like an SMA Permit to do that then this would allow if they don't have that...if they haven't applied for that prior to the effective date of the ordinance and I don't know if a restaurant would be considered a transient accommodation. It's an expansion of, of what they have existing. But if they need, and I believe they would need a Special Management Area Permit, then, then this would apply for them if they haven't submitted their permit before the effective date.

Mr. Tackett: How about if they wanted to build an extra building on an already, an already developed lot.

Mr. Hopper: So, if, if they meet the definition of new transient accommodation and need a discretionary permit for that, then yes, this would apply to them.

Mr. Tackett: Got it. Thank you.

Ms. Thayer: Can I ask a follow up to Mr. Hopper?

Mr. Tackett: Please do.

Ms. Thayer: Okay, thank you. So, I'm reading this transient accommodation. I'm figuring this means like units where people like rent or occupy and not necessarily like a restaurant or pool or whatever other hotel amenities. So, when I read this, I interpret it as you can do whatever other improvements to the hotel, you just can't add more rooms.

Mr. Hopper: Yes, it talks about any structure intended to be used for transient accommodation, including hotels, timeshares, short-term rental homes and transient vacation units. So, I think the intention there could be clarified if there's someone is looking to, you know, build only a restaurant and not involve any, any rooms that would increase capacity. So, yes, it might be a good idea to clarify that if you had, had intentions there, if you would like to see that include any expansion or if you would only like to if, if the intent should be only to deal with the room expansions, that would actually be a place for visitors to stay.

Ms. Thayer: Okay, thank you.

Mr. Tackett: Commissioners, any more questions? P Dee, go ahead.

Ms. La Costa: Thank you. And this is for Mr. Hopper as well, please. I am a little confused in that there has been the word, grandfathered, there has been the word, discretionary approval tossed around and I am not exactly sure if this bill says if you have a permit already in progress, say the Hilton timeshare just for instance in Kihei, they're building it. Somebody else might have a permit in the hopper, no pun intended sir. So, can you please tell me what exactly this is supposed to do? Is it, is it supposed to say no more new hotels? Is this, is this supposed to say everybody who's already building or has a permit in hand and haven't broken ground, they're exempted? Thank you for the clarification because I'm confused.

Mr. Hopper: There's a couple of things. The exceptions basically state that if the project...this is 19.98.040 and the corresponding section entitled, 20. It basically states that if you, if the project has all of its discretionary approvals, that means permits that require discretion, SMA permits, changes in zoning, special permits, things like that, most commonly, probably SMA permits. If they have all of those discretionary permits, then this moratorium would not apply to them. There's also at the end of the bill, Section 6, it states, this ordinance takes effect upon its approval, but does not apply to the processing, approval or granting of any application for the approval of a new transient accommodation that is properly filed with the county and complete prior to the effective date of this ordinance. So, if someone has an application for that permit in the pipeline, the ordinance also does not apply to it. But I think they're talking about as the, as the definition of states new transient accommodations that have not yet received discretionary permit approvals,

all of their discretionary permit approvals, which would generally not include ministerial permits if all they needed were building permits and things, but would include things like Special Management Area permits, special permits, generally things the commission would granting. So, if you do not have those permits in hand yet, this would not apply.

Ms. La Costa: So, then those would be—

Mr. Hopper: Oh, I'm sorry, I'm sorry, if they, if they did have those permits, if they do not have those permits in hand, this would apply to them. If they, if they had them, I don't even know if you'd say, grandfathered, I think they would just already be, already be permitted to go forward. I suppose you could call it grandfathering although usually that's for...this isn't, this isn't making a permanent change in the law. Usually grandfathering is if you...something was legal but then you made it illegal, you let the people that were doing the illegal thing or the thing that's now illegal continue. In this case, this is a moratorium that would not apply to those that essentially already gotten all of their discretionary permits approved to the...and I think that's consistent with Hawaii law that deals with, what they call, vested rights and last discretionary approval which is...comes from Hawaii case law on the matter.

Ms. La Costa: Is a Certificate of Occupancy considered the discretionary approval?

Mr. Hopper: I do not believe it would be.

Ms. La Costa: So, if one had not been issued for a project that was built or already built, then this would apply to them if they had...if that was not considered discretionary.

Mr. Hopper: No, I guess I'm, I guess I'm being confusing and I'm sorry about that. If you need any further discretionary approvals, this applies to you. If you don't need any more discretionary approvals, meaning all you need are ministerial permits, then this would not apply to you. So, if all you needed was a building permit, for example, this would not apply to you.

Ms. La Costa: No, I'm sorry, sir, I was asking about a, about a Certificate of Occupancy which you need to have in commercial properties to be able to occupy. Is, would that be covered here? Would it be a discretionary or a nondiscretionary?

Mr. Hopper: Yeah, I do not believe that is a discretionary permit. So, therefore, if all you needed was a Certificate of Occupancy, then this would also not apply to you.

Ms. La Costa: Okay, thank you.

Mr. Tackett: Okay, Mr. Hopper, you're popular today. I believe Ashley has a question, and then Dale.

Ms. Lindsey: So, like in the special zoning areas, like in Napili or the MRA District where in the MRA District, for example, you can a...I don't know, the right word for it, but you can have 20 rooms short-term rental without a permit would that affect this up to 20 rooms? Would this be affected there or is that...if you're...I'm just trying to see where this... 'cause there's Small Town

Districts that will be affected for smaller businesses other than the large hotels and those were the people who I'm seeing, you know, the local people who might be more affected by this as opposed to like a Marriott or something.

Mr. Hopper: If they did not need discretionary permits, meaning if the zoning allows as of right without any other review, a number of hotels, then, then this would not apply because they wouldn't need any discretionary approvals if they could already build a hotel to do that. But again, I think that's, there's limited numbers of rooms there and that would apply in those districts up to, up to whatever is allowed by the zoning without any further permits if someone has the right to do, to do that already. So, that's, that's, yeah, it would depend on the zoning district. I mean, for example, if you needed some, some of those business districts, I think you need to get a special permit in order to do a certain number of rooms within a range. That special permit would be considered a discretionary permit. So, if you still needed that, then this would apply and you would not be able to get those discretionary permits because new transient accommodations are not allowed in the zoning district. It all really depends on whether or not the use needs additional discretionary permits. And I think that's consistent with, with Hawaii law on, on the point where you can essentially cut somebody off if they've gone through the development process, where you can cut them off and say you cannot do this use anymore, even, even if you, even if you could theoretically get a SMA permit to do the use, you cannot do the use, at least for the moratorium, period.

Ms. Lindsey: Okay, thank you. I think I understand.

Mr. Tackett: Commissioner Thompson.

Mr. Hopper: It's going to depend on the zoning district. So, you'd want to look at the zoning district to see what it allows, if it allows hotels as a matter of right and this person's already zoned that district then unless they need other discretionary permits this wouldn't apply.

Mr. Tackett: Sorry. Sorry, Commissioner Thompson, I almost, I almost took the floor away from Ashley and I don't think she was quite ready yet. Ashley, you ask any questions you need until, until you, until you feel comfortable. That's what's here, yeah.

Ms. Lindsey: Okay, so, so, like let's say Hotel Wailea because it's out of the SMA district, if they wanted to build a whole expansion wing and they had Hotel zoning already then, they could? That wouldn't preclude them because they would just need a building permit, it's already within their area to be able to build that, right?

Mr. Hopper: Again, I don't want to comment on specific projects in this case.

Ms. Lindsey: Okay.

Mr. Hopper: But generally, if you don't need any additional discretionary permits it does not apply.

Ms. Lindsey: Okay, thank you.

Mr. Tackett: But they would need an SMA correct?

Ms. Lindsey: I was just assuming that it was outside of the SMA district and that was just a hotel that I knew that was outside of the SMA, but that was just an example, because most of Kihei is in the SMA. So, I was just looking –

Mr. Tackett: Pretty, pretty much all the hotels are in the SMA aren't they Mr. Hopper? I mean, the majority of the hotels are in the SMA area, correct?

Mr. Hopper: I'd want Planning to confirm that, but I think in Kihei I think that you're, you're probably right, but I would want the Department to confirm that. I'd want to see the map to give you accurate information.

Mr. Tackett: Director.

Ms. McLean: Yes, Chair in general the hotels in South Maui and West Maui are.

Mr. Tackett: Thank you. I did that, sorry for interrupting Ashley, but I, I believe that all those have the SMA which I thought that that's what you were asking.

Ms. Lindsey: Yeah, I was just, I'm just kind of looking for the exceptions because I know this will affect smaller businesses, maybe like family properties and stuff in other areas also.

Mr. Tackett: Did you have any the other questions that would be helpful? Okay, Mr. Thompson, go ahead.

Mr. Thompson: Thank you Chair. I have for our Counsel, Mr. Hopper, are you till about?

Mr. Hopper: Didn't leave.

Mr. Thompson: Tried to get away, no chance. So, actually I have a question and I don't own any hotels, I don't make any money out of hotels, but I wonder how legally defensible this is? Actually, it stems from way back my real estate days, when you acquire property, it comes with a bundle of rights which includes right of possession, right of control, right of disposition, and the right to ...(inaudible)...income. So, and those are laws. So, you get those when it comes with it. So, let's say I bought a piece of hotel property, I don't have money for that, but if I did, I'm like great I want to buy this, I'm going to put up 50 units or whatever, and I'm paying hotel property tax, ...(inaudible)...stuff. Would that be a violation of my rights to deprive income from that property? If basically the County came in and told me that it's now, it's not buildable, so really by eminent domain, they've killed my property. Anyway, all that, does, is that legally defensible or are we end up in lawsuits from hotels coming in and I know we got a lot of them already, but I don't want to be paying millions for them.

Mr. Hopper: A couple of things. I think that your question gets to the reason you have the last discretionary approval criteria there. First, moratoria have been used as development tools in lots of jurisdictions, including Maui and in the State of Hawaii. That's why it has to be temporary

and passed for a specific period...specific purpose, which in this case is to have tourism related working group and come up with legislative changes within the moratorium time period. The other part of that is that, like I had gone over before, 19,98.040, the Exceptions, if a project has all of its discretionary approvals, this does not apply to it. And the reason for that is what you discussed. Hawaii law talks about vested rights and the last discretionary approval, meaning that that if, if a project has not received its last discretionary approval, it does not have an expectation that it can, can do, can do the action or use the property in the manner that the discretionary approval would require. So, essentially until you get your SMA permit to do your work, to build your hotel or to do your expansion, it's possible that SMA permit could be denied or if you needed a Special Management or if you needed a special use permit that could be denied as well. So, Hawaii law recognizes that if you don't have those permits yet, then you don't have an expectation that you can use your property to derive income in that way, and so therefore, if...because that permit could be rejected or the law could change, you do not have an expectation to use your property in that manner because that permit could be denied for it, which is why that less discretionary permit is a critical time and is used as a cutoff date. and this, you know, certainly not the first time that, that's been, that's been looked at in Hawaii law or in ordinance. But that's, that's the reason that that language is in the ordinance is to, you know, for those that already have all their vested rights to allow them to continue on in the way that they were prior to the bill, but anybody that needs additional discretionary approvals they haven't gotten yet, this bill would apply to them and the moratorium would apply for the temporary period that the bill would regulate.

Mr. Thompson: Thank you very much, Counsel.

Mr. Tackett: Commissioner Thayer go ahead please.

Ms. Thayer: Thank you, Chair. Mr. Hopper, I have a follow up question to that. We need you today. The, sorry, I just lost my train of thought. Oh, sorry, permits that are in process, so what about like the permit applications that have been submitted to the department that are rolling along in the process? What happens to those in the event that this moratorium passes?

Mr. Hopper: Section 6 of the ordinance states the ordinance does not apply to the processing, approval or granting of any application for the approval of a new transient accommodation that is properly filled with the County and complete prior to the effective date of this ordinance. So, this would not apply to applications in process.

Ms. Thayer: Okay. Thank you.

Mr. Tackett: Commissioners, any other questions for Mr. Hopper? Commissioner Lindsey, go ahead.

Ms. Lindsey: Was there a start date for this or it's whenever it goes through Council? 'Cause I was looking for a start date and I couldn't find one.

Mr. Hopper: It would be whenever the Council enacts the ordinance.

Ms. Lindsey: Okay,

Mr. Hopper: That would be ...at second reading if the Council enacts this that would be the beginning of the effective date.

Ms. Lindsey: Thank you.

Mr. Tackett: Commissioners, any other questions or discussions? P Dee, go ahead.

Ms. La Costa: Thank you. So, I am still confused and yes, I'm a blond kinda sorta, but I just don't...I'm still not getting if you don't want to address specific projects that are underway, if I have a commercial project that allows for or is a transient accommodation project and I have not received my Certificate of Occupancy because I have not completed the last unit or had my final inspections, if I understand it that is considered a discretionary approval and therefore, it could be denied and that project could not be used for transient accommodation. Am I correct or am I flawed in my thinking. Thank you.

Mr. Hopper: I do not believe the Certificate of Occupancy is discretionary. I believe the purpose of that is to check to make sure that you've complied with the building code, plumbing and electrical and those other items and is not a discretionary approval. Therefore, that that could be granted as long as you didn't need, I don't know where the project is in construction we're talking about, but if you don't need any additional SMA permits or special permits or anything like that and all you needed were nondiscretionary or as they call them, ministerial permits, this would not apply to you because you've already had your last discretionary permit. But again, this is all going to be subject to review of the specific projects. The general, the general rule is that for those that need those discretionary permits still this will apply and those that do not, this would not apply to them.

Ms. La Costa: It would be helpful to know which were and which were not discretionary. I think that would clear up my questions. But thank you so very much, Mr. Hopper.

Mr. Tackett: Commissioners, any other questions or discussion? Commissioner Thompson.

Mr. Thompson: Thank you, Chair. I don't know if we're at point yet for our discussions, but I'll throw in mine. I'm kind of leaning towards a deferral here. It seems like there's a bunch of unanswered questions and there's going to be some unintended consequences maybe mashing a little fellow. But I don't think that this is really going to get us where we want to go if we want to lower our tourist numbers. We have hotels that are running at 70 percent. They can just fill their more rooms. So, this will do nothing in that other than the building part, again, I'm old, retired, but the young people that need to work and now they move away to Las Vegas and some rich Californians is going to move here. So, your 1.1 million-dollar house is going to go up to 1.3 this year and we won't have those jobs. I think we need more housing for our locals, but you know, our Economics 101, supply and demand, that's a key for everything that's often, you know, ignored. But just like the cars, if you want to stop the cars, then it's going to end up Touro and everybody else, and we're going to be fighting every local is trying to out of this car, aunty, it won't stop it for sure. Same like rooms here, we're gonna ...(inaudible)...the hotels, we're pretty good about getting them out of the neighborhoods now, and I'm for that. We don't need our, you know,

short-term rentals in our residential neighborhoods. But hotel areas, resorts we've designed for those very things, so if we could leave the resort areas...like I said, I don't know that too many are gonna be building...there's some in the hopper now, but the rest of them I don't think it really supports it now. If you're a hotel owner, you want to open up and get 40 percent occupancy, you'll lose money. You gotta get at least 70, yeah. Anyway, there's my two cents. Are we close to the end of the day?

