

KATHY L. KAOHU
County Clerk



JAMES G.M. KRUEGER
Deputy County Clerk

OFFICE OF THE COUNTY CLERK

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

May 9, 2022

2022 MAY -9 PM 2:35
OFFICE OF THE
COUNTY COUNCIL

RECEIVED

Honorable Tamara Paltin, Chair
Planning and Sustainable Land Use Committee
Council of the County of Maui
Wailuku, Hawaii 96793

Dear Chair Paltin:

Respectfully transmitted is a copy of Bill No. 82 (2022), entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.26, MAUI COUNTY CODE, RELATING TO PERMITTED USES IN THE M-2 HEAVY INDUSTRIAL DISTRICT" that was referred to your Committee by the Council of the County of Maui at its meeting of May 6, 2022.

Also transmitted for your convenience is a copy of a communication received from the Planning Director.

Respectfully,

A handwritten signature in black ink that reads "Kathy L. KaoHu".

KATHY L. KAOHU
County Clerk

/jym

Enclosure

cc: Director of Council Services

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



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

April 14, 2022



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

APPROVED FOR TRANSMITTAL

For Transmittal to:

Michael P. Victorino 4/14/22
Mayor Date

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

Dear Council Chair Lee and Councilmembers:

**SUBJECT: A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.26 OF THE
MAUI COUNTY CODE, RELATING TO PERMITTED USES IN THE M-2
HEAVY INDUSTRIAL DISTRICT**

The M-2 Heavy Industrial District is a zoning district generally reserved for manufacture or treatment of goods from raw materials. Examples include the former pineapple cannery area in Kahului and the former sugar cane mill in Wailuku. Over the years, these areas have transitioned from industrial agriculture to retail, warehouses and other commercial, non-industrial use. This is true for other industrial areas on Maui and, to a lesser degree, on Molokai and Lanai. The Department of Planning (Department) wants to create the opportunity for these property owners to transform or redevelop vacant or underutilized parts of their properties into mixed uses, included housing because these properties are already served by infrastructure; therefore, the proposed bill transmitted herein will allow apartments in M-2 zoning under specific conditions.

By allowing mixed uses in the heart of Kahului, for example, the County can help create an area that serves as a transition between industrial, commercial and residential uses. In addition, some properties on Maui are part of proposed Transit Oriented Development corridors that seek to promote affordable housing, employment opportunities, walkability and other transportation options, so this proposed update to Chapter 19.26 is consistent with the County's goals in this regard.

At the same time, by including restrictions on M-2 parcels that can have apartments, the integrity of the zoning district is protected for uses that are heavy industrial in nature. The restrictions for apartments include all of the following:

Honorable Michael P. Victorino, Mayor
For Transmittal to:
Honorable Alice Lee, Chair
April 14, 2022
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1. Located on the same lot as business or industrial uses;
2. The existing business or industrial use is located within 500 feet of any existing residential use;
3. Appropriate physical or spatial buffers are provided between residential and noxious uses;
4. Transient vacation rental use is prohibited.

Given these restrictions, it does not appear that the proposed bill, as drafted, would immediately apply to any of the M-2 parcels on Moloka'i or Lāna'i because none have existing business or industrial uses within 500 feet of any existing residential use. For the same reasons, the proposed bill would not apply to the two M-2 properties in South Maui. The bill would apply to all developed M-2 parcels in West Maui.

In Central Maui, the bill would apply to the M-2 properties around Queen Ka'ahumanu Center, those in the Kahului Industrial Area close to existing residences (e.g., on the south/mauka end of Hukilike), and those in the Millyard; it would also apply to the M-2 area around the Pu'unene Mill if any of the remaining plantation residences continue to be occupied.

All three planning commissions recommended approval of the bill to the County Council. Modifications proposed by the Maui Planning Commission concerned adequate buffers between residential and industrial uses, and environmental testing if prior land use involved heavy industrial activity. The Moloka'i Planning Commission requested that the island of Moloka'i be excluded from the ordinance. The comments from both commissions are incorporated into the attached bill. Here is a summary of the planning commissions' recommendations:

<u>Planning Commission</u>	<u>Date of Vote</u>	<u>Recommendations</u>	<u>Vote Count</u>
Lāna'i	Nov. 17, 2021	Pass the bill as presented.	7-0
Maui	Nov. 23, 2021	Pass the bill with revisions.	7-1
Moloka'i	Dec 8, 2021	Deferred.	No vote
Moloka'i	Jan. 12, 2022	Pass the bill with revisions.	7-0

The proposed bill is consistent with the goals, policies and actions of the 2010 Countywide Policy Plan (as amended September 21, 2021) and the 2012 Maui Island Plan which include the following:

- Countywide Policy Plan, page 57, Core Theme E. Expand housing opportunities for residents.
- Countywide Policy Plan, page 57, Objective E.1: Reduce the affordable housing deficit for residents.

Honorable Michael P. Victorino, Mayor
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- Countywide Policy Plan, page 57, Policy E.1c: Seek innovative methods to secure land for the development of low- and moderate-income housing.
- Countywide Policy Plan, page 57, Policy E.1j: Redevelop commercial areas with a mixture of affordable residential and business uses, where appropriate.
- Countywide Policy Plan, page 58, Policy E.2d: Promote infill housing in urban areas at scales that capitalize on existing infrastructure, lower development costs, and are consistent with existing or desired patterns of development.
- Countywide Policy Plan, page 58, Policy E.2f: Develop workforce housing in proximity to job centers and transit facilities.
- Countywide Policy Plan, page 58, Policy E.3b: Prioritize available infrastructure capacity for affordable housing.
- Countywide Policy Plan, page 59, Policy E.3g: Minimize the intrusion of housing on prime, productive, and potentially productive agricultural lands and regionally valuable agricultural lands.
- Countywide Policy Plan, page 69, Policy H.5a: Encourage progressive community design and development that will reduce transportation trips.
- Countywide Policy Plan, page 71, Objective I.3: Direct growth in a way that makes efficient use of existing infrastructure and to areas where there is available infrastructure capacity.
- Countywide Policy Plan, page 73, Policy J.1e: Encourage redevelopment and infill in existing communities on lands intended for urban use to protect productive farm land and open-space resources.
- Countywide Policy Plan, page 74, Policy J.3i: Adequately buffer and mitigate noise and air pollution in mixed-use areas to maintain residential quality of life.
- Countywide Policy Plan, page 76, Policy K.1a: Plan and prepare for the effects of social, demographic, economic, and environmental shifts.
- Maui Island Plan Chapter 5, Policy 5.1.1.e: Use planning and regulatory approaches to provide higher housing densities.

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- Maui Island Plan Chapter 5, Implementing Action 5.1.1-Action 5: Amend zoning and historic preservation ordinances/rules to support adaptive reuse opportunities.
- Maui Island Plan Chapter 5, Implementing Action 5.1.2-Action 4: Develop incentives for locating new workforce housing in proximity to jobs and services.
- Maui Island Plan Chapter 7, Policy 7.1.1e: Focus urban growth, to the extent practicable, away from productive and important agricultural lands.
- Maui Island Plan Chapter 7, Objective 7.2.1: Reduce the proliferation and impact of residential development outside of urban, small town, and rural growth boundaries.
- Maui Island Plan Chapter 7, Policy 7.3.1.a: Ensure higher-density compact urban communities, infill, and redevelopment of underutilized urban lots within Urban Growth Boundaries.
- Maui Island Plan Chapter 7, Policy 7.3.1.d: Ensure future amendments to urban growth boundaries achieve the following:
 - (1) provide a beneficial extension of the existing community;
 - (2) are in areas where it is cost effective to provide and operate infrastructure/public service facilities; and
 - (3) do not promote automobile-oriented land use patterns.
- Maui Island Plan Chapter 7, Policy 7.3.2.d: Ensure, where appropriate, that affordable employee housing and multi-modal transportation opportunities are located near major employment centers.
- Maui Island Plan Chapter 7, Policy 7.3.2.f: Facilitate the development of housing by focusing projects in locations where land and infrastructure costs facilitate the development of affordably-priced housing.
- Maui Island Plan Chapter 7, Implementing Action 7.3.2-Action 6: Revise the zoning ordinance to allow for mixed-use development that is appropriate and in character with the existing community.