Mr. Tackett: We're close.

Mr. Thompson: I'm just guessing. Ah, it's only one o'clock. Thank you.

Mr. Tackett: Commissioner Thayer.

Ms. Thayer: That made me think of a question for the Planning Department. Would you be able to give us any idea of like how many applications are currently in for accommodation units?

Ms. McLean: I think that was listed in the staff memo.

Ms. Thayer: Those examples. Are those the ones because it says those are all in various stages, but that means they're all in, right?

Ms. McLean: Yes.

Ms. Thayer: And they could continue with processing?

Ms. McLean: Depending on the final language, if, if ones that are in process are allowed to proceed, then yes.

Ms. Thayer: Okay. Thank you. And I guess, up for discussion since Commissioner Thompson started the discussion which I think is good and I think we really should discuss this quite a bit given just the amount of testimony and I think the implications that this legislation could have. So, I'm trying for the sake of discussion, I am trying to reconcile some points that have been brought up by everybody we've heard from. So, one of the main themes I've heard is that like the tourism industry and construction also will die if this two-year moratorium is put into place. But like my understanding of the ordinance and maybe the language could be tightened up, but from what I gather all the current operations will continue, all...everything that's gotten permits can move forward, everything that's submitted permits can still move forward, renovations are still allowed, upgrades can still happen, you can still add restaurants and pools or whatever you need. So, that all being the case, and seeing that we already have accommodations sufficient to handle over 70,000 visitors, so, I'm wondering like why this two-year effectively, like, blip in the radar would purportedly kill so much industry? And I'm also wondering, like, why do we need to rush further investment in an industry that we know is unstable, like somebody said in their testimony, that like 75 percent of private sector jobs are reliant indirectly or directly on the visitor industry. So, like is the goal to be like 100 percent, like it's already high. Are you saying we need more? And like the Asheville example that was brought up, that their moratorium actually increased visitors, it seems like that's something the visitor industry would actually enjoy, having more customers come in,

and really, this is like two years seems like a very short blip in the radar in the grand scheme of things. And I would really like to see the outcomes of this study like our carrying capacity for the island, because I think that's the data we need, and I think putting a pause...and it's not really that much of a pause, it's just a pause on like new applications being submitted within the next two years, like that is all that's effectively being paused. So, I guess for me, I don't see a huge, big harm or detriment from this moratorium going through for two years. That's up for discussion.

Mr. Tackett: Commissioner Pali.

Ms. Pali: Yeah, you know, I was also trying to weigh out the negativity of it. And the reality is, I think all the things you said I'm totally in line with. I wrote down, which I know we have access to one of the testifiers like in the plan, what is our goal to protect the tourist industry, protect the quality and manage control, which is managing what's going on, expansion, mitigate lifestyles, regulate caps for the visitor. I mean, all these things are our long-term desires. I think for me personally, there's other things than just what we're dealing with that I'm looking at the underlayers. And I think it's my duty to look at the underlayers, and I think my fear is I don't want to start setting precedence for doing this without waiting for that. I think, I loved Pam's testimony in saying that there could be other things in place, moratoriums could be last resort. And I think that there are like Dick Mayer, there's other things that if we want immediate response to capping the visitor industry, that there's better things that we could do now to actually help with that intent versus just going straight to the moratorium. I think that we have that TIG that's been doing their thing. I don't know how long they are, if they're a few months away or six months away, I don't know how far they are with having conclusive information to present. I just feel like if we pull the trigger on this, that may be premature that might not have the information or even go to like a public, I think one of the testifiers is like, hey, we need way more community input and I'm going to just call it like it is when I say community, I mean, the local families working two and three jobs or potentially the ones that have been laid off like that kind of community, the ones that were born and raised, potentially some that have generations here on the island. I'd like to see that, more of that community voiced because I think that we will find the more we broaden that public back and forth banter and accepting those, I feel like we'll start to see different extremes. So, I can go either way, if you guys say, hey, let's put the cart before the horse, let's just rush into doing this and let's figure it out after again, I agree with Commissioner Thayer, it's I don't think it's going to be a big implication, but I would fear that we would be making a statement that this kind of behavior in managing the community and policy and how we work is just the backwards. And I just feel like we can put our best foot forward. The other thing I'd be worried about is I read in there on small print, you know, they could extend to six months, and I suspect the goal would be and we can't be naive to this, the goal is that it's a moratorium initially, let's gather enough data so we can make this something bigger. And so, so, I'm looking at all those layers too because those are all important layers. And the last thing is what I feel like this moratorium does, at least the way I've interpret it is it's just another example on how we, as a county, and a community, use negative approach to solving problems. Instead of promoting, encouraging, innovating new ideas to solve a problem, we restrict, we squeeze, we limit, we take away, and so, it's just like, you know, even as simple as like raising my children, you know, old school style, you get the stick and you know, yeah, you crack them a couple of times, and that's a negative way to, to sort of create change. We all, let's face it, it didn't really work and it was abusive. And we've learned that that's not the way to handle children. We can come with them with care and love and encouraging to support

that change. So, the question is, is as a group, do we want to be go and do negative things to enforce change or can we promote positive things for change and still come with the same result? Because don't misunderstand me, I do want to cap a tourist. I do want to progressively manage and build responsibly, but is it a full-on, no moratorium is that the answer? I don't know that it is for me, but I'm going to bow to the group and be a team player here because I agree with Commissioner Thayer, it's two years, two and a half years, we know how long this process take. I don't know that it will impact us awfully well, and if the one's already being built now would be unaffected by this, then at least for the next two years we know that the work is already scheduled out and our people will still be working so that's it.

Mr. Tackett: Well, I think we've heard the middle of the road and we've heard people that are a little bit more amiable to, to the moratorium itself. And I'm going to, I'm going to weigh in on my side of the road, and my side of the road is I was fortunate to be raised here. Wailuku El, Iao, Baldwin, I used to surf Sand Piles when it was called Sand Piles, it's called Sand Piles because it was, it was right in front of a big pile of sand. It's not called house piles, but now it's house piles and when I surfed Sand Piles, right now I go out and paddle out at Sand Piles and the guys go, oh where are you from? You know, well, frick I'm from here like I surfed this place when nobody surfed this place, you know what I mean? Like what do you mean, where I am from, this where I'm from. Oh, well we're staying up there. Oh yeah, where you from? I'm from Brazil. You know what I mean. They're staying in vacation rentals in what used to be Sand Piles but is now House Piles, you know, and there's hordes of them. There were three guys surfing that spot when I was a kid and we all walked down from Waiehu Heights together, you know, we carried our boards, we had them on our backpacks...on our back you know by lease, boogie boards 'cause we couldn't surf yet, you know, and we walked down there and we were the only guys out in the water, and what I'm, what I'm, what I'm seeing is that it's those, it's those vacation rentals, the illegal ones...now I understand the legal ones, you know, they pay, they provide a function, and even though the majority of the people making money off of it are not our locals, like by born, born and raised locals, they're still locals by some definition. But and there are a few locals like real hard core, like born here, raised locals that are benefiting from it. But what you need to understand is if you do a moratorium for two years and that two years might not might not be this two years, but when that two years comes, what you're going to do is you're going to kneecap your trades. And I'm a, I'm what I consider and I think you guys refer to it once before, I'm considered, in my own opinion, a lucky Haole, that's what I am. I was, I was raised here, I was allowed to go to public schools and I looked at all the jobs that were available on Maui and you guys have four or five jobs that can create over a hundred thousand dollars a year. If you're a really great realtor, you could make it. If you're a really great loan officer, you could make it. If you work at the best high-end union hotel, you're going to fall just short. If you're a carpenter, an electrician, a laborer, an operator, if you're any of those trades, you can come out of high school, and I had 300 in my program when I was running carpenter's apprenticeship and training program, you could come out of high school, you can put in your four to six years, you can make your 8,000 hours and you could come out with a job that pays over a hundred thousand dollars a year, a job that can buy you a house, you know, and if you, if you cut...sure, there's lots of construction, there's tons of construction, but not union construction, and when, when that two years comes, all the old timers that have been making their living, doing this type of work like, like me who's been out, I've been out of work for a year now. I haven't had work for a year. You know, I haven't been able to go back. My house is worth almost a million dollars. When I sell my house to move

the frickin Bolivia or wherever the frick I got to go where I can still surf and afford to eat, and I don't know nobody when I sell my house and I move over there, the guy or the lady that comes in and buys my house, they will not be from Maui. Whoever pays a million dollars for my house will not be from Maui. I barely afforded my house with half a million bucks. I barely qualified to the debt to income ratio. So, it is my opinion to you guys, you guys control the SMA permits. I'm out of here in five months. I'm gone. You guys are going to control this board. Every project that comes through, you look at it, if they say, hey, we want to do this, this and this, and we're okay with using any kind of labor and we're not going to do any of these things for the for the community that you say, you can tell them no. And if they come in, and they say, hey, we're going to do this, this and this, and we're going to use your union labor, which is your old timers and your students coming up through the process, and we're going to pay you top wages and we're going to make sure that the road, the four lanes that goes into Kihei is going to happen, because that's the only way that's going to happen, nobody's going to pay for that road unless there's a reason for them to pay for it. You know, nobody's going to pay for those massive improvements unless there's a reason for them to pay for it. So, in my opinion, you guys control the SMAs, nothing gets through without you guys, and if you guys put it in a moratorium, all you're going to do is deny your guys yourselves your opportunity to look at it. So, in my opinion, the planning commission was made so that because out of you guys, because you guys have the credentials to make these decisions and I believe that you should not kneecap yourselves, I think that you guys should look at each project as it comes along and you should make your decision. And, and I think of the ones of you that were born and raised here, if you think back into your family, if you have anybody that's a union carpenter, a union electrician, a union operator, or a union labor in your family, the impact that you will do to them, you will most definitely see it two years down the line and it will be substantial. And those of them that did manage to buy a house, when they do sell it, you will see the last mass exodus of local families that owned houses on this island move away. And that's my opinion on it. And that's why I, I will be voting only to deny this process for my last five months. But anyways, I value you guys and, and that's why we're all different, so, Commissioner Edlao, you next my brother. Go ahead.

Mr. Edlao: Thank you, Chair. My personal opinion, is this moratorium isn't going to solve the problem. You know, it's bad enough we got covid affecting the economy. Even if we did go forward with this moratorium, like it was said earlier, projects, there's projects still going on, and then the two years, I mean, yeah, you know, we'll get some more later on, but you know, my concern is that this moratorium y create problems with the illegal short-term rentals. You will see increase. That's my opinion. I don't know what you guys thinking, but that's my opinion. And I, I, I will not support this, this moratorium. I would go for denial. Personally, my opinion is this is a knee jerk reaction to the people that visitors that are coming in. You know, it's just a follow up from the Governor stating to try to keep the tourists away from Hawaii. Let's not do a knee jerk response to what's happening on Maui. And like I say that's just my opinion. I don't think this is all about accommodations. No, it's not about accommodations, because there are accommodations available and there will be more illegal accommodations available if there's not enough in the hotels. So, I don't think I don't think this is a matter of accommodations. I think it's a knee jerk reaction to the amount of tourists that are visiting. And that's my opinion, and I would not support this moratorium.

Mr. Tackett: Commissioners, any other discussion on this matter?

Mr. Edlao: Oh, excuse me, Chair, one more thing.

Mr. Tackett: Oh, go ahead Commissioner Edlao.

Mr. Edlao: Irregardless of what happens, the Council's gonna do whatever they want to do, so...but doesn't matter whether we say, no, yes, defer, whatever and then my concern is that they're gonna push this through anyway and then the two years are gonna go by and they're gonna say, we need more time, let's extend it another six months, and then another six months, and then another...we're so busy we can't get to this, and this will go on forever. So, don't know jerk this thing around.

Mr. Tackett: Commissioner Lindsey. I got Commissioner Freitas, and then you'll be next. Go ahead, Commissioner Freitas.

Mr. Freitas: Does that mean I'm up? Thank you. Thank you, Chair. You know, I, I kind of like this because we're kind of split, and when that happens, I look back at our mission as Maui Planning Commission and it is to manage growth in a sustainable manner that balances our economy, culture and environment, and I think balance is a very important word here. Balance, out of balance with tourism. And I think this is a big part of controlling that. I feel that we have a bigger goal as Maui Planning Commission to do the best we feel for Maui County. This one idea, this one bill will not fix it. But I think it's a combination of things going in the right direction. I feel this is the right direction because it supports what we talked about earlier, the Maui Island Plan, including the General Plan, as well as the destination management action plan. All of these things people put time, hours, hundreds, thousands of hours putting together and then you know, people grumble, eh, nothing gets done, what good is a plan? Well, the plan is there and these are some of the steps that gets us there. Kinda have to disagree with fellow Commissioner Edlao that the Maui County Council is going to do whatever they want. I think they are really listening to what we all say. So, it's good that we are saying what we feel because it might help them decide yes or no. So, it's good that we just say what we want to and let them decide, and you are right, they will make the final decision. This, I don't think, had anything to do with the illegal short-term rentals. Mr. Albert Perez was right. That's for another entity to go and enforce that. This isn't, this isn't where we're going to enforce. We only enforce if we're approving or not. But the illegal ones fall under another jurisdiction of other people. I'm totally for this based on the recommendations of the Planning Department. So, I'm going to support the moratorium. Thank you.

Mr. Tackett: Thank you, Commissioner Freitas. Commissioner Lindsey, and then followed by Commissioner La Costa.

Ms. Lindsey: I kind of look at this as a Band-Aid for a broken arm, like it's I see its intent, but the execution needs to be a little bit more comprehensive. That being said, a lot of local families are in the construction industry and through the pandemic, I think that those jobs kept a lot of local people in their homes. So, it's like I want to say maybe over 80 percent of the people I know, who...young families who own their or just recently purchased their own home. They kept their home because they worked, one of them works in the construction industry. That being said, we

can't build forever. We have water issues, obviously, we have, you know, too many visitors, we have too many transplants. We have too many short, part-time residents. So, I know that tourism needs to be regulated. What I do feel, though, is that the planning...the Planning Department's recommends do need to go into this, into our comments, to the...to the Council. So, because of that, because if we denied it, then they wouldn't get our comments. So, if we support it, we can get our comments in, and it could be part of the plan, which I think they're kind of missing. So, I am planning on supporting this. Thank you.

Mr. Tackett: Any other discussion on this item? Oh, yeah, P Dee. Sorry, P Dee, go ahead.