Therefore, pursuant to Sections 8-8.3(6) and 8-8.4 of the Revised Charter of the County of Maui (1983), as amended, the Department respectfully recommends the Council's consideration of the attached proposed bill, "A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.26, MAUI COUNTY CODE, RELATING TO PERMITTED USES IN THE M-2 HEAVY INDUSTRIAL DISTRICT."

Honorable Michael P. Victorino, Mayor
For Transmittal to:
Honorable Alice Lee, Chair
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Please see the referenced minutes of the commission meetings on the bill:

- Lāna`i Planning Commission, November 17, 2021:
<https://www.mauicounty.gov/ArchiveCenter/ViewFile/Item/28773>
- Maui Planning Commission, November 23, 2021:
<https://www.mauicounty.gov/ArchiveCenter/ViewFile/Item/28753>
- Moloka`i Planning Commission, December 8, 2021:
<https://www.mauicounty.gov/ArchiveCenter/ViewFile/Item/28932>
- Moloka`i Planning Commission, January 12, 2022:
<https://www.mauicounty.gov/ArchiveCenter/ViewFile/Item/28952>

Thank you for your attention and consideration. Should further clarification be necessary, please feel free to contact me.

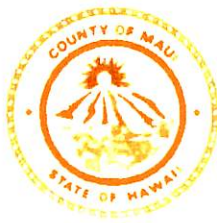
Sincerely,



MICHELE CHOUTEAU MCLEAN, AICP
Planning Director

Attachments
MCM:JEH:JMCT
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MICHAEL P. VICTORINO
Mayor
MICHELE CHOUTEAU MCLEAN, AICP
Director
JORDAN E. HART
Deputy Director




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

November 17, 2021

MEMORANDUM

TO: MAUI PLANNING COMMISSION
MOLOKAI PLANNING COMMISSION
LANAI PLANNING COMMISSION

FROM: MICHELE CHOUTEAU MCLEAN, AICP 
PLANNING DIRECTOR

**SUBJECT: A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.26 OF
THE MAUI COUNTY CODE, RELATING TO PERMITTED USES
IN THE M-2 HEAVY INDUSTRIAL DISTRICT**

The M-2 Heavy Industrial District is a zoning district normally reserved for manufacture or treatment of goods from raw materials. An example is the former pineapple cannery area in Kahului. Over the years, this area has transitioned from cannery to shopping center, warehouses and other business use. This is true for other industrial areas on Maui and, to a lesser degree, on Molokai and Lanai. The Department of Planning (Department) wants to create the opportunity for these property owners to transform or redevelop vacant or underutilized parts of their properties into housing; therefore, the bill before proposes to allow apartments in M-2 zoning under specific conditions.

The Department notes that revisions have been made to the proposed bill since it was posted for public hearing to further refine its applicability.

By allowing mixed uses in the heart of Kahului, for example, the county can help create an area that serves as a transition between industrial, commercial and residential uses. In addition, some properties on Maui are part of proposed Transit Oriented Development corridors that seek to promote affordable housing, employment opportunities, walkability and other transportation options, so the proposed update to Chapter 19.26 is consistent with the county's goals in this regard.

At the same time, by including restrictions on M-2 parcels that can have apartments, the integrity of the zoning district is protected for uses that are heavy industrial in nature. The restrictions for apartments include all of the following:

1. Located on the same lot as business or industrial uses;
2. The existing business or industrial use is located within 500 feet of any existing residential use (this was initially written as, "The property is located within 500 feet of any property with existing residential use" but revised to ensure that the proposed apartment is located near existing residential use);
3. Appropriate physical or spatial buffers are provided between residential and noxious uses;
4. Transient vacation rental use is prohibited.

Given these restrictions, it does not appear that the proposed bill, as drafted, would immediately apply to any of the M-2 parcels on Molokai or Lanai because none have existing business or industrial uses within 500 feet of any existing residential use.

For the same reasons, the proposed bill would not apply to the two M-2 properties in South Maui. The bill would apply to all developed M-2 parcels in West Maui.

In Central Maui, the bill would apply to the M-2 properties around Queen Kaahumanu Center, those in the Kahului Industrial Area close to existing residences (*e.g.*, on the south/mauka end of Hukilike), and those in the Millyard; it would also apply to the M-2 area around the Puunene Mill if any of the remaining plantation residences continue to be occupied.

Recommendation and Options

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

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

ORDINANCE NO. _____

BILL NO. _____ (2022)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.26, MAUI COUNTY
CODE, RELATING TO PERMITTED USES IN THE M-2 HEAVY INDUSTRIAL
DISTRICT

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

SECTION 1. The purpose of this ordinance is to include apartments in the
M-2 Heavy Industrial District, provided they meet certain criteria.

SECTION 2. Section 19.26.010, Maui County Code, is amended to read
as follows:

“19.26.010 - Purpose and intent. Those uses which include the manufacture or treatment of goods from raw materials are permitted in the M-2 heavy industrial district. Those uses which are listed under section 19.26.040 cannot be automatically included in the M-2 heavy industrial district because of their hazardous or offensive nature. Provision is made whereby the location and conduct of these uses is subject to review and approval of the commission as conforming to the intent of this title. The district includes mixed uses and can serve as a transition between industrial, commercial and residential uses, such as when located along a Transit-Oriented Development corridor.”

SECTION 3. Section 19.26.020, Maui County Code, is amended to read
as follows:

“19.26.020 Permitted uses. Within the M-2 heavy industrial district, no building, structure or premises will be used and no building or structure will be hereafter erected, structurally altered, replaced, or enlarged except for one or more of the following uses:

Uses	Notes and Exceptions
Any use permitted in the B-1, B-2 and B-3 business districts and M-1 light industrial district except	Except for living quarters used by security/watchmen

single family dwellings, duplexes, bungalow courts, short-term rental homes, <u>and</u> transient vacation rentals <u>[and apartments]</u>	or custodians of an industrially used property
Alcohol manufacture	
<u>Apartments</u>	<u>Apartments are allowed when all the following criteria are met:</u> <ol style="list-style-type: none"> 1. <u>Located on the same lot as business or industrial uses;</u> 2. <u>An existing business or industrial use is located within 500 feet of any existing residential use;</u> 3. <u>Appropriate physical or spatial buffers are provided between residential and noxious uses;</u> 4. <u>Transient vacation rental use is prohibited.</u>
Automobile wrecking, if conducted within a building	
Boiler and steel works	
Brick, tile or terra cotta manufacture	
Canneries except fish canneries	
Chemical manufacture	
Concrete or cement products manufacture	
Factories	
Foundries	
Freight classification yard (railroad)	
Junk establishment used for storing, depositing, or keeping junk or similar goods for business purposes	Such establishment shall not be nearer than 8 feet from any other property line for the storage of the junk or similar goods except in buildings entirely enclosed with walls
Lime kilns which do not emit noxious and offensive fumes	

Lumber yard	
Machine shops	
Material recycling and recovery facilities	
Oilcloth or linoleum manufacture	
Oil storage plants	
Paint, oil (including linseed), shellac, turpentine, lacquer, or varnish manufacture	
Petroleum products manufacture or wholesale storage of petroleum	
Planing mill	
Plastic manufacture	
Railroad repair shops	
Rolling mills	
Ship works	
Soap manufacture	
Sugar mills and refineries	
Utility facilities, major	
In general those uses which may be obnoxious or offensive by reason of emission of odor, dust, smoke, gas, noise, vibration and the like and not allowed in any other district	Provided, however, that any use not specified in this section shall not be permitted unless approved by the planning director as conforming to the intent of this title

SECTION 4. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 5. This ordinance shall take effect upon its approval.