Ms. La Costa: Thank you, Chair. First of all, I am honored to be on a commission with people with varying backgrounds and opinions and that they're not afraid to say what they think. This is a really tough thing because the moratorium means everything stops, but it doesn't. Everything that's in the pipeline will continue which means jobs will continue. Will the Council pay attention to what we say? We've had a couple of testifiers say it doesn't matter. I certainly hope that they do pay attention because we put a lot of heart, soul and time into making decisions and passing along information to Council because we represent our communities and what people think and say with our input. I think that there's information here that needs to be explored that was not given. As you all heard, I was confused and I have a pretty good brain but there are things that just don't sit well with me and I don't see how it works together. So, I think that we need a whole lot more questions answered. I don't know what the time frame is. The Department will have to let us know. But I think that this needs to be deferred so that we can get additional answers and see what the long-term ramifications would be if it were to be enacted as a moratorium. And you know, as far as tourism, I think the big huhu is because we were all so used to having our beaches and our stores and our roadways vacant for so long, then when we had an influx, everybody was throwing their hands up in the air and saying, you know, we have so many tourists, you know, they need to stop, they need to go away. When Mr. Croly's information was really to the contrary, you know, I guess if you're, if you're not used to having a lot of people, then all of a sudden they're there, you really notice the impact of them. So, this is a really a tough one, but I think that Maui as a whole and this is an aside, but it's part of our discussion, we need to look at diversified industries and diversified ways of making money apart from just sitting at your home, working on your computer and, and exporting your, your tech knowledge. Maui needs to be sustainable and depending upon tourists, as we saw, let all the air out of the balloon or almost all of it, and that's what we need to look at, everybody, the Council, the people who live here, us, all the committees, all the commissions, we need to work as cumulatively put our minds together and say, how can we make Maui no ka oi and keep it no ka oi from those of us who's lived here 30, 50 years, born and raised here, we all want the same thing, We don't want Kiheikiki, we don't want Waikiki on the west side, but what we do want is managed, regulated quality of life for all people whether they are transients, whether they're part-time residents, whether they are most of us, you know, live here all the time. So, I, I would like to defer this and get some more answers to see what indeed this will do to Maui's economy and not just black or white. There's a lot gray in between. So that is my two cents Chair, and thank you for allowing me.

Mr. Tackett: I appreciate that. Commissioners, any more discussion on it? Go ahead, Commissioner Pali.

Ms. Pali: Were you gonna give us one more round or is everybody good?

Mr. Tackett: No, everybody is welcome to go until they feel better and I'll start it out. Like right now, you guys, you guys are the ones controlling it. You know, everything is gonna come in front of you. You guys are the ones gonna, gonna either give the SMA or not give the SMA. So, before you give away your power to somebody else, I would, I would consider it because you guys were all picked and put here because you guy are the right ones for this specific job. So, I would not give away authority to look at projects and say, yes or no, because one of them, one of them might be, somebody might come in and say, hey, I'll do all four lanes, you know what I mean? If you let me do one building on an already developed lot, you know what I mean? Because they're, they're up against the wall and they have multi, multi, multibillion-dollar corporation and they need to do something on their developed lot. So, I think that before you tell them, eh, no way, no time, no how, that you keep your guys options open because you guys are you're the controlling authority. All you're doing by giving it to...by, by doing the moratorium is just taking your say out of it. So, that's, that's my opinion, but go ahead. Commissioner Pali I believe you had something.

Ms. Pali: Well, if we're gonna go another round potentially, I just was listening to some of the commissioner's comments and I think that the...I just appreciate the perspective and I think that's why it's so important because we all have different perspectives, and I appreciate that. I think interestingly enough, we all...I hear us all saying the same thing, we're just interpreting it differently. So, the good news is we all stand unified in wanting a higher quality tourist accommodations, we want to limit it. We don't want the Kiheikiki which I'm so gonna steal that from P Denise La Costa. But I think for me, we start to vary as to how we take this unified desire and apply it to fundamentally what is it look like in policy and in enforcement. And so, I think that this is not as I mentioned the only way to honor our community plans and general plan, there are other ways we can honor that and still remain within the scope of what we want our future to be. I disagree with the illegal TVRs as far as a different conversation and the reason why I believe you can't pull that out of this conversation is because if there are families that are constantly burdened with those illegal TVRs in their local neighborhoods, when they're walking their dogs, checking their mail or trying to put their infant babies to sleep at night and this is chaos going next door 'cause that person's doing illegal TVRs now my attention is focused on this group which is no longer part of this conversation but we're creating rules and enforcement because of a problem that's not part of this conversation. And so, I think it's all tied in. I think we all feel sometimes the burden, the burdens of illegal TVRs in our neighborhoods, and so I think that separately outside of this, we need to take action there. But that could be a reason if you're blaming this people group for this issue, but it's really this people group that's the problems, but then we're writing policy to enforce these people groups, but it's these people groups that were responsible. So, I think it's important that we're looking at the problem, who's causing it and then writing policies specifically towards that problem. That was a little side trail. And then lastly, is the information that we're given. Information is so key. We've already seen in multiple testimonies that we start to think that this is the situation, but then it's including these numbers and these type of people, and we didn't realize, and so how we're interpreting the data is part of how we're deciding what, you know, our decision, and I think that we might all have a different perspective on data, but it doesn't change the factual portions of the data. And so, those are all things that I would just kind of like, oh, man because as I determine what I accept as fact, it's actually changing my position. All that to say, I'm still sort of really neutral. I tend to be a prideful person, which I'm currently

working on and not wanting to be prideful. But in saying that I don't like that what Commissioner Tackett mentioned this does...would take the authority away from us for that two and a half years. And if we all stand unified in wanting smart growth and protecting that visitor-resident ratio, we can do that without this tool. We do have the ability to do that here. So, that kind of struck a chord with me. I'm being honest about that. I didn't like that necessarily, but that's all I have to say.

Mr. Tackett: Commissioners, anybody else got anything else? Commissioner Thayer.

Ms. Thayer: Just in the spirit of discussion, I want to ask Commissioner La Costa what more information or data would you be looking for to help you make your decision?

Ms. La Costa: Well, probably the number one thing is the list of what is discretionary and what is not as far as permits, because that will allow me to say, okay, this will not apply to this project, but it will apply to that one, and that's why I asked Mr. Hopper, twice to please help me understand if a Certificate of Occupancy was within or without side of, of what we had to look at, how is this going to affect the economy as a whole? We heard from trades groups and said, you know, everything's going to go to heck in a handbasket if this is, if this is enacted. We don't have any hard data or facts to say this is what has happened over the last five years, and if this goes into effect, it will go like this or it will go like this or it will go like this. So, this is incomplete for me, and that's why thought a deferral would make the most sense so that we could get hard data and get clarification on what and what is not discretionary so that, me, personally can make a decision. So, thank you for asking, Commissioner.

Ms. McLean: Chair, if I may?

Mr. Tackett: Director, sure.

Ms. McLean: Thank you, Chair. Mr. Hopper and I can go through what discretionary means that we can answer that question. But regarding an understanding of the economic impacts, I don't know that that's something that we would...that would be available to you if you were to defer. Per the Charter you have a 120 days from your last public hearing which you only need to have one public hearing on this item so that's today, so you have time, if you need time. I'm not trying to discourage you from that. But if you are going to defer, we would want to be able to provide you with the information that you need to then make a decision, and one of those understanding the economic impacts, I mean, I don't believe that anyone's going to be commissioning any sort of study or you know, pursuing that any further, so you know, I'm sorry to say I don't know that, that we would be able to provide that. But regarding discretionary permits we could go through what that means, whether it's today or at a future meeting date.

Mr. Tackett: Commissioner La Costa.

Ms. La Costa: Thank you, Chair. Thank you, Director. If, if you could go through that list that would certainly help me with one of the pieces of the puzzle, and it's unfortunate that there hasn't been any foresight to see what kind of economic impact this moratorium would cause because

there will be some, I just don't know to what degree. So, thank you for going over that list, that will be very helpful for me.

Ms. McLean: And I would ask Mr. Hopper to chime in. Discretionary permit as the term suggests require some degree of discretion or judgement. It's a permit that's not black and white. So, building permits are black and whites, grading permits, electrical, plumbing, Certificates of Occupancy, those you know, there are requirements in the Code, and it's very clear whether or not those are met. Discretionary permits on the other hand require some degree of analysis and judgement to see if a criteria are met, so it's more like criteria rather than specific requirements. So, everything that comes before you is discretionary. Everything in terms of land use entitlements that go to the Council, all of those are discretionary. There are only a couple of permits that the Department handles administratively that are discretionary and those are things like B&B and STRH permits because there are broader criteria in the Code, not black and white, nuts and bolts, but things like impacts on the neighborhood, you know, that, that require some degree of analysis. So, that's a brief explanation. I don't know if Mr. Hopper has anything he wants to add to that.

Mr. Hopper: The term discretionary approval comes directly from Hawaii case law. That's, that's where the Hawaii Supreme Court has said where it's essentially if you have all your discretionary permits, you're past the point where the law can change and not effect vested rights. So, so, that's essentially the last time that the law could change, in affect the rights of someone to develop. And I think Michele's correctly identified that. I would also point out and 2.80.B of the County Code, there is a definition for a ministerial permit. It's defined as means a permit that does not involve judgment or discretion and is issued based on established criteria or a set of adopted standards as established by law. The distinction of ministerial and discretionary permit is also used in 2.80.B to determine when the community plan applies with the force and effect of law, so some examples at least in that context, 2.80.B.030, it states that examples of ministerial permits are building permits, grading permits, plumbing permits and electrical permits. It's not intended to be exhaustive. And as I said before, a Certificate of Occupancy wouldn't be a discretionary permit. I believe that's something you would have issued in conjunction with a building permit. And again, the Public Works Department can correct me if I'm wrong, but that that would be issued in conjunction with the building permit and a building permit could be issued if there weren't, you know, discretionary permits already obtained or not required for the activity. You need to get your SMA permit before you could get your building permit, for example. You'd need discretionary permit first. So, it might not be possible to give an exhaustive list of every single discretionary or administerial permit in existence in Maui County. But I think that we can...if there's a question of a particular type of permit, we could answer that, I think we've got the definitions here as well as in Hawaii case law. The basic idea is, is there, is there discretion for either the department or the or the, the in this case, the planning commission to deny the permit based on how they would, you know, review the criteria, your SMA criteria lets you weigh a variety of factors and determine if the permit can be granted. Something like a building permit says how high is the building, what's the setback, things like that. There's no discretion involved there. If a building's under a certain amount of feet, that's the, that's the requirement. If it's over that amount of feet, that's the requirement. You would...the Director would not have the discretion to waive those requirements. So those are the distinctions I think in the Code with respect to ministerial and discretionary

permits. And again, discretionary permit language is taken from Hawaii case law where the Hawaii Supreme Court determines when vested rights vest in Hawaii with respect to land use.

Ms. La Costa: And if I might Chair, please?

Mr. Tackett: Yeah, go ahead.

Ms. La Costa: Thank you. So then, who would and I thank you Mr. Hopper and Director for your information, then would the previous item, how would that dovetail or does it dovetail with this because it talks about trying to take away discretionary powers from the Director. Does that have any impact on what we're discussing right now?

Mr. Hopper: I don't know if Michele you want to talk about it. The...I guess there would be what...a case where a hotel...a conditional permit I think would be considered a discretionary permit although that's even, that's even a little different because it's a, it's an ordinance itself that's passed. But I think the intention would be that if you needed a conditional permit or an amendment to the conditional permit in order to do the use and you don't have it yet, then the moratorium would apply to you. A conditional permit would be in the nature of a discretionary permit that would be granted. So, if you needed a conditional permit for hotel use and you didn't have it yet, then this would apply and you would not be able to get that permit until after the moratorium period or the legislation was passed to as specified in the, in the, in the ordinance.

Ms. McLean: I would add that there are a couple of conditional permits that exist for vacation rentals or bed and breakfasts either because they came around before the B&B or STRH permit was created or because they're larger than the standards of a B&B or STRH or they just didn't otherwise meet the criteria. And so those are existing, they remain in place, they're not affected by the moratorium, but if any of those permit holders wanted to expand, that to me would not be a non-substantive change. So, that would be something that we would bring to the commission and the Council. So, the change, proposed change to conditional permits wouldn't affect of those kinds of possible amendments to conditional permits, 'cause those, you know, they're not non-substance, and those would tie into the moratorium because if one of those came forward, we would have to say we, we can't process it because there's this moratorium in place. But if we were to process it, that would go through the full process anyway, 'cause it's, because it's substantive.

Ms. La Costa: Thank you both for your knowledge.

Mr. Tackett: Corp. Counsel you had something else to add?

Mr. Hopper: Just a clarification. I think Michele was clear on this, but to be clear, a time extension for permits or approvals granted prior to the effective date of the ordinance are not affected. I think her example dealt with an expansion of a use which I think would be correct, that would be affected because you're expanding the use but time extensions for short-term rental home permits, conditional permits, things like that, they would not be affected by the moratorium provided that the permit was in place before the moratorium date.

Mr. Tackett: Thank you. Yeah, and then go ahead.

Ms. Pali: Before they disappear, can I pop in one quick question?

Mr. Tackett: Sure.

Ms. Pali: Um, Director, do you have a list of current developments that we could see visually, ones that are in the process that would not be impacted and ones in the process potentially that would be impacted?

Ms. McLean: We don't have that on any kind of map or list. As the memo states, the Wailea Resort SF7A, et cetera project, Maui Bay Villas is in construction, Maui Coast Hotel expansion received its permits, the Pagoda Hotel has valid permits, the proposed hotel near the airport would be affected by the moratorium because that has not received its discretionary approvals yet. The proposed Wailea Hotel also has not received its discretionary permits yet. The one in...the...what's not on this list that just occurred to me is the Downtown Kihei project that has received its discretionary permits so that would not be affected by the moratorium.

Ms. Pali: So, there would be projects that have started, invested money, that have been doing work onsite that would be impacted by this?

Ms. McLean: Would not be impacted.

Ms. Pali: Well, you mentioned the Wailuku Hotel that would be impacted by this.

Ms. McLean: Would be impacted. They haven't put together...they started the Chapter 343 project I believe, and that's as far as they got.

Ms. Pali: But I mean, we all agree that we've seen extensive roadwork and I don't know what they're doing, plumbing, they're doing stuff right. There's been physical—

Ms. McLean: Oh, all...no, no, all the work in Wailuku Town is related to the new parking structure, the civic complex.

Ms. Pali: Oh, so separate, okay. So, that is going to be unaffected?

Ms. McLean: Correct.

Ms. Pali: Yeah, because if we're, we're making, if we're making a huge assumption that whatever is in the pipeline is going to be unaffected, therefore it will not affect construction workers. But then later we find out that we did, this did essentially kill things that were on the book, then our assumption is incorrect, therefore, it would have impacted how we voted. And I think it's really important to dial in on those details.

Ms. McLean: Correct. And it will depend on the final language of the bill. But if it's anything that's in the pipeline would be allowed to proceed, I believe the wording of the bill, I'll need to check is

it received its final discretionary approval so there could be a project that gets submitted tomorrow to start the entitlement process, if the moratorium passes in, you know, two months and that new application hasn't received its last discretionary approval, then it will not be able to proceed. But something like that is, I would not consider to be very far along, because until you get those discretionary approvals, there are no guarantees.

Ms. Pali: Yeah, I see that, but we're also pretending that they haven't already invested a ton of money and time and resources and all those other things, too. So, you know, I'm just, you know, the control thing I talked about earlier, like, I just want to make sure that there's not any underlying control things here with certain developers or certain things going on where we're not seeing that stuck in underneath. I want to be able to take this for face value and say, hey, you know, we're not disguising this bill with other stuff, but the face is going to be, oh, let's limit accommodations, you know, so, I'm just...I think that we should just all be held to a higher standard of just transparency and communication, but yet we're also flawed and guilty and doing things sometimes that, you know, can be done better. So, okay, well, thank you for that.

Mr. Tackett: P Dee, and then Ash...oh, I got Mr. Hopper first and then P Dee, and then Ashley.

Mr. Hopper: Just to clarify Chair, Section 6 of the ordinance as worded says that it does not apply to the processing, approval or granting of any application for the approval of a new transient accommodation that is properly filed with the County and complete prior to the effective date of this ordinance. So, if a complete application is received prior to the effective date of the ordinance this would not affect that, the way that the wording is in the ordinance currently. If there's other discretionary permits that the person would need aside from what they filed their application for then I suppose that they'd still need to go through that and the ordinance could affect them, but right now it says that if you've got an application in the pipeline that's received and complete prior to the effective date of the ordinance that the moratorium wouldn't apply to you, but that's the current wording.

Ms. Pali: So, the word, complete, I don't know that I like that. I think if you got the application in and you've started the process, we should...if we're gonna do this, we should still hear them out and we can make it case by case, but I'm not okay with the application has to be complete. I feel like that's not a good thing if my commissioners decide to move this forward, anyway...

Mr. Tackett: Commissioner Lindsey, I believe you were next.

Ms. Lindsey: I...the first thing, project that came to mind was the hotel in Wailuku because I was on the MRA that when that was going through. They definitely invested money and they're outside of the SMA so I wasn't sure where they specifically would be affected. And I'm sure there's other projects like that, that you know, private investors, you know, have plans for. I, I'm wondering a little bit how...we stop it now for two years, do the flood gates just open and then they can rush to the two years like because there isn't any process, anybody in front of them because it's a blank slate for everyone or is it still gonna take another two years after that for them to, you know, start their jobs. Because if it were kinda like we figured it out and now we're open and we know, as the Department we know the process, can it just start or what happens? Michele do you have any idea?

Ms. McLean: When you talk about the floodgates, do you mean two years from now, once the moratorium is over?

Ms. Lindsey: Yeah, so...it, it kind of ends and then there's nothing in the pipe, right? Is it like gates open and then everything kinda get processed quickly or is that kind of it's still gonna be a slow process, you know, at the end of the two and half years or so...

Ms. McLean: Right. I believe that the...well, I know that the Council's temporary investigative group is already meeting, and their Plan A is to have legislation well within this two-year period, and the moratorium bill says that it will end after two years or when legislation comes out of the TIG and is adopted whichever is sooner. I, I, I believe that the Council's intent is to adopt legislation much sooner than two years from now. And so, that legislation will likely put restrictions on certain kinds of future hotel development. And so, once the moratorium is lifted, after that legislation passes, I don't I don't know that there's that the floodgates are going to open because there will probably be restrictions on what new things can come forward. That's my guess.

Mr. Tackett: P Dee.

Ms. La Costa: Thank you, Chair. Director, you named four hotels in your list of things that are in the pipeline. How many total visitor rooms are there in the projects that are currently on the books?

Ms. McLean: I don't know offhand, I can see if I can chase those down pretty quickly, but at the moment, I don't know.

Ms. La Costa: Because that's what we're talking about, you know, we're talking about everyone jumping up and down because there are so many tourists here. And what we weren't used to are is finally forced upon us. If there, well, let's see there's 172 at the Coast I remember, that's the only one that I remember clearly. So, if we're looking at five or six or seven hundred visitor rooms that are yet to be built then what does that do for a moratorium to stop tourist and building for tourist. Complicated, this is a very complicated...

Ms. McLean: And I believe in...that the moratorium acknowledges that that it doesn't mean that there won't be any new units coming on line because there are new units that are entitled and move forward that will come online, you know, during the moratorium period or in the time that the TIG is meeting and coming up with their proposal.

Ms. La Costa: ...Chair, thank you.

Mr. Tackett: Commissioners? Commissioner Thayer go ahead.

Ms. Thayer: I just want to ask the Director a clarifying question. So, the projects that you listed that are like somewhere in the pipeline, if this moratorium goes through, we're gonna still hear those projects when they come before us, no?

Ms. McLean: Well, you've already...the Commission has already acted on Maui Bay Villas, and ...*(inaudible)*...Hotel and the Pagoda Hotel, but I can't recall for the Wailea Resort SF-7A if you've heard that or if it was just the EA that you heard. I don't know that you've seen the SM1 on that. So, that one you would, you would still review. The Downtown Kihei has already gone through the commission, so all those you've seen already.

Ms. Thayer: Okay.

Ms. McLean: Yeah.

Ms. Thayer: And there was a testifier that brought up approved planned developments, so...could those still be processed and come before us or would those be subject to the moratorium?

Ms. McLean: Well, the planned development area that the testifier was referring to is Wailea and so, if there is new development proposed in Wailea, it would likely need an SMA Major permit that would see. So, if those applications are submitted prior to this law going in to effect, you could hear them, but if they're not submitted under the current wording of Section 6, then we wouldn't be able to accept them.

Mr. Tackett: Commissioners? I think one other piece of the puzzle that needs to be considered, too, is the majority of the affordable houses that have been built over the last ten years or even 15 years, including a lot of the Hawaiian homes that is out in Waihee were, were tied into these developments, as well as the people from Maui Meadows that love to come out opposed to everything, but they forget that all their water in Kihei was not paid for by them, it was paid for by the Prince that put in the pipes that allowed everybody in Kihei to live in Kihei, you know, so I think it's real important that if you...and, and to say that two years is not a big deal, the two years, like I said, it won't come now, it will come because everything's taken eight to ten years, it'll come a few years down the line, and when, and when those, when those years come and there is no union projects, that's when those people will lose their homes. And coming out of this, there has been construction going on, I agree, but for sure, we're at nowhere near the capacity that Maui has ever been for union construction, nowhere even close. So, you have, you have all the people in your trades, all those people that came through that are in their forties and fifties. If they go even six or eight months without a job, they will all lose their homes. They will all sell their homes to people that are not from here. And so, if you guys keep, if you guys keep the power and you let through what you feel is warranted, then you have a better chance at keeping locals and Hawaiians that that work their whole lives to scratch out a little bit of piece of, of this place that the real way, you know what I mean? One hour at a time they got theirs. You have the best chance of keeping them alive. If you release a little bit within these two years, just a tiny bit, just the best of the best if you release a little bit and then those two years come in, and if, and one or two projects go through. But if you moratorium something for two years, you're going to cut off the affordable housing component, which, like I said, the Kahoma Streams, the Hawaiian Homes, all that stuff was built with, with money from big guys that, that donated money on the side so that, so that, so that local people could have affordable homes. So, I would say be cautious, you know, because right now they're going to be hungry under these circumstances. They're going to bring to you guys the best deals that there are, and you guys are going to be able to look at them, and you're going to be able to decide yes or no. And once you more moratorium it, it's just done, you

know, you're just, you just, you guys just out of the loop and it doesn't sound like you're going to get those rights back. It says that you're going to give up your rights today and then legislation is going to come in and you're going to get whatever rights back that they give you. So, I would be, be cautious of giving up your stuff. I got five months left. I mean, my, my time is done. But I'm definitely grateful to, to the Planning Commission for, for the for the positive impacts that I've been able to give to the working-class families of, of, of Maui. You know, I mean, it's the, it's the, the best feeling of my life, the, the to see the locals get to, get to live one more day and to feed their families one more day every single day that goes by. So, I think, I think, I think it's a huge decision, you guys. Commissioner Thayer go ahead.

Ms. Thayer: Thank you, Chair. And thank you for expressing your concerns and I just want to make sure I understand this provision. In the, the proposed language says that any development that includes new housing units can go through as is, can still be processed, right? Just to address his concerns that you know, if there's housing coming along in tandem with some kind of transient development that they'll still be allowed to proceed, the Exemption E. So, like the developments that are doing good things by providing workforce housing, they'll, they'll not be affected, right?

Ms. McLean: Correct, the exception reads, any development that includes new housing units built in an equal number to the new transient accommodations that are affordable, made available for occupancy prior to or concurrent with the new transient accommodations and located in the same community plan.

Mr. Tackett: So, so, basically, if, if you want to build something in, in the resort community, 50 new rooms in the resort community, you got to stuff 50 new units into that same resort community, which means that you're not going to get any affordable housing, you know.

Ms. McLean: In the same...sorry Chair, in the same community plan area.

Mr. Tackett: Okay.

Ms. McLean: So, if you wanted to build—

Mr. Tackett: So, so, what would the community...so, it would just have to be in Wailea or could you go all of Kihei?

Ms. McLean: It could be all of Kihei even into Maalaea.

Mr. Tackett: Well, that's pretty nice. Thank you for that clarification, I appreciate that. P Dee go ahead.

Ms. La Costa: Along with that sentiment, I am sick to death of having developers buy credits and not build homes. I think something very definitive needs to be put in there if they're gonna have an exception to that is that you cannot buy credits, you need to build the homes because that's what the exception states. So, how do we put some teeth in that Director and Mr. Hopper so the developers stop dancing around and buy credits and don't build housing which is why we have such a shortage? I'll get off my soapbox now.

Ms. McLean: Thank you for the question. Yes, that can be included in your comments that clarification to that exception needs to be made to ensure that it's the provision of actual housing units and not the use of credits.

Ms. La Costa: Mahalo, Director.

Ms. Thayer: If I can respond to that also, it does say that the units have to be made available for occupancy prior to or concurrent with the new accommodations.

Ms. McLean: Right, but what can, what can happen is that if separately an affordable housing developer is building a new project or even a private developer is building new a new affordable housing project, they can effectively market those affordable units. So, then a hotel comes in and says, oh, there are my units.

Ms. Thayer: Okay, good, good language, Commissioner La Costa.

Ms. Pali: I would be remiss if I just remain silent on this topic and maybe Director can remind us we've been here before with the 50/50 ratio. I remember us, actually it was even lower. It was, it was a 25 percent ratio. We, you know, a decade ago, we thought we were cool and smart and we're like, oh, we'll make the developers, you know, do this high percentage of affordable housing so we can have affordable housing. And Michele, you might be able to count on a single hand, how many projects in seven years were built because of this great idea to force developers to build affordable housing?

Ms. McLean: Practically none.

Ms. Pali: So, so let's not get caught up that this 50/50 would do anything different. I just want to be just straight up about that. We've already seen this happen and it hurt us for seven years.

Ms. La Costa: But it's not 50/50. I believe it's 25, right, Director.

Ms. McLean: The current county law for new development is 25 percent and not 50 percent, but the exception in the moratorium bill is 50 percent, it's equivalent, it's one for one.

Ms. La Costa: So, what would be your guide--I'm sorry Chair, may I speak please?

Mr. Tackett: Yeah, go ahead.

Ms. La Costa: Thank you. So, what would be your guidance on that then, Director. So, that we can be sure that those housing units are built for local people?

Ms. McLean: Well, if you think that that is too restrictive, you could recommend that, that exception be for, you know, for every two units built, there is one housing unit or you know, whatever proportion you think is more likely to result in housing being built. So, that can be your

recommendation, whatever, whatever ratio you feel is appropriate, we can include that in your recommendation.

Mr. Tackett: Oh, Commissioner Thayer, sorry I didn't see you. Go ahead.

Ms. Thayer: Sorry, I keep talking so much, but I don't know, just for brainstorming, like Commissioner Pali, speaking to your desire for like incentives and positive encouragement, which I think is excellent, instead of saying you can't do this, how about saying what you can do, so like maybe this language about housing is a way for if there is a hotel development that wants to like pai pai, like to support the community. We could put in here, if you're building 25 percent of your units, actually, and they will come into realization, then you can go ahead and process your development. Yes?

Ms. Pali: Yeah, I think that's a great recommendation. Twenty five percent is more realistic and it would actually raise some eyebrows and pull some ears. I think when you write stuff like 50/50 like this, you know it's not going to happen. And so, you're, it's like you're trying to throw a bone, but it's not practical. And so, if we want to be serious about potentially considering projects that are super committed to building affordable homes, then making something that could pencil out for them. And then I wouldn't even mind saying, hey, build the homes first. I mean, you know, whatever. But 50/50, it's language that we already know, nobody's interested.

Mr. Tackett: Commissioners, anybody else have any input on it? Oh, Commissioner Thayer go ahead.

Ms. Thayer: Thank you, so kinda wrapping up this whole thing. I feel like, as has been said, like the Council is going to do what they want with this legislation. So, I see this as our chance to provide input to make it as good as possible from our perspective, because I think if we say we're denying this, then we're not going to make any positive change at all to this legislation. So, at least we can take this opportunity to give our suggestion whether or not it's taken, but at least give our suggestion of language that would make this as palatable, and as balanced as possible. So, maybe if we could look at ways like this housing section here where we can, like, provide kind of like safety outs for certain projects and things that are in the pipeline and at least offer that to the Council.

Ms. Pali: Yes, Chairman, may I?

Mr. Tackett: Who is that?

Mr. Tackett: It's me, Ms. Pali.

Mr. Tackett: Yeah, Commissioner Pali, go ahead.

Ms. Pali: I would love, if you want to Commissioner Thayer to go through some recommendations. I've jotted down a few. And then once we go to the vote, we can determine what that looks like. Is it a deny, but if you're still going to do it, here are our comments or is it a refer, we need more information, but if you're still gonna do it, here is our comments or it's approved, but not the way

you had it, here's our comments. I mean, however that looks like, here's our comments should still be attached to that. And if you wanted to start, I've got a couple here I've marked down as well.

Ms. Thayer: Yeah, I can if you want me to go first.

Mr. Tackett: And I think, I think if, if, if it does wind up to be a deferral, that probably we should defer it just for one or two weeks because Mel Hipolito, who is not, who is one of our council members, he should be allowed to put forth his comments as well, you know, because it affects all you guys. So, if, if, if it does go to deferral, I believe it should go to deferral so at least Mel can be part of the process of adding his comments as to what he thinks is good as well. But that's, that's my opinion.