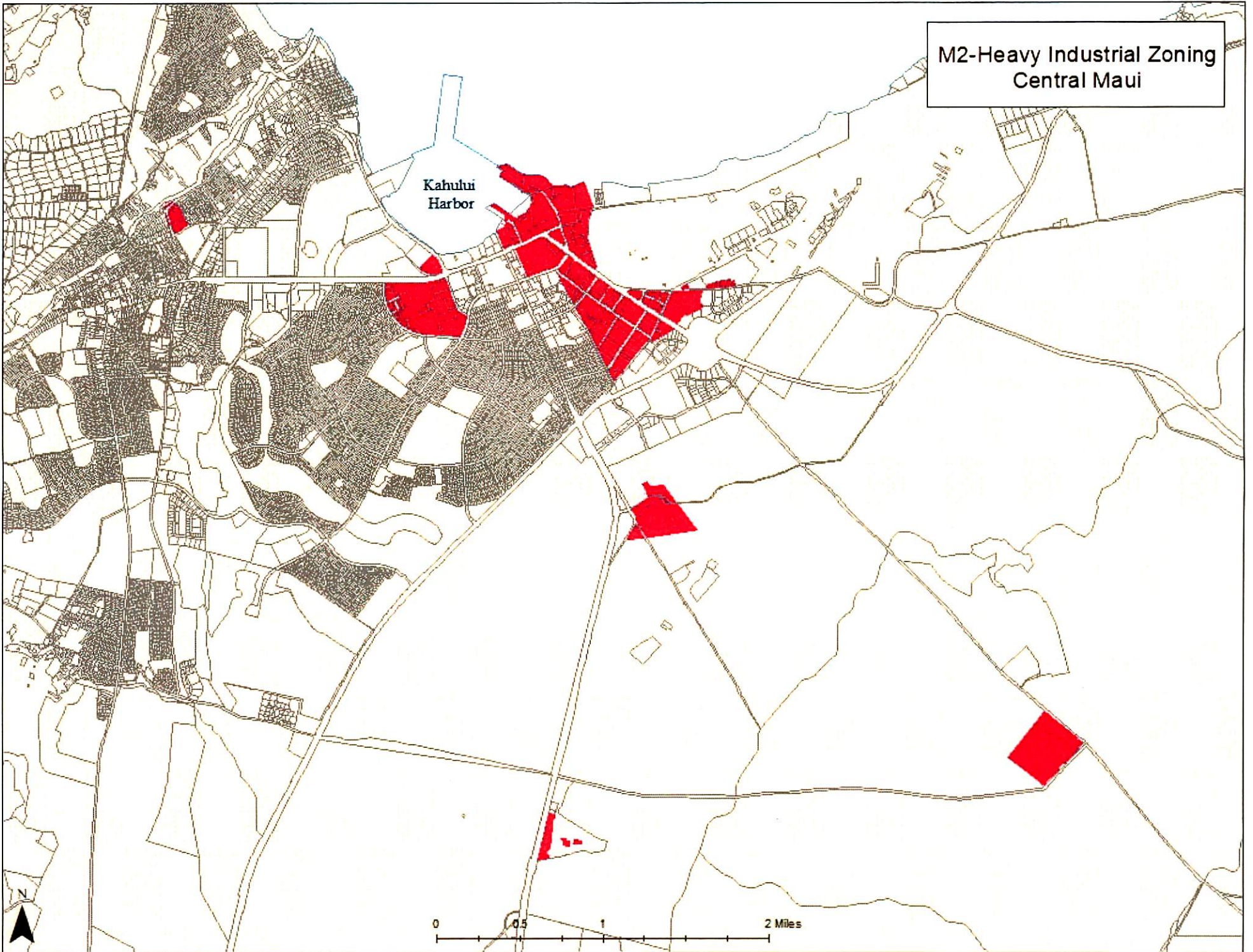
APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