Ms. McLean: Chair, I would just note that your next agenda, as you'll see with the memo for the next meeting is pretty full. I don't know what's in store for the second meeting in October or the November meeting, but the next one seems quite full.

Mr. Tackett: Well as soon as possible. I think it would be good for all commission members if this is going to be a recommendation to the Council, I believe all commission members should have a voice in it, you know, I mean, nobody can control when they, they do or do not have a family emergency or, or get sick or whatever, whatever the reason is, especially with Covid and everything else. So, I do believe that if there is going to be a deferral and recommendations, it should, it should go on with everybody, including, including the missing commissioner as well. Commissioner La Costa, and then Commissioner Lindsey.

Ms. La Costa: Perhaps with a deferral, you could put a timeframe on there for us to submit what we would like to see different than what we received and compile those and then maybe discuss them rather than have another meeting with everything going back and forth. So, as chair, I'll leave that up to you. Thank you.

Mr. Tackett: I think, I think that's a good idea for, for everybody, because I mean, I mean, how many times has something gone through, and then after the meeting, I go, oh, I just thought about this, but I should have thought about that, you know what I mean? Or I just, I just remembered what about this? You know what I mean? So, if that's the, if that's the case, then I really think that everybody should compile their, their notes. Mel Hipolito should be notified that we are taking it back up on this date and on that date he should have his notes ready as well that way, whatever is, is sent out can be, can be something that comes from our entire commission. But once again, it is my, it is my wholehearted hope that you guys decide not to give away our, our rights and that, and that you that you hold the line for as long as you possibly can until such time as legislation stops you from doing it. Ashley, go ahead.

Ms. Lindsey: I think it looks like a lot of us have similar concerns. So, compiling a list seems like a great idea. In the past, I've had a hard time when I feel like we could all work together for a better recommendation then, in the, then everybody's recommendations could kind of be put together. I don't know how to make that into fruition. But is that, does that mean submitting them

to you, Michele, and then you compile them and then comes back to us and then we hash it out because a lot of our comments will be similar, you know.

Ms. McLean: Yeah, I was, I was thinking that there probably wouldn't be a majority vote. And so, the Commission would end up sending its comments and there might be consensus on some of those recommendations in terms of changes to the bill, but that these are the concerns that you have with the proposed bill, these are the things that you like about the proposed bill, these are recommended changes, so that's, that's an, that's an option as well. I mean, I've taken notes I can go through those so that you don't have to repeat them, but if you wanted to defer and take this up at a future meeting, then yes, you could each send individually your comments to Carolyn and me, and we would make sure that Jacky gets them and then we can compile them together and then at the next meeting, have a supplemental memo for you saying this is what, this is what your comments would look like if we were to go forward with everything we've heard so far, and then you guys can take it from there.

Mr. Tackett: Commissioner Pali, go ahead, and then Commissioner Edlao next.

Ms. Pali: Okay, so just to recap, we have 120 days from today to respond, which means Council will not take action because they will give us the 120 days. Okay, so I don't feel so pressured and I definitely don't think I'd want to see it on the next one because I was actually really excited to not pull an eight-hour shift today. So, that doesn't...because we're going to push it off, I don't want a ten-hour shift next time, you know, what I'm saying. So, if we got 120 days, people, let's take the 120 days. And then my last question, Chair or Director, should we all vote? Does that mean we're consenting without the vote yet to defer or should we officially have to do that on record? How does that work?

Ms. McLean: You could vote to defer and then that's that and it's deferred. And then it'll come up again at a future meeting. And at that future meeting, we will have compiled all the comments we've heard today, and then anything new that you send us.

Ms. Pali: Or is it like a recess because that way we don't have to go back through public hearing again, like there's a term for it, what's the better way to do it?

Ms. McLean: If you wanted to recess and not take testimony or excuse me, if you wanted to not take testimony again, then you could recess, but you'd have to pick up a specific date to recess to.

Ms. Pali: I'm just trying not to drag out our, you know.

Mr. Tackett: Commissioner Pali, while you think about it, can I get to Commissioner Edlao, go ahead.

Mr. Edlao: As I said, before and I think this is about accommodations, so I want to get the white elephant out of the way and I want to make a motion to deny this.

Mr. Tackett: Okay, well, we have a motion on the floor. Do we have a second? We have a motion and a second on the floor.

Ms. Pali: I'm gonna...just, I'm gonna do a second just for discussion purposes.

Mr. Tackett: Sure.

Ms. Pali: And then Chair if I may, would he entertain a denial but also submit comments? Would you be would you allow that as a friendly amendment to your motion, Commissioner Edlao.

Mr. Edlao: You're going to have to wait and see until the motion comes out.

Mr. Tackett: Okay, so we have a motion and a second and then, Commissioner Edlao, would you like to speak to your motion?

Mr. Edlao: Yeah, I don't believe this is a situation about accommodations at all. I, it's my opinion this is about there's so many tourists here on this island and people are concerned, taking up...causing traffic and everything else or whatever the case may be or whatever the reasoning may be. But I believe this is not about transient. I don't think, I don't think this moratorium is going to stop people from coming. They're going to come. This is an ideal place. I mean, you know, we don't have Covid like any other places and we've got nice, beautiful beaches, and, you know, they're going to come no matter what we do. Moratorium or no moratorium. That's my opinion.

Mr. Tackett: Commissioner Pali, for discussion.

Ms. Pali: Yeah, so I just second the motion so we could officially, you know, get this out. I think I've already voiced that I'm right in the middle. I think that there are better ways to do what this is wanting to do. There's better tools. There's more immediate action than the moratorium. I fear what might be underlined under the moratorium. I don't know if we're allowed to peek at that, the text messaging in the app or even if I can reference it. But it was nice that our Council Member Rawlins, put a posting there a little bit ago. I don't know if you guys got to see it. And so that was sweet and I appreciate that. But if, if it's not going to last long, as she stated, if we're allowed to take that into consideration because it looks like the TIG is wrapping up and they'll have information, she said, by the end of the year, which is just another three months, then the question is why, why go through all of this for something so short? Is it necessary at this point? So, yeah, for just entertaining to see where everyone's at, and because I lie right in the middle and for those other reasons I stated, I made the second.

Mr. Tackett: Would anybody else like to speak to the motion?

Mr. Edlao: Let's call the elephant.

Mr. Tackett: Commissioner Thompson.

Mr. Thompson: Thank you, Chair. Well, if we deny it right now then we...if we deferred it, we can get other information is that correct? If we deny it, deny it now then it...the game's over already.

Commissioner Edlao, I think you're right. It is a foregone conclusion. They've already got their agenda. For the most part, we're spinning our wheels. They may take some suggestions from us, but don't kid yourself. They already know what they're going to do. Long gone and Chair Tackett, you might be right, it might be something that's, you know, what they're doing is just wanting to take the that decision power away from the planning commission and that they might try to do that for a long time so that we don't have a community input that they can make those decisions unilaterally. Anyway, that being said, it probably should be a deferral.

Mr. Tackett: Jerry, did you have more to add to your motion?

Mr. Edlao: No, just one comment. I mean, even the Department doesn't know what this thing is trying to prevent, so you know, we don't know, we don't know what's in the Council's thinking and where they're going with this. And I'm not going to walk down a dark hall and get flabbergasted with something that I don't like. So, that's my comment. So, let's call the elephant out.

Mr. Tackett: Understood. I believe Ashley also wanted to speak to the motion.

Ms. Lindsey: My concern is not getting her comments in, even though they, who...if the Council have already made decisions or not, we should still take our job here seriously and make our comments no matter what they decide to listen to or not listen to. And that is my main concern, is just letting them hear our comments, letting the community know where we stand, and so because of that, I'm not sure how to vote here because I want to make comments. Thank you.

Mr. Tackett: You're welcome. Yeah, and that's legitimate. Commissioner, Pali.

Ms. Pali: Commissioner Edlao, with that comment, would you be willing to amend your denial and say denial plus past comments? Is that something you'd be willing to be flexible on?

Mr. Edlao: Oh, I think they're going to see your comments anyway. So, it doesn't matter if I put it on or not. I mean, you know, there would be comments. There was a lot of comments all day, comments up the yang. So, they're going to see it, and some of them probably watching. So, no, I just want to deny. Let's call for a vote.

Mr. Tackett: Okay, and I still gotta afford all the rest of you, commissioners a chance to weigh in. So, um, but let's keep, let's keep it to one per time, because we do have a motion on the floor. So, Kellie, go ahead with your one last question then we have Commissioner Thayer would like to say something, Commissioner La Costa would to have—

Ms. Pali: I would like to withdraw my second please.

Mr. Tackett: All right. Commissioner Pali is withdrawing her second. And then we have Corp. Counsel now.

Mr. Hopper: The motion's been seconded and put before you so, a couple of things. One, is members can make a motion to amend the motion on the floor without the consent of whoever made the motion so that's up to the body. The other thing is, if the motion's already been put

before you, withdrawing the second doesn't accomplish anything, you would still need to take a vote on the motion to dispose of the motion now that it's been motioned and seconded and you've had discussion on it.

Ms. Pali: Do I have vote yes if I seconded it?

Mr. Tackett: process ...(inaudible)...if you have a vote on, on her amendment is that the process?

Mr. Hopper: I don't think she had made an amendment, she had asked the original maker if that if he consented to something. The floor could be open for amendments though if a member had an amendment to make to the motion.

Ms. Pali: Okay, so I put back my second. And, real quick side question Mr. Hopper, could I vote...could not...could I vote differently than my second is that allowed?

Mr. Hopper: Yes, just 'cause you...even if you make a motion, I think if you second it, you don't necessarily have to vote in favor of the motion. I mean, it could be amended a bunch of times too potentially so it could be a bit different than the original.

Ms. Pali: So, if I can Chair, I'll put the second back in place to make sure we're doing things correctly. And...stop laughing Mr. Edlao, and I would like to how did make the...how do I add the amendments that I'd like to do it? I'm sorry, I missed that part. I'd like to amend that in a formal letter that we also pass our comments so in the event they don't take consideration whatever it is that we do, we still get to in formal way express our comments to try to influence the end result.

Mr. Tackett: Does that go to a vote Mr. Hopper? How does that work?

Ms. McLean: That needs a second. Commissioner Pali's motion needs a second.

Mr. Tackett: I got a second from P Dee. And then it goes to a vote, correct? Or do we, or do we need to speak to the amendment?

Ms. McLean: If anyone wishes to speak to the amendment they can, and then the amendment would be voted on.

Mr. Tackett: Outstanding, thank you for the help. So, Kellie would you like to speak to your amendment and then P Dee would you like to your second as follows?

Ms. Pali: Yeah, I just would like to be able to exercise our ability to communicate a friendlier resolution if they decide to put this moratorium in place.

Mr. Tackett: Thank you, Kellie. Commissioner La Costa.

Ms. La Costa: Thank you, it was more a question of clarification. Will our comments be posted anywhere so that the community can see what their planning commission brought to the attention of the Council?

Ms. McLean: When we transmit the package back to the Council, that package, if your...whatever action you take, if you want it to include specific comments, those will be detailed in the transmittal letter. We also include the minutes of the meetings, and then that package will go to, to the County Council and it will be posted on their agenda and linked on their agenda so that they will...the public will have access to it.

Ms. La Costa: Thank you, Director.

Mr. Tackett: Anybody else want to speak to the amended motion? Commissioner Thayer.

Ms. Thayer: I just have a question on how this works and what it will mean. So, the main motion is to deny this, but the amendment is to package...collect and package our comments is that correct?

Mr. Tackett: Correct.

Ms. Thayer: Okay, and then...so the message to Council then would be the Commission voted to deny this but if you still do it, this is their comments on the proposed language?

Mr. Tackett: Correct.

Ms. McLean: Well it depends, it depends on the nature of your comments. Your comments can be if you decide to do it, here are some suggestions, but your comments can also be, your reasons for denial.

Ms. Thayer: Okay, and then if we vote on this full motion then Member Hipolito is not gonna get any chance to weigh in on this?

Ms. McLean: If you take final action on this today, correct. He would have the opportunity to participate at the Council level if he chooses, but he wouldn't be part of the commission discussion.

Ms. Thayer: Okay.

Mr. Tackett: Commissioners, any other discussion? If not, let's make a vote. I believe Commissioner Pali has something.

Ms. Pali: I really gotta just take like a two-minute bathroom break.

Mr. Tackett: Oh, yeah, go ahead. Five minutes if that's acceptable...you guys been going a really long time.

A recess was called at approximately 2:26 p.m., and the meeting was reconvened at 2:31 p.m.

Mr. Tackett: Okay, so any more input on the, on the amended motion? Hearing none, Director.

Ms. McLean: Chair, would you like a roll call vote on the amendment?

Mr. Tackett: Yes, please.

Ms. McLean: Okay, the amendment is an amendment to the motion to deny and the amendment is to provide comments along with the denial. Commissioner Edlao.

Mr. Edlao: Are we voting just on the amendment alone or the whole shebang?

Ms. McLean: Yes, just on the amendment, just on whether to send comments if the motion to deny is approved.

Mr. Edlao: Yeah, I can live that, that's okay.

Ms. McLean: Okay, Commissioner Freitas.

Mr. Freitas: No.

Ms. McLean: Commissioner Lindsey.

Ms. Lindsey: Aye.

Ms. McLean: Commissioner Pali.

Ms. Pali: Aye.

Ms. McLean: Commissioner Thayer.

Ms. Thayer: I'm not sure about the denial, but I do want to provide comments. So, I guess in that sense I will say, 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.

Ms. McLean: Chair, the motion passes, seven to one with one member absent, Commissioner Hipolito, so the amendment passes.

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

VOTED: To Approve the Amendment to Motion of Denial to Provide Comments from the Commission Along with the Denial.
(Assenting – K. Pali, P D. La Costa, J. Edlao, A. Lindsey, K. Thayer, D. Thompson, C. Tackett)
(Dissenting – K. Freitas)
(Excused – M. Hipolito)

Ms. McLean: Chair, you're onto the main motion which with the amendment is to deny...to recommend denial of the proposed bill with Commission comments sent along to the Council.

Mr. Tackett: So, we're now on...so, we're speaking to the motion...are we still on...I believe we're still on the speaking to that motion, correct?

Ms. McLean: Yes, you can still allow speaking to the motion because it's been amended.

Mr. Tackett: I don't believe, I don't believe all my, my commissioners were afforded that opportunity. So, we be we go to a vote I would like to allow all the commissioners that opportunity one more time. Anybody want to speak to the, the amended motion? Commissioner Thayer.

Ms. Thayer: I have a question more than anything and that is like how are we providing and packaging our comments? If...

Ms. McLean: If the motion passes, then I would read through the comments that I have and you could add to them or modify them and so, once we have a complete list that members agree with then we would package those along with your recommendation to the Council. Or if you prefer to go through the comments now, we could do that before you vote on the motion.

Ms. Lindsey: Chair, may I speak? Chair?

Ms. Pali: He may have dropped.

Ms. McLean: He's still listed.

Ms. Lindsey: So, we could submit comments to you later? Does that have to happen today?

Ms. McLean: Yes, yes.

Ms. Lindsey: Okay.

Mr. Tackett: Sorry you guys, I got, I got lost somewhere in there. So, what did, what did I miss? Last thing I heard was...(inaudible)...sorry, you guys. Anyways, oh there we go, much better. So anyways, last I heard before I lost my signal was I believe Ashley, and yes, you can absolutely speak.

Ms. Lindsey: My question was if we could, if we submit comments...if we need to submit all of our comments now or if we should submit them later or if we can submit them later and Director McLean...Okay, Director...

Mr. Tackett: I believe we got to go through the motion on the floor is we would have to vote on it, is that not correct Director?

Ms. McLean: Chair, what's on the floor now is a motion to deny but to also send comments.

Mr. Tackett: Okay.

Ms. McLean: And so, there are two ways to do that. One, is to go through all the comments now and make sure that all those comments are clear before the vote is taken on that motion or you can take the vote on that motion and if it passes then we would go through all the comments that you wish to include. So, that's up to the commission to decide.

Mr. Tackett: Okay, and does that answer your question, Ashley?

Mr. Edlao: Can we just call for the vote?

Mr. Tackett: Yeah, if there's no more, no more to speak to the motion and I don't see any, if we could have a roll call vote please. Thanks for your guys patience with me. I appreciate it.

Ms. McLean: Yes, Chair, the motion is to deny...to recommend denial of the moratorium bill, but with comments offered by the commission. Commissioner Edlao.

Mr. Edlao: Yes, deny with the amended conditions by the second.

Ms. McLean: Commissioner Freitas.

Mr. Freitas: No.

Ms. McLean: Commissioner Lindsey.

Ms. Lindsey: No, I think I need more time to submit my comments, so I'm voting no.

Ms. McLean: Commissioner Pali. Commissioner Pali.

Ms. Pali: Aye.

Ms. McLean: Commissioner Pali.

Ms. Pali: I'm going to say nay.

Ms. McLean: Commissioner Thompson.

Mr. Thompson: Aye.

Ms. McLean: Vice-Chair La Costa.

Ms. La Costa: Nay.

Ms. McLean: And Chair Tackett.

Mr. Tackett: Aye.

Ms. McLean: Chair, the vote is four to four with one commissioner absent, Commissioner Hipolito, excused. The motion fails.

It was moved by Mr. Edlao, seconded by Ms. Pali, and

**The motion to Recommend Denial of the Proposed Moratorium Bill and Provide
Comments from the Commission, FAILED.**

(Assenting – J. Edlao, K. Pali, D. Thompson, C. Tackett)

(Dissenting – K. Freitas, P D. La Costa, A. Lindsey, K. Thayer)

(Excused – M. Hipolito)

Mr. Tackett: Commissioner La Costa.

Ms. La Costa: Thank you, Chair. I would like to make a motion to defer this for no more than 30 days so that all commissioners can make their comments to the Planning Department and revisit it for a vote at that time.

Mr. Tackett: Do have a second? Okay, motion and a second. Would you like to speak your motion, P Dee?

Ms. La Costa: No, sir. I think enough has been said. Thank you.

Mr. Tackett: And Kellie, would you like to speak to your second?

Ms. Pali: Nope.

Mr. Tackett: Commissioners, would anyone like to speak to the motion on the floor?
Commissioner Lindsey.

Ms. Lindsey: I'm not sure that the next two meetings be...based on the heaviness of the next meeting, I'm not sure if we're gonna be able to squeeze it in within the next two meetings. So, I would prefer 45 days. So, then we have three potential meetings to squeeze it into versus two with an already hefty upcoming meeting.

Ms. La Costa: I'm good with that amendment.

Mr. Tackett: Everybody good with that amendment? If I could get a show of hands. One, two, three, four. Okay, does that pass, Director?

Ms. McLean: Yes, you can do a consensus vote.

Mr. Tackett: Okay, so I believe we have the consensus, so motion on the floor and consensus vote for the 45-day amendment. Director, if we could have a roll call vote please. Wait, was somebody...sorry, Kellie what were you motioning to? Dale, did you have something to say?

Ms. Thayer: Commissioner Freitas had his hand up.

Mr. Tackett: Commissioner Freitas, sorry he's not on my screen. Kawika, go ahead.

Mr. Freitas: No, I think I had a...I kinda misunderstood. I had thought that the Director was saying that she was going to gather certain points and comments and provide that, but now I understand this latest motion gives us time to add to it, our comments. Now are we adding comments that wasn't discussed today or is it comments that has to have been discussed today? 'Cause how can, how can commissioners come from left field and throw stuff in? I'm mean, is that, is that kosher or is that cool or what? I don't get that part. So, for me I would rather see this thing approved and take the comments that was presented earlier that I believe the Director was offering to sift through and share that, but I was just raising my hand 'cause I don't understand. Sounds like we get to add more comments off the record that will be sprung up at the next meeting, but it is what it is.

Ms. La Costa: If I might Chair please?

Ms. McLean: Chair, I see Mr. Hopper.

Mr. Tackett: I believe Mr. Hopper is waiting. Go ahead Mr. Hopper.

Mr. Hopper: Just wanted to get...wanted to get timeline clarification because the Charter does have a deadline for...it's a 120 days from receipt of the referral. When did the, when the commission receive the referral?

Ms. McLean: I would ask Jackie to let us know when we received the Reso. I was reading from a section of the Charter and these two sections seem to conflict. It says the Commission has a 120 days after the final public hearing. It's confusing.

Mr. Hopper: Yeah, I saw that but then the other one says 120 days after receipt specifically for council member ones, although the other section also says council member as well. But just to clarify the deadlines for that, when was this received by the commission, I would want to clarify that.

Ms. Takakura: Everyone, this was received on June 29, 2021.

Mr. Hopper: Okay, so we'd want to keep that date in mind to try to get that, that clarified. You may need to take action by the next meeting in that event or you...the risk is that Council by a two-thirds majority could take action without your comments. Again, that's...that would be at full Council. So, so, that's, that's the risk you'd run for not taking action at, at least your next meeting.

Ms. McLean: The next agenda as we've said is really full, but the one after that, October 26th looks like a good prospect and I believe that would still be within the 120 days.

Mr. Tackett: Well, I'm gonna leave that up to you and Corp. Counsel 'cause you guys are both definitely more well versed in that than I, so, if you are guys sure that that's something that, that falls within what is acceptable 'cause I would not want it to, to default when we didn't think that it was going to default.

Mr. Hopper: I'd urge action within the most conservative time frame in that event. So, the let's calculate the days. I don't know if there's a potential for a special meeting for that item. And again, you'd have to take testimony. And again, so you potentially need some time. If you had a special meeting itself to post an agenda and you would need to you would need to either do that at a special meeting or at your next meeting if, again, the timeframes are correct. We'd want to make sure to calculate that and I just don't have the date off hand. Maybe we could recess for a bit and get that clarified.

Ms. McLean: the October 6 meeting would make it. We would have to issue the report back to the Council right away. We could start working on that cause we already have a sense of where the commission is coming from. And you could recess to that date if you did not want to entertain additional testimony.

Mr. Tackett: So, if we recessed to that date Corp. Counsel that is acceptable or do we fall into a gray area?

Mr. Hopper: You could...if you're talking about recessing to October 6th, that's...you said which date?

Ms. McLean: No, October 26th.

Mr. Hopper: I think you could recess to the 26th, but you could potentially be, I'm not sure what the time frame is for the...I mean, if it's beyond the date and my understanding is that the Council may be taking it up on November 4th, so I don't know how much time that would be to have it there, you may want to coordinate this to make sure that comments are received.

Ms. McLean: Well, like I said, we would have to turn the report around right away, we wouldn't have the minutes and that's Council's choice when to schedule it. They're supposed to give us a 120 days to receive the report, if they want to post before the 120 days, that's their prerogative, but we can still meet our time frame.

Mr. Hopper: Well, at this stage, you can look at, you can look at doing it the next meeting or at a future date, but if you can't make a decision today, I'd want to make sure that you don't miss any

of those deadlines. Again, the potential consequence is Council can act with a two-thirds majority without your comments, but if you get your comments in the meantime and there's still a committee review or a second reading they will have still gotten your information. Again, the Council can just decide to not, not consider the information that you give in any case, but you would have been able to have provided that information to them and taken action before presumably the Council could, could actually take final action. I mean if they're...they would still need to have two readings, so...

Mr. Tackett: Director, I believe we've hashed out all that there is to hash out and I also believe that when the next meeting comes and we have all of our commissioners I don't think that there's much to go over. Can we just place it at the front as a recessed item and then just work through it quickly with our notes, is that something that you think could, could happen?

Ms. McLean: I think so, Chair. If you want to recess this to October 26 at 9:00 a.m., we can—

Mr. Tackett: I was asking about the next meeting.

Ms. McLean: There's not...well, that's up to the commission. It's a very full agenda, but if you wanted to recess this item to 9:00 a.m., then we could post that next agenda for let's say 9:30 and it would be up to you to see if you want to get it through. We could write up a summary memo from the discussion today, and then you could use that as the starting point, and you could add to it, delete it, but you'd have a starting point.

Mr. Tackett: Yeah, that seems like a lot to fit into a morning. I think that the 26th would probably be the best. Corp. Counsel.

Mr. Hopper: I'd recommend maybe even if you don't get to the item on the next meeting, you recess to that, that date for Sunshine Law for purposes. You can take it up and you wouldn't to take testimony and you could defer it right away. I can understand the meeting would be long, would be potentially long, and you could just dispose of that item or not, not discuss the item. But recessing to the 26th is almost a month away and we want to be careful with, with recessing that far, I think. So, I would recommend doing it for the next meeting, and then at that meeting you could, you could decide to defer it again or to just not discuss it if you, you wouldn't have to take testimony though.

Mr. Tackett: Okay, then we could recess it to the 6th and then defer to, I mean, and then, and then discuss it at that time.

Ms. McLean: The next meeting date is October 12th.

Mr. Tackett: Or to the 12th, yeah.

Ms. McLean: Chair, Commissioner Freitas had his hand up.

Mr. Tackett: Commissioner Freitas, go ahead.

Mr. Freitas: Sorry, now that Counsel answered sort of my question, I just want to share that I'm a bit worried that fellow commissioners are gonna do some research and come up with stuff and pretty soon like our old Chair Lawrence would say, we're going down rabbit holes man, and I wish every...you know, I sat through listening to everyone's questions and thought that we would, thought that we would have a vote, but no, because there's gonna be more questions, and more questions, and we're gonna drag this thing out, and I keep hearing the concern about getting Mr. Hipolito's, Commissioner Hipolito's vote and although that may break the tie, we shouldn't be holding up voting because we didn't meet the nine, we voted with seven and eight before six even of us. When I went on vacation nobody put hold on some really important stuff that I wish I was on so, let's stop saying that. If we can...if we have the information that we have put in front of us, the Planning Department put together a great recommendation. We've said it before they do a lot of work for us, I know they do miss some stuff. I would be happy with a vote that just passes this and take all the comments that was shared and put it in a packet and pass it onto them. I think this one is gonna drag on and on and we neva going get around to other meetings because this will drag on if we let people testify again. That's what I heard Mr. Hopper say.

Mr. Tackett: So, Director do we have a motion on the floor at this point or not?

Mr. Freitas: Yeah, we do.

Ms. McLean: There was a consensus to defer, but I—

Mr. Tackett: So, we already have the consensus to defer so we're just speaking to what that time is because we've already, we've already passed that point is that not correct?

Ms. McLean: Well, I don't think that precludes you from deciding a different direction.

Mr. Tackett: So, are you saying that we should change our minds 'cause I don't understand. I thought once you had a consensus that that was the direction that the thing went.

Ms. McLean: I believe, I apologize Chair, I believe the consensus was on 45 days rather than 30 days. The final call was made on recessing or deferring. There was just a consensus on the time frame.

Mr. Tackett: Okay, we need a new consensus or we need a motion, correct?

Ms. McLean: A motion still needs to be made, some final action does need to be taken today.

Mr. Tackett: Okay, Commissioner Lindsey...oh, sorry Commissioner Lindsey, I believe Kawika still had the floor, so if what, if what the Director says is true then...this is a unique case for me so—let Kawika finish.

Mr. Freitas: No, I am done. Thank you, Chair. Can pass it onto Commissioner Lindsey.

Ms. Lindsey: For scheduling purposes and because we're running into these...(inaudible)...I prefer to also continue it on today. We know where we need to work on it, and I don't think our brains will be at full...thinking as well as they are now at the end of day when they need to be thinking on the next agenda. Not that we are running at hundred percent but it will be better than it will be later.

Mr. Tackett: I don't understand what you meant by that.

Ms. Lindsey: I think we should take a vote now and put in our comments now.

Mr. Tackett: So, that in order for a vote to come, there needs to be a motion on the floor. Do I have a motion?

Ms. La Costa: Excuse me, Chair. We made a motion to, I made a motion to defer it and then for 30 days, and then Commissioner Lindsey made a friendly amendment to 45 days that was agreed upon by consensus, and then Mr. Hopper said that he thought that might be too long because the, the council could approve by two-thirds majority. So, I'm wondering if I should just withdraw my motion and then restate it with a different amount or if we should withdraw the amendment. I'm just not sure how to do that because it's rather confusing at this point. Thank you.

Mr. Tackett: I'm pretty confused. Thank you. Mr. Hopper, please clarify.

Mr. Hopper: Unless I'm misunderstanding, I thought that the motion was to recess to a date no later than 45 days. So, that you could still have the item recessed to your next meeting. You could maybe get that clarified but I thought that it was not a specific date. I think at this point if you want to recess would have to recess to a specific date, so even though that's been done, I think it's still consistent as long as you have, have that within 45 days it's consistent with that and if you want to specify at the next meeting which is a date certain for what you need to do for a recess you could do that. So, you could maybe entertain a motion to recess until...the item until the next specific date and also include any additional information you would need if that's where you'd like to head.

Mr. Tackett: Okay, P Dee, are you amiable to that?

Ms. La Costa: Yeah, I'm just wondering then I should withdraw my motion to have it, have it heard within the 45 days, am I—

Mr. Tackett: It's up to you, it's up to her is it not?

Mr. Hopper: Well, I think you already consensus...you got a consensus on that. That just says within 45 days. I think you could another motion to narrow it down. I mean, it's less efficient but I think it's still consistent because in two weeks it's still within 45 days, so I wouldn't want—

Ms. La Costa: I thought, I thought that the—

Mr. Hopper: Sorry.

Mr. Tackett: Go ahead P Dee.