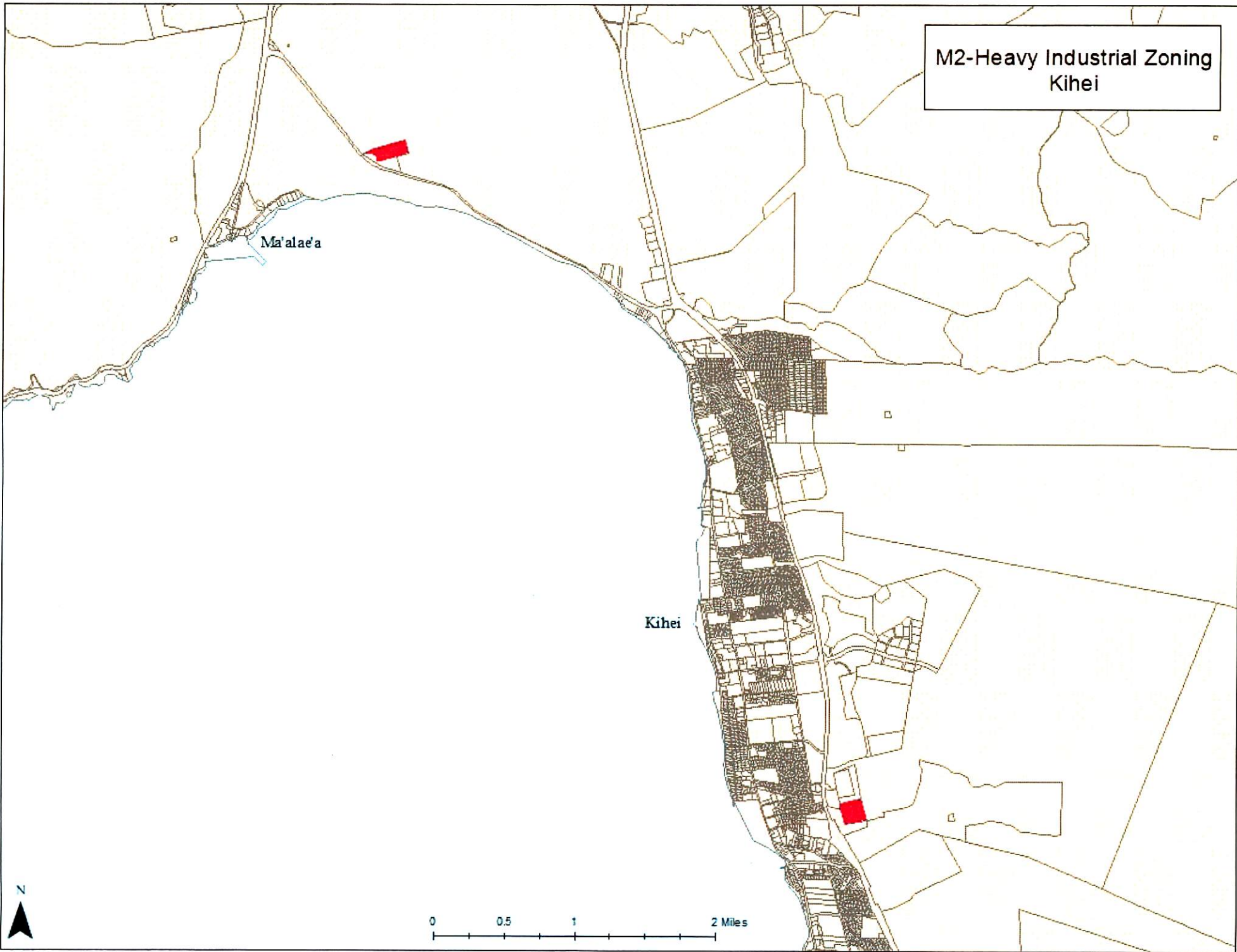
M2-Heavy Industrial Zoning
Central Maui

Kahului
Harbor

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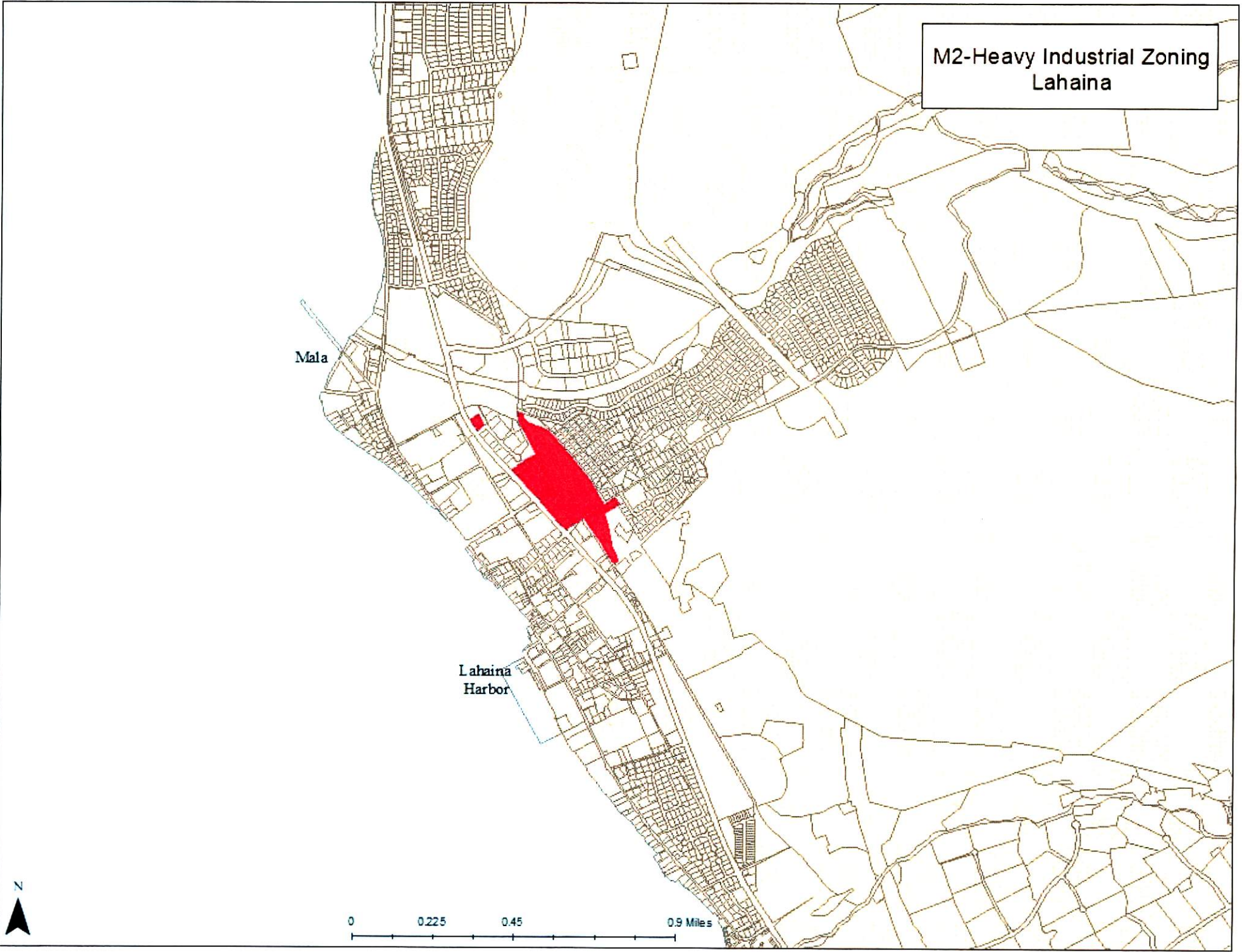
M2-Heavy Industrial Zoning
Kihei



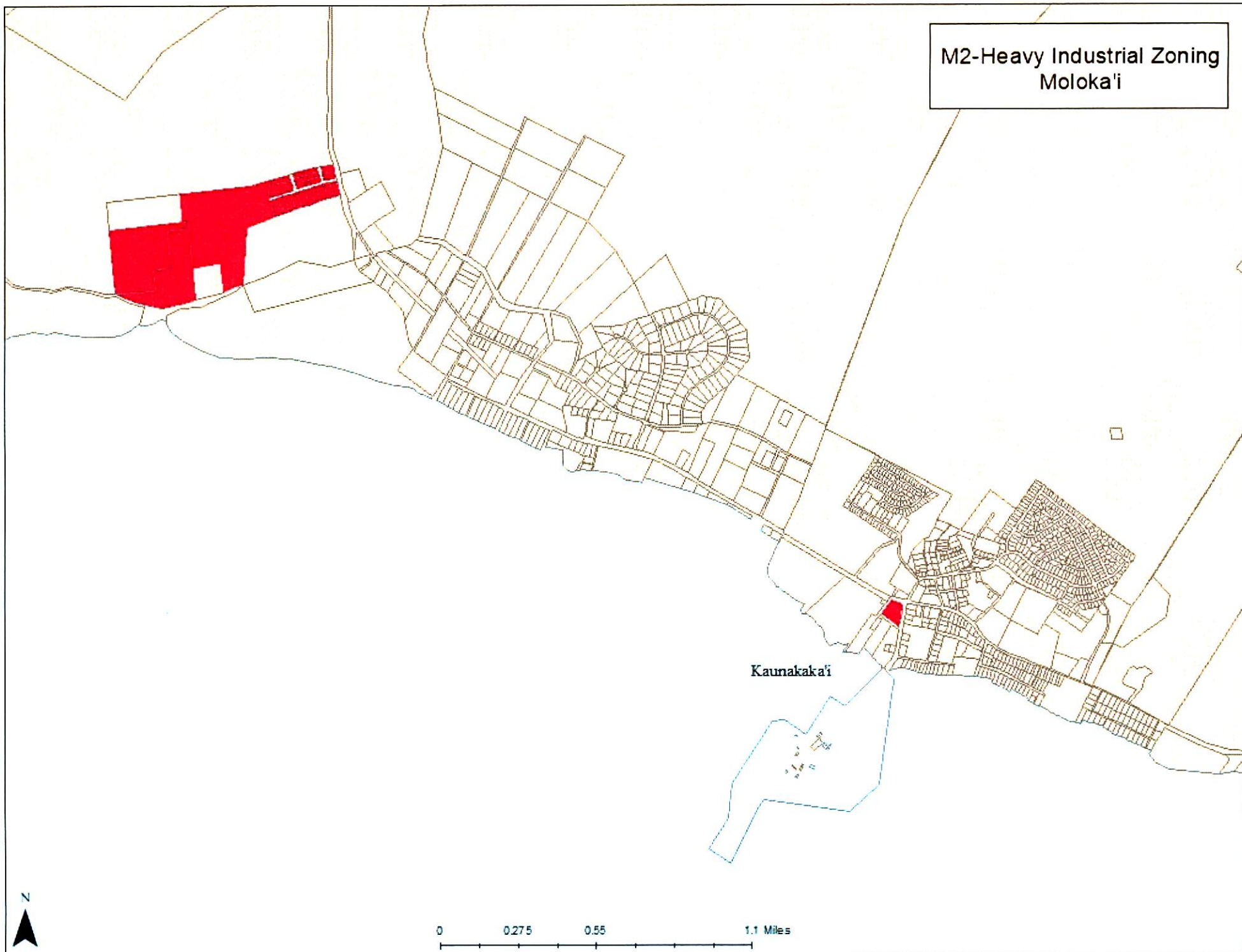
M2-Heavy Industrial Zoning
Lahaina

Mala

Lahaina
Harbor



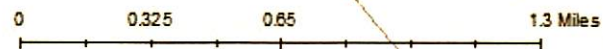
M2-Heavy Industrial Zoning
Moloka'i



M2-Heavy Industrial Zoning
Lana'i

Kaunapapa Harbor

Lana'i Airport



thoughts like the one that, when that comes up, we can kind of -- you guys can do that individually.

2. A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.26, MAUI COUNTY CODE, RELATING TO M-2 HEAVY INDUSTRIAL DISTRICT

MS. MICHELE CHOUTEAU MCLEAN, AICP, Planning Director, referring to the Maui, Molokai, and Lanai Planning Commissions a proposed bill to amend Maui County Code Chapter 19.26 – M-2 Heavy Industrial District, to allow apartments when located on the same lot as business or industrial uses, and when the property is located within 500 feet of any property with existing residential use; transient vacation rental use is prohibited. (J. Takakura)

The entire text of the proposed bill for ordinance is available at <https://www.mauicounty.gov/DocumentCenter/View/129722/Bill-for-Ordinance-updating-Chapter-1926---M-2-Heavy-Industrial>

Ms. Preza: Great. Moving on. The next item is B.2. which is a bill for ordinance amending Chapter 19.26, Maui County Code, relating to the M-2 Heavy Industrial District. And I do believe we also have a presentation for that. Is that, is that you again, Jacky?

Ms. Takakura: Chair Preza, it's me again.

Ms. Preza: Thank you.

Ms. Takakura: So I'm going to share screen again. So now we're talking about Chapter 19.26 and this one doesn't --. Well, you do have this zoning district on the Island of Lanai, but those parcels are not, would not be eligible to take advantage of these proposed changes. But we'll go through this, though.