Ms. La Costa: I'm sorry, I thought that the 45 days was a friendly amendment to the original motion to defer it and then—

Mr. Tackett: Yeah, 'cause you said 30 days, right.

Ms. La Costa: --the word recess was brought in, yeah, then the word, recess was brought in, so I'm just not sure which direction to go at this juncture.

Mr. Hopper: I think the original 30 days was still within that time frame. So, I don't think it was to say for 30 days, it was within the 30 days, whether it's 30 or 45 days, the two weeks, and you know, correct me if I'm wrong, I think this is what I remember happening, that two weeks is within both of those time frames. The issue is if you recess, which means you wouldn't be taking public testimony again, you've got to do that to a date certain. Now, in this case, you're pushing an agenda for that meeting anyway it would just state that this is recessed. So, I still think you should, if you want it at the next meeting, have a motion and a vote to have this recessed until that date. I don't think you need to withdraw the old motion if it was to have it within 30 days or 45 days because they're both consistent with each other, you're still doing that.

Mr. Tackett: Go ahead P Dee.

Ms. La Costa: I so move that this item be recessed until the next available meeting or until October the 12th. Is that right, Mr. Hopper?

Mr. Tackett: I believe it was the 12th, okay.

Ms. La Costa: Yeah, so move to have this matter recessed until the October 12th planning commission meeting.

Mr. Tackett: Okay, and do we have a second? I'll second it or I believe Dale, Dale can have the second. Can't hear you though Dale. You're muted.

Mr. Thompson: Yes, no comment, I seconded it.

Mr. Tackett: Okay, so we got a motion and second. Anybody care to speak to the motion?

Ms. La Costa: I just think that this will give us time to get our comments to the Planning Director.

Mr. Tackett: Sounds good. And anybody else wish to speak to the motion?

Ms. McLean: Commissioner Pali has her hand raised,

Mr. Tackett: Commissioner Pali and then I believe Commissioner Thayer may also, I'm not sure, yeah, okay. Commissioner Pali.

Ms. Pali: Thank you, Chair. My comments is just a clarifying question that Commissioner Freitas had earlier that I also am interested in. He had a question about I think the expectation of the missing commissioner. Can you just clarify what that looks like and how that is fair because it's a valid concern? Like how does he miss all this, and then get to participate later on it.

Ms. McLean: Are you asking me?

Ms. Pali: Oh yeah that was my question, sorry to Director, yeah or whoever will be the right person, maybe Hopper, I'm not sure.

Ms. McLean: Well, I don't know that, that it's an issue of fairness. It's...he had a business conflict on his schedule and was not able to make it today, and he'll be able to make the next meeting and so he's entitled to participate in whatever items are on that agenda. He certainly will have benefited from all of the work that you've done today, but at the same time he would not have had the opportunity or the level of discussion that you've had, so...but he is still entitle to participate.

Ms. Pali: Okay, thank you.

Mr. Tackett: Commissioner Thayer.

Ms. Thayer: Thank you, I just want to clarify how it's working with packaging our comments, so like Director are you gonna put together everything we've said today and then that's gonna be packaged up for us to review at our next meeting or at our next meeting are we putting together all of our comments for you to then package then?

Ms. McLean: For the...if you do, in fact, recess to the October 12th meeting, we would do a supplemental memo that lists all of the comments and, and concerns that we've heard from the commission today. Some of those are supportive of the moratorium, some of those are critical of the moratorium, and then you can use that as your starting point or when you reconvene on this item on October 12th, it may be fine, as is you might want to add to them, you might need to change some of them. I think that'll be a good starting point and at the next meeting, there might be a majority vote one way or the other on the bill. But the I would imagine the commission would still want to include all of those comments. And if for some reason there are only eight members at the next meeting, whoever, those may be, you may still be split in which case I would encourage you to just vote to forward the comments to the Council without a recommendation because you were split at that point twice.

Ms. Thayer: Okay, okay, thank you.

Ms. McLean: You could do that today, but it sounds like you don't want to do that today, and that's fine.

Ms. Thayer: I would be interested doing it today just to give our...I think the main thing is giving our comments 'cause I don't...I feel like we're gonna be split on a decision to approve or deny but

I think we are all in consensus that we all have comments that we want to pass on, but I'm just throwing that out there.

Ms. McLean: It's up to you if you want to defer it and pick up at the next point or if you want to go through comments today, it's entirely up to the, up to the commission.

Mr. Tackett: Right now, I believe we, we have a motion on the floor, correct? So, let's take a roll call vote on the motion that we have on the floor please, Director.

Ms. McLean: Okay, the motion is to de...excuse me, to recess this item until the October 12th meeting. Commissioner Edlao.

Mr. Edlao: No.

Ms. McLean: Commissioner Freitas.

Mr. Freitas: No.

Ms. McLean: Commissioner Lindsey.

Ms. Lindsey: No.

Ms. McLean: Commissioner Pali.

Ms. Pali: No.

Ms. McLean: Commissioner Thayer.

Ms. Thayer: No.

Ms. McLean: Commissioner Thompson.

Mr. Thompson: I guess, I'm not clear what we're doing, but yeah, no, I'll go no. I'm with the game.

Ms. McLean: Commissioner La Costa.

Ms. La Costa: Yes.

Ms. McLean: And Chair Tackett.

Mr. Tackett: Yes.

Ms. McLean: Chair, the motion fails with six noes and only two ayes.

Mr. Tackett: Okay, thank you, Director.

Ms. McLean: You got a majority vote.

Mr. Tackett: Right.

It was moved by Ms. La Costa, seconded by Mr. Thompson, and

The Motion to Recess the Matter to the October 12, 2021 Meeting, FAILED.
(Assenting – P D. La Costa, C. Tackett)
(Dissenting - K. Freitas, J. Edlao, A. Lindsey, K. Pali, K. Thayer,
D. Thompson)
(Excused – M. Hipolito)

Mr. Tackett: Commissioner Pali, go ahead.

Ms. Pali: I have a question for the Director, Chair. If we like the concept of this bill, but we don't like the wording, we wouldn't approve the bill as is and then recommend wording. We would say, is it true that we would deny this language, but then recommend language that we would all agree on is that a proper assessment of my duty here?

Ms. McLean: The commission's duty here is pretty broad. It is to provide...well, I can read from the Charter.

Ms. Pali: Because, as you look at that, if I don't agree with the language, but the intent and, you know, its intention is not...is livable, but I really, there's some key points that if they aren't changed, then I'm not okay with it. So, in the past, when we've seen applicants like this, we would make the changes and then approve the changes. We wouldn't approve the applicant without the changes and then hope that they consider the changes, right. So, am I thinking properly in the, in the idea that because it's worded this way, it's a no. But if you consider making these changes, then it's a yes. Is that...what, what...how do you formulate that thought into a motion?

Ms. McLean: We would, so what that transmittal would look like is that the commission voted to support the bill with the following revisions. And so, that would be your package. And it can also include comments as well. But it's not...

Ms. Pali: So, support the bill only if these revisions were made otherwise we would then not support the bill. Is that...(inaudible)...language in there, the balance? Because you'd hate for someone to misconstrue that message.

Ms. McLean: And that would have to be in your motion, so, if that were your motion, you know, it would...there would be a lot of words to the motion, but you recommend approval the bill only if these following revisions are made, and if those revisions are not made then you would recommend denial. So, yes, you could make such a motion.

Mr. Tackett: All right, commissioners, who's got a motion for us? Anybody? P Dee.

Ms. La Costa: I move that we...do what the Director said. Director, please repeat that wording that she said, that's what I would like to move. Thank you, sorry.

Ms. McLean: Then the motion would be to recommend approval of the proposed bill but only with these certain revisions and that if those revisions are not made, you recommend denial.

Ms. La Costa: Perfect, mahalo Director.

Ms. McLean: And you would want to fill in the blanks on what those changes would be. That's pretty open.

Ms. La Costa: Aren't they not the ones that you were going to read, 'cause we don't need to include that in the motion, right? Do we say attached? Sorry, Mr. Hopper I know that I'm going way outside the motion.

Ms. McLean: Well, in the motion it can be, it can be summarized sus succinctly. Obviously, the write up will be more detailed, but the Department recommended several revisions. I don't know if those are the ones that you're thinking of. The commission specifically talked about the changes to the exception for if housing units are built at the same time, that they be 25 percent and have to be actual units. Those are the only specific changes to the bill that I'm aware of that were discussed today.

Mr. Tackett: I still have things that that I need to think about myself. So, it's important to me if you have some time to think about it for sure. I believe, Commissioner Pali has something. and then Commissioner Thayer as well.

Ms. Pali: Thank you, Chair. Yeah, I have three points that are deal breakers for me. The first demand would be to consider the recommendations by Planning as set forth in our packet. The second is to lower the 50 percent down to 25 percent, and the third is a really big one, that any application received prior to making this law can continue to go through its normal formality. So, we're not saying the application has to be complete. It's that if they have submitted the application, I think that's kind. We, none of us personally are developers, we don't know what that life looks like, but we know, we know how difficult it is to do something here. So, I don't want to discount already that. So, those are my three, we may not all be, but those are those are three for me to support this. Otherwise, I'd be not supporting this.

Mr. Tackett: I believe Commissioner Thayer, and then Commissioner Freitas.

Ms. Thayer: Thank you, Chair. I think I agree with Commissioner Pali on her amendments to the Department's language. I would be wary of completeness of application, just like if you turn in, I don't know, if you turn in whatever just to get something in versus actually making a concerted effort to really putting a package together. So, I would just be wary of that if there's some kind of language in there that can take care of that. But I would also want to make it explicit that any permits already in the Department's hands will still be able to go through. And I want to clarify that other upgrades to amenity, like to hotels, like restaurants, swimming pools, any improvements

to hotels that don't add rooms would still be able to go through along with renovations and things like that.

Mr. Tackett: Commissioner Freitas.

Mr. Freitas: Thank you, Chair. I, I like Commissioner Pali's one and two. I also have a question on the third, to be a little bit more specific on at what stage their application is in because they go through a lot. Does it, is it when it reaches you? Are you the first? Is Planning the very first out of the 30 something steps and approvals. Like where would we say you're at this level, you get to continue, I think we've got to be clear on that not just started, started meeting, started building or started paperwork process and be clear on that.

Ms. McLean: The language right now says the ordinance does not apply to the processing, approval or granting of any application for the approval of a new transient accommodation that is properly filed with the County and complete prior to the effective date of this ordinance. I think properly filed with the County would address Commissioner Thayer's concern of it being just, you know, on a cocktail napkin and it's properly filed with the County, so, it's whichever department is the receiving department. So, I think if, if just and complete is deleted, that would address the concern that I've been hearing, 'cause properly filed to me seems to address, you know, it's a real application. Maybe it's missing one thing, but it's a real application.

Mr. Freitas: Okay, thank you, Chair.

Mr. Tackett: Thank you, Commissioners. Anyone else have anything to add? But once again, I'm going to entertain a motion, but I don't feel like I have done all the things that I want to put together to, to submit at this time. So—

Ms. La Costa: I'll withdraw my motion, Chair. I did not get a second for it.

Mr. Tackett: Okay, motion have been withdrawn.

Ms. Thayer: I would have seconded that. I thought we had a second.

Mr. Tackett: No, no second.

Ms. Thayer: Sorry, I would, I would have seconded that motion.

Mr. Tackett: Well, the motions have all been withdrawn now, so, we need a, we need a new motion.

Ms. Pali: Chair, at least we have some good comments on record.

Mr. Tackett: It's my opinion, that they've watched this whole thing anyway and they're gonna know all the comments anyway, you know, so I mean, anyways, I'm just waiting to make my hamburgers that's all. Commissioner Lindsey, go ahead.

Ms. Lindsey: Looking into the reality of building one to one or three to one, whatever ratio of affordable per room, like it's probably not gonna happen. So, in the same community plan, is that right plan, like possibly in Wailuku, but I can't imagine that happening in other Kihei, Makena if that's the intention just to be clear.

Ms. McLean: If I may comment, Chair. That currently what's the affordable housing requirement is now. But if someone wants to build a new hotel or even a new high-end housing project there's the 25 percent requirement that has to be in the same community.

Mr. Tackett: Understood. Commissioner—

Ms. Lindsey: I'm not saying, I'm not saying that it shouldn't happen, like yes, it should definitely happen but the reality of that happening from a development perspective, because I'm probably on the edge of a developer, that's not going to happen.

Mr. Tackett: Well, I understand. I mean, everybody, everybody here probably got their, their houses, you know what I mean? Or hopefully you guys got your houses. But what the, what the, the people that, the people that, that they contribute to affordable housing, you know, that's the people that you guys got to put through on your SMAs, so...Commissioner Pali, go ahead.

Ms. Pali: Sorry, sidebar Director for future notes, can we schedule a training and learn more about these credits. I feel like there's a lot more of that for us to learn about, and when I got a chance to do it, it's a little different than what we might think and that might be helpful.

Mr. Tackett: Yeah, and I believe Director, credits were built correct. When there's a credit that house was built and a family is living in it, right and then somebody purchased that credit, correct?

Ms. McLean: Yes, yes. So, the credit system allows affordable homes to built prior to the development that requires them.

Mr. Tackett: Yeah, so for everybody that gets upset with the credit thing, the facts of the matter is, is that house was built over and above and then people were allowed to live in it and it came from these projects that you guys passed through, the same projects that you would be looking at if you had your SMA privileges were are what is in the line right now for Planning.

Ms. Pali: What I would just add in there, Chair once we get the training is that we could probably look at increasing the amount of the value of the credits maybe. And anyway—

Mr. Edlao: Chair, point of order, please. Point of order. Point of order, I think we're going someplace else here. That's not on the agenda, that's not what we're talking about. We do need a motion. I don't think we have one, so let's continue on.

Mr. Tackett: Well said, Commissioner Edlao. Okay, Commissioner Freitas.

Mr. Freitas: I just want some clarification because I thought we were with a motion to approve with comments and recommendations and we started giving recommendations...did I lose you? And then all of sudden it got pulled back, so I think we gotta get on the train here. Are we going to put a motion to continue with recommendations or we add more recommendations now and then we do a motion?

Mr. Tackett: We have no motion. Before anything, we need, we need a new motion.

Mr. Freitas: Okay. I'll let the Commissioner Thayer go, but I would like to do a motion after she's done.

Mr. Tackett: Go ahead, Commissioner Thayer.

Ms. Thayer: I was going to propose a motion, but you can go first since you were talking first. Okay, well, we'll try this one on for size, how's this. So, if possible, I propose a motion that we tell the Council that we are not taking a position on approving or denying the moratorium. However, we would like to transmit our comments and propose revisions to the language that they have before them.

Mr. Tackett: Okay, we have a motion and a second by P Dee. Anyone wish to speak to the motion? Commissioner Thayer.