So what this bill is about -- and this is proposed by the department -- is to amend this chapter, which is the heavy industrial district, and to allow for apartments as a permitted use in certain situations. And so the heavy industrial district is normally reserved for manufacture or treatment of goods from raw materials like the former pineapple cannery in Kahului. These are some pictures from the 60s. Lanai being the Pineapple Island, these probably look somewhat familiar. But anyway, this is Kahului back in the day. It was heavy industrial back then. But now, as you know, it's a shopping mall. There's some warehouse businesses and it's part of this Transient, Transient Oriented Development (TOD) corridor of Kaahumanu Avenue. So it's not quite the heavy industrial that it used to be.

A similar area is what was previously the Wailuku Sugar Mill, which is now the Millyard. And now it's got businesses and services, so forth in there. So what the department is proposing

is to create the opportunity for these property owners to transform or redevelop vacant or underutilized parts of their properties into housing. So therefore, the bill is proposing to allow apartments in M-2 zoning under specific conditions. And here's what those conditions would be. And all of the criteria would have to be met. And that way we're protecting the integrity of the zoning district so that only in certain situations apartments would be allowed.

They have to be located on the same lot as business or industrial uses. Existing businesses or industrial uses would have to be located within 500 feet of any existing residential use. So if you ever come over to Kahului, like, Kaahumanu Shopping Center across a street, are, is a residential area. So that parcel would obviously meet this criteria, for example. Appropriate physical or spatial buffers are provided between residential and any noxious uses, uses. And of course, transient vacation rental use would be prohibited.

I have some maps here to show you where these M-2 zoning districts parcels are. So this is Central Maui. Here's Kahului Harbor, Kaahumanu Shopping Center, and going out towards Kihei, here. Lahaina side, right over here, above the highway. Kihei side, South Maui, over here. Maalaea area, and over here in Kihei. Molokai, in Kaunakakai. And then this is where this zoning district is on the Island of Lanai. It's not too far from the airport.

And so in looking at the properties that meet the criteria, you can see here, Lanai doesn't -- the properties on Lanai don't meet the criteria because there's no existing residential nearby. Properties that do meet the criteria would be like I mentioned Kaahumanu Shopping Center. Other areas in Kahului Industrial, the Wailuku Millyard that used to be the sugar mill. The mill is nearby residential use. This was Kihei side. So this would just be in some limited areas to allow these apartments.

And actually that's it. So recommend approval, you can propose some amendments, or deny, or defer action. That's it for the presentation. And I can always go back, especially back to the maps if you want to see.

Ms. Preza: Thank you, Jacky. I just so you're aware, I'm going to ask you to go back to the map. But before that, I'm going to open public testimony. Leilani, has anyone signed up to testify?

Ms. Ramoran-Quemado: Thank you, Chair. No one signed up to testify.

Ms. Preza: Okay, would anyone like to who's here. We have a pretty small group tonight so I don't see anyone calling in via phone. So with that, I'll close public testimony. And Commissioners, we can offer comments or ask questions. I'll just get us started. So if you wouldn't mind going back to that map, Jacky. I guess what I'm wondering is so and, you know, it said that this doesn't apply to us because there's no residential uses within 500 feet of that M-2 industrial. But there are homes there that I looked up on the TMK that they're --. And so I don't know, maybe they're outside of the 500 foot boundary. Actually, do you want me to share my screen I can show you what I'm looking at?

Ms. Takakura: Yes, please. I believe we measured those because, yeah, that was a concern because we don't want, you know, the residential next to, you know, . . . (inaudible) . . . But yeah, please, I'm going to stop sharing.

Ms. Preza: Okay, actually, if you guys measured, then that's okay. Because, I mean, I think everyone here on the call or at least the commission members are aware of like those homes that are on the cliff and like above, that's next to the M-2. So I mean, I just looked at the zoning in that and it's non owner occupied slash residential. So but if you guys did the measurement and they're outside of the 500 foot requirement, then that's fine. It's kind of hard to measure. Like there's a little measuring thing that you can add, but it was kind of teetering on that, like between the four to six hundred. So I was like, you know, maybe folks already measured. Okay, so, so you guys did measure. It's outside, it's outside of that?

Ms. Takakura: Yes. The, the existing business or industrial uses are not within 500 feet of existing residential use.

Ms. Preza: So, resident, residential use, like the actual buildings themselves or the, the --?

Ms. Takakura: Right. We looked on the parcel, yes.

Ms. Preza: Okay.

Ms. Takakura: To make sure.

Ms. Preza: Okay, it's not just like, oh, it's within 500 foot of the residential zone because it's right next to it, right? Okay. That was one of my comments. And my second one was, I guess what, what, what -- I guess I'm wondering, like clarifying, what constitutes an appropriate physical or spatial buffer? I don't know if you folks had discussions on that or --.

Ms. Takakura: Chair Preza, that's going to vary depending on what the noxious use is. I mean, in some situations, it might be actual, you know, . . . (inaudible) . . . In other areas, maybe it's . . . (inaudible) . . . It's going to be really depending on what the, the noxious use is.

Ms. Preza: So the Planning Department would decide like --

Ms. Takakura: Yeah.

Ms. Preza: -- what's appropriate?

Ms. Takakura: Yes.

Ms. Preza: Okay, thank you. Those are all my questions. Commissioners, do you have other questions or comments?

Mr. J. de la Cruz: This is John. I had a comment on the word existing. The two sides on Lanai do not currently qualify for this provision. But in the Miki industrial area, in previous discussions, there was talk about how there's going to be apartments there, but they're not considered residences. But if they build those apartments, which are not residences, would that qualify, the Miki area, for this provision?

Ms. Preza: I'm sorry, Jacky, you can answer. I think because that is not available yet or I don't know if we've even seen, like, any of the, the maps for that. I'm not, I'm -- I don't know, Jacky or Jordan, if you can clarify or it seems like that might be a little preemptive.

Mr. Hart: Yeah. Could you clarify, Commissioner de la Cruz? You said that there are going to be apartments that are not residences. I don't really -- I need -- I don't really understand.

Mr. J. de la Cruz: Yeah, go back two or three meetings and on the, on the map of Miki Basin's proposed industrial area. Okay, if you go in with the development . . . (inaudible) . . . ten, 20 years ago, there is going to be a set of dwellings which they will allow people to live in. And there are in fact apartments, but they're not calling them apartments or they're not calling them residences. But if they are built, in the future, will they be considered residences and will this make the Miki area available or permissible to build those apartments being discussed in this statute change?

Ms. Preza: I guess I'm wondering, like, this is all like a lot of speculation about what like what exactly those are going to be, you know, and I'm not sure if we have enough information at this time to --. And Jordan, if you do have a clear answer that I'm going to let you take it away. But I think, I mean, if that, if they were to be residences there, would that change how you approach this, like our recommendation tonight? I guess I'm wondering, like, what's the impact of that, you know?

Mr. Hart: Yeah. Let me say --

Ms. Kaye: Yeah, let me just interrupt for a second. John, are you, are you going back to the discussion of the condominium structure out there? Is that what's leading you to think that there's going to be apartments permitted in the Miki area?

Mr. J. de la Cruz: Yes. Because isn't a condominium a residence?

Ms. Kaye: Yeah, but that's not, that's not the same thing. It's not a condo the way we think of it, a condo. It's, it's -- I'm sure Jordan or Richelle can, can explain this better than I can -- it's a way in which things are divided. The heavy industrial area would be divided under a condominium development. It's not for residential use. I thought that might be where you were going with this. But that doesn't mean it's going to be apartments. Is that correct, Jordan?

Mr. Hart: Okay. Yeah, so, so condominiumization is a method of selling ownership in, in raw land or a condominium unit; you could do either. So, so my understanding of the existing commercial project is that it is --. It is --. Well I have to check on it right now. I was under the impression a subdivision wasn't being proposed. But anyway, I'm not aware that that specific heavy industrial project had any proposal for residential use inside of it. You did -- I thought you were talking about the larger project. And I believe that that 200 acre project has light industrial included in it as well. Light Industrial does allow for multi-family uses under existing conditions. So that's relevant to the issues of that you're trying to raise.

The other thing I would add to that is that, for the larger project, generally the way the Land Use Commission is operating now, you, you need to present to them what you're developing. So those things would all need to be disclosed, you know, through the review and approval process for that project.

But in a situation where they did propose to develop apartments in the light industrial component of the project, and there was adequate separation from the noxious uses that may be occurring on some of the heavy industrial areas with this proposal as it's drafted now, they hypothetically could also develop multifamily on heavy industrial components. But with the -- you'd really have to look at the State Land Use Commission decision in order to see whether or not they need to address any of those things there, or whether or not they could outright approve it. I think with regard to the older properties that are designated, especially on Maui, they won't have those State Land Use Commission decision and orders to relate to them so they would have more flexibility. But I think it would be a little bit more complicated with things that have been approved by the State Land Commission under their current methodology of review and approval. I don't know if that was helpful or clear, but that's basically responding to the issue.

Ms. Preza: Thank you. Commissioners --

Mr. de la Cruz: So any building of residence in any of those areas would have to come to the Lanai Planning Commission first?

Mr. Hart: I don't know. I don't know. I don't think that there was any proposal for residential uses within the existing small heavy industrial project because this concept was not conceived of at the time that that thing was approved. So if they were going to try and do that there, you'd have to review the State Land Commission decision and order and see whether or not there was any implication that it could have been included. I think that would be pretty --. I don't know that, but, but based on the fact that it was never included in the zoning district, I don't think that would be very likely that they would have alluded that they may develop residential uses when they were not permitted by zoning. But I'd really have to review those things to tell you the answer. If they needed to do changes --. This is really abstract. I'm not really sure the answer to that, but I don't think that they would --. I don't think that they would come to the Lanai Planning Commission if it was an issue that pertained to their decision and order issued by the State Land Commission.

Ms. Preza: Thank you, Jordan.

Mr. J. de la Cruz: Thank you Jordan.

Ms. Preza: It sounds like it's being proposed kind of more like oriented towards Maui and trying to make better use of like the, the zoning that is heavy industrial, but they're no longer in use, right. And so we're trying to be more adaptive with the space. So I don't know. Commissioners, other thoughts on Lanai in particular? We only have that small zone in Miki and Kaumalapau.

Mr. Hart: I can add a little more context and maybe it will be helpful. So we also added the M-3 Restricted Heavy Industrial zoning district recently. And that was because there's been a land use pattern within the County, primarily on Maui Island, for the use of light industrial for commercial and residential purposes, as well as the heavy industrial district and so -- the M-2 Heavy Industrial District -- and that has pushed away the -- it's made it harder for the heaviest industrial operators to, to operate. So there's this M-3 Restricted District that's been made and those ones are much more remote and they can do the most noxious uses there. But as a result, these patterns have changed. For example, we've got shopping malls or, you know, restaurants in heavy industrial. And so this would be a way to, where appropriate, make more synergistic use of those properties.

Ms. Preza: Thank you, Jordan. Zane, I saw you raised your hand.

Mr. Z. de la Cruz: Yeah, I guess I just have two kind of comments. I think what the other Commissioner de la Cruz might be alluding to is not necessarily of plans in the works, but based on these restrictions, like, or qualifications they, you'd be able to fairly like would how easy would it be, like, if they were to set up. You know, because one of the comments he made was that the residential area is butted up, down in Kaumalapau is butted up right next to the industrial area, but there are currently no houses there. But since this is a residential area, like if you built the house within 500 feet of that heavy industrial area, does that now qualify the heavy industrial area for housing units?

And the other, I guess I'm -- so the heart of this bill, I want some clarification on is it to preserve heavy industrial zoning in case heavy industrial zoning is needed? Because right now I'm guessing they have more inventory than they're using. But the idea that in case we have to increase heavy industrial in the future that they won't have, they'll have that land available? Is that what this is about? To kind of use it as housing in the meantime?

Mr. Hart: So I think the M-3 Heavy Industrial zone was added recently. I believe it was added in 2012. And that was in response to the -- so there's commercial uses that are permitted. There's commercial uses that are permitted in the light industrial district that have really changed our inventory of practical, usable light industrial because the industrial uses get end up getting pushed out by the commercial uses. So the M-3 district was created. With the M-3

restricted industrial district was created specifically to make a place for these heavy uses that do need, like they're required and they need a place to operate without interference.

At the same time, there has been development pattern changes so that like heavy industrial is starting to be used for like M-2 Heavy Industrial is starting to be used for like warehousing showroom like tile. Tile companies, or like, or marble companies have like a showroom and a warehouse and it's being integrated into a commercial use. So because we have these changing patterns and we have some of these properties that are right across the street from single family residential uses, for instance, as Jacky had noted, that there are situations that are appropriate. Kaahumanu Center, for instance, is a shopping center. It's not really heavy industrial. I mean, it is heavy industrial zone, but, but the use is not, and it's right next to residential uses. So when you have these situations that are appropriate to begin to evolve, then, then and we also have housing need at this time, then this is an opportunity to, to, you know, create adaptive reuse of existing properties. While we have already maintained a specific place for only restricted heavy industrial uses with the creation of the M-3 of industrial zoning district.

Mr. Z. de la Cruz: I guess a follow up question. So why, why are they looking for this more flexibility in the use of the heavy industry area district instead of rezoning?

Mr. Hart: Well, the department is actually doing this. We see these evolving patterns and, and we see that there is a number of opportunities at the same time that we would like to create the possibility to take place. And Jacky showed that we did our -- we are in the process of doing our transient, transit oriented master plan for the Kaahumanu Avenue corridor. And so basically, rather than putting the onus on a number of individual property owners to come in and petition the Council for one by one changes, we see this is an important thing that could happen. That there's a department initiative that we're proposing because we see these patterns taking place and we think this is the right thing to do at this time, and we'd like to, to make it happen, and so we're proposing it.

Ms. Preza: Thank you, Jordan. I'm sorry, do you want to comment real quick on it? So if there is a, like, Zane's first question, which is if there is a home that is built in that residential zone that abuts the M-2, is that now qualify it for these zones, these new uses?

Mr. Hart: Okay, so, so there's a couple of parts to that. So my understanding is that's generally completely occupied by the harbor. So, so in a practical matter, you have to consider whether or not is there legitimately going to be any sort of retreat or downscaling of the harbor in order to, to conduct apartments? And then also --

Ms. Preza: No, I don't think so. I don't think so. I was just --

Mr. Hart: Setting that aside. I just wanted to address that because you really do need to put things in in the context of practicality because, you know, any, in a hypothetical anything can happen. But I don't necessarily think that that's realistic.

And then we also have the provision that there be adequate buffer from any sort of noxious uses. So you know, how do you maintain the operation of an important harbor while creating separation in order to put multifamily there? And then also, why would you even propose to do that? So, so, you know, there's a hypothetical situation where something like that could be proposed. But I don't, I don't -- from the perspective of the Planning Department, I really don't think that that's the kind of thing that we would determine is, is feasible or appropriate.

Ms. Preza: Thank you. And Zane, did you want to follow up with that?

Mr. Z. de la Cruz: Yeah. So just, this is just my follow up to that is like when we came into this, like it opened with, you know, Lanai doesn't currently have or Lanai doesn't have any zoning that would be affected by this because of current conditions. To me, that just, I know it's not intentional, but it seems misleading just because, you know, the situation currently, like none of our M-2 Heavy Industrial is currently affected by this. It doesn't mean that it won't be. And so I just felt a little like I had to play kind of a game of catch up looking at this like --. Yeah, I just I don't, I don't feel like that's like a good lead to have into this conversation that our, our areas aren't affected by this just because they currently aren't affected by this.

Ms. Preza: Thank you, Zane. I think, you know, the good thing, at least in the letter that was draft or the memorandum that was drafted up, is that it says, you know, as the proposed bill as drafted would, you know, wouldn't immediately apply to us. So, I mean, I guess hypothetically in the future, it could, at least the word immediately, which is . . . (inaudible) . . . right now.

Mr. Hart: We can --. We understand the style comment and we can take that under advisement in the future. But I don't think it was intended to, to kind of like blow smoke or make you think that this has nothing to do with you. But I do think in the situations that we're talking about, I think it would be a little bit more complicated than, than it, it might appear on the surface to actually execute something like this with regard to, like I said, the function of the harbor or the existing, the existing decision and order for the existing heavy industrial or what would need to be proposed, reviewed and approved for the, the new 200 acre portion that's being discussed.