Ms. Thayer: I guess my interest is in getting this done in a timely fashion and not dragging this out for however long. And I think we've beaten this horse quite sufficiently, and so, yeah, my interest is mainly in capturing all of our sentiments and having them go to Council. And I don't know that we are going to have consensus on a decision for approval or denial. But we do seem to have consensus on all our comments, so that's where I am coming from.

Mr. Tackett: Okay, Commissioner Thayer. And our second was from Commissioner La Costa.

Ms. La Costa: Ditto.

Mr. Tackett: Okay, speaking to the motion, Commissioner Pali.

Ms. Pali: If you could just, Commissioner Thayer just repeat that one more time. I want to hear that language.

Ms. Thayer: Oh, of the motion? Oh, gosh sorry, hold on, my dogs. Okay, so my proposed motion is that we tell Council that we are not taking a position on approving or denying the moratorium. However, we would like to provide them our comments and like proposed or suggested revisions to the language of the ordinance for their consideration.

Mr. Tackett: Commissioner Pali.

Ms. Pali: Okay, just for discussion purposes, I don't agree with that language.

Mr. Tackett: Commissioner Edlao.

Mr. Edlao: I don't agree with that either. That just brings in another horse to beat. I think this is a yes or no thing so, you know, I think we should really move this on, yes or no.

Mr. Tackett: Okay, Commissioner Freitas.

Mr. Freitas: Yeah, I would like to do a motion that approves this.

Mr. Tackett: There's a motion on the floor already Commissioner Freitas.

Mr. Freitas: Oh.

Mr. Tackett: We gotta go through that.

Mr. Freitas: Oh, sorry.

Mr. Tackett: We have a motion and a second.

Ms. Thayer: I'm open to amending that language if that's what you guys want to do.

Ms. Pali: May I offer an amendment, Chair.

Mr. Tackett: Commissioner Pali has an amendment.

Ms. Pali: I think the, for discussion purposes, well, I guess...(Inaudible)...amendment. Yeah, I'm not comfortable that we don't take a position because my position is that I do not like the language presented. And so, if there's a way you could better reference that, you know, that the...what was presented is not acceptable to us. However, you know, these are some things that we would want you to consider which is where we were before. That's something that I would be amenable to, but not pretending that we don't have an issue with what's in front of us, because I have a big issue with what's in front of us.

Ms. Thayer: Sure. I'd be open to changing that verbiage. I don't know if anybody has any suggestions but to say that we, maybe to say that we do not accept the language in the bill as presented to us, and we would like to offer these comments and suggested revisions for consideration by the Council. How's that.

Mr. Tackett: Okay, we have a motion on the floor, and second, anybody second? Ashley second. Anybody want to speak to that motion? Commissioner Thayer you want to speak to the motion.

Ms. Thayer: I think I've said plenty already.

Mr. Tackett: Commissioner Lindsey.

Ms. Lindsey: Let's just get her done.

Mr. Tackett: Commissioner Freitas...oh, Commissioner...sorry, Commissioner Edlao was first. Commissioner Edlao.

Mr. Edlao: Commissioner Thayer, it sounds like you're saying that you're denying this moratorium but you want changes made to what they're asking, I'm kinda confused.

Mr. Tackett: It is similar to—

Mr. Edlao: What are you saying, yes or no? I mean, you can't go just half way.

Mr. Tackett: Well, still that's the motion on the floor Jerry, you gotta, you gotta, that's the motion on the floor.

Mr. Edlao: Well, that's my comments. That's her motion but this is my comments. I'm kinda confused where she's sitting. You're sitting right no the fence from that motion. It doesn't make sense to me. You're saying like okay, let's deny this but, I want to see this, this, this. I mean, I don't know, I just don't understand your, your motion.

Mr. Tackett: Yeah...

Ms. Thayer: I think Commissioner Pali might speak to that but I'm just going to...I'm trying to shape a motion that will be acceptable by most of us and enable us to get through this item and fulfill what I think is our collective intent of giving the commission...I mean, the Council our sentiments and proposed revisions to this bill.

Mr. Tackett: So, Commissioner Thayer's motion is on the floor and did we get a second? I believe we got a second, did we not? Yeah, Lindsey. And so, all that's left is speaking to the motion. I believe Kawika was waiting and then I know Kellie has her hand up again, so I'm going to get back to Commissioner Freitas, let him...

Mr. Freitas: Thank you, Chair. I agree with Commissioner Edlao this time in that, yeah, it doesn't make sense to say, no but then go and do all of this other things. It should be yes, but you gotta do all these other things, which I think the motion I was steering toward. So, I'm not going to go with the motion on the table at this time. Thanks.

Mr. Tackett: Anyone else? Kellie, Commissioner Pali.

Ms. Pali: Are we allowed to ask Director a question during discussion time?

Mr. Tackett: I'm not sure. Are we on discussion? I thought we were speaking to the motion currently.

Ms. Pali: Oh, I believe Thayer said she had spoke enough on the motion. So, I thought we were discussion? Are we not at discussion, Chair. I'm sorry, let me know when we're at discussion.

Mr. Tackett: I'm confused. I don't know, does discussion go on while there's a motion on the floor or do you speak to your stance at that point?

Ms. Pali: I was under the impression that discussion happens after there's a second.

Mr. Tackett: Director, is that the...so, okay, I thought that we just spoke to our motion, spoke to our stance, so I stand corrected. Go ahead Commissioner Pali.

Ms. Pali: No problem. I need your help Director personally, and so, and I'm just...like referencing other applicants that have come in front of us, so if somebody applies for something and they ask for these things, it's my understanding that if we don't grant them everything in that, then we can make revisions and they can accept it and then we can approve it or we have to deny what the request was but then offer...so, so is there, are you able...I think you're hearing and seeing what we're looking to do. My issue with saying approve but this, I don't want the this to be a side thing. I don't approve what's set before us as a whole. As a whole, I do not approve it. However, if revisions were made within these three items that we all seem to agree on, that version, I would be willing to be open and you know, fall to the majority here. And so, I don't...I don't want to accidentally say, approve but don't forget about, here's some recommendations. I want to say, I'm denying your version but would approve this intent if these three items were, so what's the best wordsmithing that...are you allowed to help us with that?

Ms. McLean: I have a very good solution for you because your packet contains the original bill and it also contains a proposed revised bill that includes our recommended changes. So, you could say, you oppose the original bill, but you support the Department's bill with a couple of additional changes. And so, what we would do is we would take all of your changes to the bill, put those into the bill, have Corp. Counsel, sign it, and that's what we would send up. This is what the Maui Planning Commission recommends. This is the bill that the Maui Planning Commission recommends with all the changes that you would like to see, not the bill that was sent to you, but the one that we're sending up. And then we can also include additional comments if you have comments on top of that.

Mr. Tackett: Okay, Commissioner Freitas. Are you speaking to the motion?

Mr. Freitas: Yes, Chair. More to the Director again, so we can say and we do all of this or we can say no, but we do all of this, it's the same thing? So, it's just based on which way you were leaning and we can still get everything done. Well, not done, but heard. That's what I'm hearing.

Mr. Tackett: Yeah, and also, we could, we could wait for a little while so I could come up with my comments and we could get our last commissioner's input on it as well, you know we could do a lot of different things.

Mr. Freitas: That's all for me.

Mr. Tackett: Any more, anyone else speaking to the motion? Commissioner Thayer.

Ms. Thayer: Can I reword my motion for clarity maybe then? If I may suggest just to propose this would I move to oppose what was the language that was proposed to us by County Council and instead support most of the Department's recommended language but also with the addition of our comments and suggestions, revisions.

Mr. Tackett: I'm not sure how you would get away supporting most of somebody's recommendation like then how would, how would anyone know which part you support and which part you don't you know what I mean.

Ms. Thayer: Yeah, so that's, so that's where our comments come in. So, it's like we're adding in...we're taking what the Department has written and making that our own but also inserting our revisions and comments into that version and then that version is the one that we are supporting.

Mr. Tackett: Director, should she remove her old motion and create a new motion, would that be the cleaner way to, to achieve that? What's your, what's your ideas on that?

Ms. McLean: Well, Commissioner Thayer said that she was restating her motion, but if you...if the Commission as a whole—

Mr. Tackett: Okay, that's fine. As long, as long that holds up, that's fine. Now, do we need a new second or does the old second? I mean, do we need a new second for that restated motion? I would think so, because it's a different motion, correct?

Ms. McLean: Well, if it's a different motion, then she should withdraw the first motion and make a new motion. But if she's just restating or clarifying her original motion and the maker of the second would have to concur.

Mr. Tackett: Okay, Commissioner Lindsey do you concur? Okay, we have concurrence. And now, Commissioners would you guys like to speak to the motion on the floor at this point? Commissioner La Costa.

Ms. La Costa: Thank you. I just took out my stick because I'm going to beat this dead horse, poor thing. There's still additional input that people want to make, yourself Chair, I am not clear on all of the stuff that we have said because it has been kicked around for last many hours and I, I still think we need to defer it so everyone can get their two cents in, we can review it before the next meeting and then make an informed decision rather than just trying to get this off the table and get it to Council. So those are my comments.

Mr. Tackett: Commissioner Thayer, oh wait, sorry Commissioner Thayer, Commissioner Edlao's hand was up first. Commissioner Edlao.

Mr. Edlao: I'm still not clear on the motion that she's making and the changes. You know we make motions, we have seconds, and then discussion, and then we change the motion, and then we have a second, I mean, come on guys what are we doing here. I just don't understand what's going on. It's either we do yes or we do like Kawika said, it's yes and do this or no, period. I mean, what's so hard about that?

Mr. Tackett: Once again, we have a motion on the floor and we're going back to Commissioner Thayer.

Ms. Thayer: Just to speak to Commissioner La Costa and Commissioner Edlao, so the suggestions I am referring to are the...and the language I'm referring to with the revisions is what the Director laid out for us just before that I provided comments and I think Commissioner Pali provided comments on and others provided comments on, so maybe if the Director can resummairize that for clarity if possible 'cause that's what, that's what I was thinking of when I was stating that this would be our comments and proposed revisions.

Ms. McLean: Chair, the motion on the floor is to recommend denial of the bill that was transmitted from the Council and to recommend approval of the bill provided by the Planning Department with that bill also including the change of the housing exception so that it's not a one for one requirement it's a 25 percent requirement and that the units have to be provided, credits would not be used, and also the change to applications that are properly filed with the County prior to the effective date of the ordinance, but removing the language about being complete. So, with those two changes incorporated into the Department's bill and then also I have a list of comments that we would include as well, and I'm happy to go through those if you would like.

Mr. Tackett: Commissioners? Director, I believe, I believe Commissioner Thayer would like that.

Ms. McLean: We would also include the following concerns that the moratorium could result in more illegal vacation rentals, that it is a knee jerk reaction, that it could result in the loss of construction jobs, that it could result in more Turo car rentals. that it's like a Band-Aid for a broken arm, that we need economic alternatives to tourism and construction first, that the commission wants to still be able to review projects, and there was no economic analysis, and it should be clarified that the moratorium does not apply to improvements on existing properties that don't increase the room or unit count, such as restaurants.

Comments supporting the concept are that tourism has gotten out of balance, that the existing ones in the pipeline and the new applications can proceed, that this won't fix the problem but it's heading in the right direction and is consistent with the Maui Island Plan, that we cannot build forever, that our infrastructure is behind, and that's it.

Mr. Tackett: Okay, Commissioners, any questions on that? So, just to clarify, you know. I'm good. Go ahead, Commissioner Pali.

Ms. Pali: Director, we've been here before when they were really tough commissioners. Doesn't the chair have rights to be able to make decision when we have an unsettled like the recess or other things? Isn't there something that can be done or are we just going to keep beating this until somebody goes to the other side and a majority rules? Isn't there anything that the Chair can do?

Ms. McLean: You might be thinking of the Chair oftentimes does not vote unless there's a split and then the Chair can break the tie, but in this case, you have eight commissioners, and so, even with the Chair's vote, you had a couple of split votes.

Ms. Pali: So, he doesn't, he's not able to table it or defer it or to recess it on his own. He needs the majority.

Ms. McLean: Correct.

Ms. Pali: I just, I think we're going to get better at the next turn, and then it just seems to go further away from where at least I was looking for, so...

Ms. La Costa: I call for the question, please Chair.

Mr. Tackett: Once...go ahead, P Dee. What did you say?

Ms. La Costa: I call for the question please to vote. Thank you.

Mr. Tackett: To vote. Okay, hearing no more discussion, could we have a vote please?

Ms. McLean: Chair, the motion on the table is to recommend denial of the bill transmitted by the Council, recommend approval of the bill prepared by the Department with two additional revisions and to also send the comments brought by the commission during the discussion. Commissioner Edlao.

Mr. Edlao: No.

Ms. McLean: Commissioner Freitas.

Mr. Freitas: You know what, I lost network right when you said what the thing was. Can you say it again, my computer is so hot right now from all of this, it freezes. Can you can say it one more time what I'm voting for.

Ms. McLean: The motion is to recommend denial of the bill transmitted by the Council, to recommended approval of the bill prepared by the Department or the revisions recommended by the Department with two additional changes relating to the ratio and to what applications could proceed and also to transmit the additional comments that the commission raised during today's meeting.

Mr. Freitas: Thank you. Aye.

Ms. McLean: Commissioner Lindsey.

Ms. Lindsey: Aye.

Ms. McLean: Commissioner Pali.

Ms. Pali: I'm gonna say aye.

Ms. McLean: Commissioner Thayer.

Ms. Thayer: Aye.

Ms. McLean: Commissioner Thompson.

Mr. Thompson: Can I make an amendment? I'm kidding...Aye.

Ms. McLean: Vice-Chair La Costa.

Ms. La Costa: Aye. See, the birthday boy has to be smart.

Ms. McLean: Awe. And Chair Tackett.

Mr. Tackett: No.

Ms. McLean: Okay, Chair the motion passes 6 to 2.

Mr. Tackett: Thanks, you guys, great job.

It was moved by Ms. La Costa, seconded by Mr. Freitas, then

VOTED: To Recommend Denial of the Bill Transmitted by the County Council and to Recommend Approval of the Bill Prepared by the Planning Department Including the Two Amendments of the Commission Regarding the Change of the Housing Exception from a one-for one requirement to a 25 percent requirement, and that the units have to be provided, credits would not be used, and also to change the language to applications that are properly filed with the County prior to the effective date of the ordinance, but removing the language about being complete. Also, to Transmit the List of Comments and Concerns of the Commission as Discussed.
(Assenting – K. Thayer, A. Lindsey, K. Freitas, K. Pali, P D. La Costa, D. Thompson)
(Dissenting – J. Edlao, C. Tackett)
(Excused – M. Hipolito)

Mr. Tackett: All right. All right, all right, Director.

Respectfully Submitted by,

CAROLYN TAKAYAMA-CORDEN
Secretary to Boards and Commissions II