Ms. Preza: Thank you, Jordan. Commissioners, other comments? Yes, Lisa.

Ms. Grove: I want to say quickly that I think it's a good idea and we really needed especially on the transit oriented corridor piece. The walkability scores there are like 32 and 36. There's a whole, you know, like there's a sort of dream of building kupuna housing and having it all with the wraparound services and things I talked about at the last meeting. And I think it's, the zoning is pretty critical to getting that done and getting that housing that's desperately needed, especially for low income people over the age of 60, which is a growing urgent need on Maui.

Ms. Preza: Thanks, Lisa. Okay. Other questions or comments or can we take some action?
Yes Jacky.

Ms. Takakura: Chair Preza, I'd just like to apologize to Commissioner Zane de la Cruz. I just know that there's a lot of bills that I bring before you that, you know, there's no zoning of it on Lanai, or you know, I feel like I'm wasting your folks this time. And I did not intend to mislead or anything, so I apologize for that.

Ms. Preza: Thank you. Okay, Commissioners, would anyone like to make a motion of how we should move forward? Or, is there further discussion?

Ms. Trevino: I'd like to make a motion that we approve it.

Ms. Preza: Thank you Chelsea. Would anyone like to second?

Ms. Grove: I'll second.

Ms. Preza: Lisa seconds. And any further discussion? If not, then all in favor, please raise your hand. Any abstentions or nays? Okay, so John, you abstain. Sorry, you're muted. You abstain? I can't hear you.

Mr. J. de la Cruz: Sorry I had the mute on. I abstained.

It was moved by Ms. Chelsea Trevino, seconded by Ms. Elisabeth Grove, then unanimously

VOTED:	To approve the proposed bill.
(Assenting:	Z. de la Cruz, E. Grove, S. Kaye, S. Preza, N. Ropa, C. Trevino)
(Abstain:	J. de la Cruz)
(Excused:	S. Menze, S. Samonte)

Ms. Preza: Okay, thank you. Well that is one, two, three, four, five, six yeses and one abstention, so it passes. Thank you.

- NOTICE: Due to errors in noticing, the public hearing item below will not take place at this time, and no public testimony will be received on this item. A Public Hearing Notice will be republished and this matter will be placed on a future Lanai Planning Commission meeting agenda.**

COUNTY SPECIAL USE PERMIT

T-MOBILE WEST LLC, requesting a County Special Use Permit for modifications of an existing telecommunications facility, located

**MAUI PLANNING COMMISSION
PORTION OF REGULAR MINUTES
ITEM B.3
NOVEMBER 23, 2021**

Mr. Hart: The next order is Item B.3, Michele Chouteau McLean, AICP, Planning Director, referring to the Maui Planning Commission, a proposed bill to amend the Maui County Code Chapter 19.26, M-2, Heavy Industrial District to allow apartments were located on the same lot as business or residential uses, and when located within 500 feet of any property with existing residential uses, transient vacation rental uses, transient vacation use is prohibited. Jacky Takakura is staff representing the Planning Department to do a presentation.

- 3. MICHELE CHOUTEAU MCLEAN, AICP, Planning Director, referring to the Maui Planning Commission a proposed bill to amend Maui County Code Chapter 19.26 - M-2 Heavy Industrial District, to allow apartments when located on the same lot as business or industrial uses and when located within 500 feet of any property with existing residential use; transient vacation rental use is prohibited. (J. Takakura)**

The entire text of the proposed bill for ordinance is available at <https://www.mauicounty.gov/DocumentCenter/View/129722/Bill-for-Ordinance-updating-Chapter-1926---M-2-Heavy-Industrial>

Ms. Jacky Takakura: Thank you. Chair Tackett, may I share screen again?

Mr. Tackett: Yes, please do. Thank you, Jacky.

Ms. Takakura: Can you see the blue and white, everybody okay? This one is not very long. So, the proposal here is to amend Chapter 19.26, which is the Heavy Industrial District, and it's just relating to the permitted uses in this district. And this is another one to try to encourage more housing. So, Heavy Industrial District is normally reserved for manufacture or treatment of goods from raw materials. An example is the former pineapple cannery area in Kahului which you can see from these five photos. But if you look at the area today, it's a little different. It's transitioned from cannery to shopping center, warehouses, and other businesses uses and it's also part of the transit-oriented development corridor off of Kaahumanu Avenue, the image here from the Kaahumanu...(inaudible)...Another similar is the Mill Yard in Wailuku, that used to be the Wailuku Sugar Mill, and now it's more like businesses and services.

And so, what the Department is proposing to do is create the opportunity for these property owners to transform or redevelop vacant or underutilized parts of their properties into housing. And so, the bill is proposing to allow apartments in M-2, but under specific conditions. Those conditions are they'd have to follow all of the criteria here. They'd have to be mixed use located on the same lot as business or industrial use, the existing business or industrial use is located within 500 feet of any existing residential use. Like if you think about Kaahumanu Shopping Center and you think about like Wakea Avenue, across the street is housing, so that's an example where there is existing residential use. There would have to be appropriate physical appropriate physical or spatial buffers to protect the residential from the, you know, the more industrial uses or noxious use are any...(inaudible)... And then, of course, transient vacation rental use would be prohibited.

Next are just some maps of these M-2 areas. This is Central Maui, and so, you can see, like, for example, here's in the middle is...yeah, that's Kaahumanu area. West Maui, Lahaina side, two in South Maui, one out there towards Maalaea side, and then one down here in...(inaudible)... There's some on Molokai in Kaunakakai area, two parcels on the Island of Lanai.

So, when we researched properties that met all of that criteria, the ones that are able to, that could have apartments would be Kaahumanu Shopping Center, Kahului Industrial near the Hukilike area, the Wailuku Mill Yard, Puunene Mill if the existing residential use continues, West Maui. And the one's that don't meet the criteria would be the parcels on Molokai, Lanai and in South Maui.

So actually, that's it is just to propose those changes to the uses and that's all. So, same like before we can improve as is, you can make amendments, deny or defer, if you'd like to get more information. I stop sharing it, but I can always go back if you have any other questions or want to look at the maps. Thank you.

Mr. Tackett: Thank you, Jacky. Commissioners, any discussion before we go to public testimony? Commissioner Lindsey followed by Commissioner La Costa.

Ms. Lindsey: So, as is, I'm referring to Molokai and Lanai, is it because they don't fall into the five criteria that you said, or is it because of their own...okay. If they were not, I would like their comments or I'm not sure if they should have input even if...if they're affected at all or not because we don't know those places, you know.

Ms. Takakura: Thank you, Commissioner Lindsey. We did take it to Lanai so far and then we are going to Molokai...we're taking the bill to the Molokai Planning Commission next month. So, yeah, we did talk with Lanai already and they provided their comments.

Ms. Lindsey: Thank you for that.

Ms. Takakura: It's in my notes here.

Mr. Tackett: Commissioner La Costa.

Ms. La Costa: Thank you, Chair. Ms. Takakura, are there currently any permits pending for apartments in any of these areas that are highlighted? Thank you.

Ms. Takakura: Thank you, Vice Chair. No, not at this time, because the use is currently not allowed.

Mr. Tackett: Was that it, Commissioner La Costa?

Ms. La Costa: Yes, Chair. Thank you.

Mr. Tackett: Commissioners, any other questions before we get into public testimony and then we'll have time after as well. All right, Director could we please open public testimony?

Ms. Takayama-Corden: Chair, the first person to testify is Dick Mayer followed by Albert Perez.

Mr. Dick Mayer: Good morning, Commissioners. Can you hear me?

Mr. Tackett: Yes, we can. Please state your name and promise to tell the truth. You have three minutes.

Mr. Mayer: This is Dick Mayer, I promise to tell the truth. I think that this particular suggestion or recommendation flies against the whole idea of zoning, of keeping apart of noxious and noisy and chemically polluting activities from residential areas. And I also think that this will end up being a discriminatory policy because it will be place where apartment buildings will be put for low-income people in heavy industrial land and I think that you have an obligation, moral obligation to make sure that that kind of a thing does not happen. I think apartment buildings should be built, I'm not opposed to them, but I do not think that they should be put on heavy industrial uses. And on that heavy industrial use are a number of activities that I don't think you would want to live near everything from factories, plastic manufacturing, oil storage units, machine shops, concrete and cement products, lumber yards, those kind of activities. And even some other ones that, you know, ...(inaudible)...thing at the end there which are...that don't fit other areas.

I would urge you not to approve this, and I'll give an example, recently the County made a land deal with A and B to get the whole large Waiale Tract and in the process, they got land on Dairy Road for a new residential area presumably for low-income families that would be very close heavy industry area where the sugar mill in Puunene is located. That would mean that the sugar mill area could potentially have apartment buildings on it...(inaudible-audio feedback)... There's a danger that there are chemicals in the ground, there was piles of big coal fields, coal piles were there before. We don't know what's in the soil there and could potentially be very dangerous to build apartment buildings on such land. There's a provision in here that it will...the apartments will be separated from the industrial uses. What happens if an apartment is put up, and then after the apartments were up, another industrial use is put in there, will that industrial use be required to go through some kind of a screening or what will happen. And it's not just chemicals, it's also odors and particularly noise. Industrial areas can have trucks coming in and out all hours of the night would that be where you would want your apartment to be? They also may be operating some of these processes in the evening time or nighttime while people are sleeping with bright lights on and other activities. This is just not the right mesh to do, and we should have areas set aside for apartments.

So, I would urge you reject this recommendation and require that if an apartment complex, if a...excuse me, if industrial zoned land is going to become apartment, that the applicant, owner of that land come forth and try to get that land rezoned to apartment, and it can be scrutinized separately one by one, that we know that this area is really, truly appropriate for apartment buildings. There may be some areas that—

Ms. Takayama-Corden: Three minutes.

Mr. Mayer: --but I don't want to give a blanket approval.

Mr. Tackett: Thank you. Does the commission have any questions for the testifier? Thank you, Mr. Mayer.

Mr. Mayer: Thank you.

Ms. Takayama-Corden: Next person signed up is Albert Perez.

Mr. Tackett: Mr. Perez, please state your name for the record and you have three minutes. Promise to tell the truth.

Mr. Albert Perez: Good morning, Commissioners. Albert Perez, and I promise to tell the truth. Yeah, I was surprised to see this proposal from the Planning Department because it seems to fly in the face of the zoning code audit that was done a couple of years ago. There's some language in there... This type of zoning allows for often conflicting land uses and development patterns and does not ensure quality development. For Maui's industrial zones, this means that they may not be developing in ways that support industrial investment and growth. So, when you have incompatible uses such as residential and commercial near industrial uses, the value of the land often rises to the point where the industrial uses cannot compete profitably. And the result is that our industrial businesses are driven out.

Maui Marketplace where OfficeMax is now is pretty empty, but when it was full, it was mostly retail businesses, little or no light industrial. Same with the Millyard in Wailuku that was shown full of professional offices. My dentist has an office there, so, if you're like a sailmaker for a windsurfing company or you're trying to make candy from locally produced products or something, you're gonna have trouble competing. There are just a few that are actually light industrial in these areas.

And now, it's just puzzling to me that the Planning Department would be proposing to extend this situation where industrial businesses that we need are being driven out. You know, if it's a good idea and there's no toxic soil or anything, I agree with Mr. Mayer, you know, get it rezoned. Well, that makes sense to me. But if we want to have good separation of incompatible uses and support the industrial businesses that support the rest of our society and our community, then this proposal is not a good idea. Mahalo.

Mr. Tackett: Thank you. Commissioners, does anybody have any questions for Mr. Perez? Thank you for your testimony.

Mr. Perez: Okay, mahalo.

Ms. Takayama-Corden: Chair, the next person that signed up is Tom Cook.

Mr. Tackett: Mr. Cook, please come forward, state your name, promise to tell the truth and you have three minutes. I can't hear you yet, Mr. Cook. Nothing. It, it...do you guys see him on your screen still? Mr. Cook, we cannot hear you.

Ms. Lindsey: He said he's gonna try again, well, that's what he lipped.

Mr. Tackett: Okay.

Mr. Hart: I would just...Chair, if I could say that Mr. Cook could also try to call in by the, by the number that's provided on the agenda as well because the computer's having a problem.

Mr. Tackett: Okay, looks like he's gonna, he's gonna try to call in.

Ms. Lindsey: Chair, while he's trying to call in, can we do a restroom break please?

Mr. Tackett: Yeah, let's let's go ahead and give everybody five minutes please. Carolyn, it's 10:34, can we take six minutes and resume at 11:00 please.

Ms. Takayama-Corden: Sure, Chair.

Ms. Lindsey: Thank you.

Ms. La Costa: You mean, 10:40?

Mr. Tackett: Yeah, 10:40, sorry you guys.

Ms. La Costa: Thanks, Chair.

Mr. Tackett: Yeah, that's a long six minutes.

A recess was called at approximately 10:34 a.m., and the meeting was reconvened at approximately 10:43 a.m.

Mr. Tackett: Mr. Cook, if you could please state your name for the record, promise to tell the truth, and you have three minutes.

Mr. Tom Cook: Thank you. My name is Tom Cook. I promise to tell the truth. I thank the Commissioners, for your service and also your patience with me through my technological challenges here. I am in support of the Planning Department's proposal. I was a member of the GPAC several years ago. The reason I'm supportive is this, back in the day, one of my first jobs was unloading freight at the Quonset huts. When Kahului Industrial was developed that was a real big, like upgrade. That was quite a while ago. Kahului Industrial now, Kahului, itself, could be a walkable community with facilities and minimizing the need for traffic. We have...now we have a bus system. The long and the short of it is Maui has continued, as we continue to grow, I think we need the flexibility and that although existing zoning in different areas, we're going to have this conflict constantly. And I just think that we need to be progressive and proactive to provide housing, apartments, and homes for our local working residents and having them close to work, I understand the concerns previously voiced about quality of life issues, if you go down Sunday, the industrial area is dead. Great, you drive around no traffic, only time there's traffic is in the morning and afternoon when people are working. So anyway, I am supportive, that's why

I'm supportive. I think the Planning Department is pretty, very perceptive and aware of our needs and that this suggestion is solution-oriented and I hope that you will review it positively. Thank you for the opportunity to speak.

Mr. Tackett: Thank you, Mr. Cook. Commissioners, does anybody have any questions? Thank you.

Mr. Cook: Thank you all, aloha.

Mr. Tackett: Carolyn.

Ms. Takayama-Corden: Chair, no one else has signed up to testify.

Mr. Tackett: Okay, if you have not signed up to testify and you wish to testify on this item, please come forward, state your name, and you will have three minutes. Going once, going twice, going three times. Carolyn, please close public testimony.

Ms. Takayama-Corden: Testimony is closed.

Mr. Tackett: All right, Commissioners, discussion on our...

Mr. Thompson: Chair?

Mr. Tackett: --item? Yeah?

Mr. Thompson: Yeah, I just want to raise...want to say... 'cause raising my hand doesn't always work there, anyway,

Mr. Tackett: Yeah, yeah, please do Dale. Your camera's not on Dale, so I can't see you even if you did, even though you are on my screen. So, thank you.

Mr. Thompson: Yeah, it's on on my side. Anyway, appreciate that, and I would like to address a question to Deputy Director Hart, about the...to me, it seems like this is probably the wrong move and I understand that we want to have more housing, but there's some definite concerns about putting it in industrial...you know, all kinds of other places, but industrial seems like the worst of it. Mr. Hart, would you respond to the concerns brought up by Mr. Perez and Mr. Mayer?

Mr. Hart: Sure. So, you know, the proposal includes the requirement that these properties already have existing commercial or residential uses occurring on them and that the... there be existing residential uses within 500 feet of them. So, these are areas that we anticipate there's already going to be limited, actual heavy industrial use. The County of Maui recently, I believe it was 2012 created the M-3, Restricted Heavy Industrial District and that was because over the pattern of development in Maui County, the commercial and residential uses have begun to go into the industrial areas because they were permitted. And you have just basically a change of how those land areas are used, but they're still located in central areas of all of our towns mainly. So, they're surrounded by full improvements, they're surrounded by services and they're underutilized, and

so, you know, if this is created, you know, there apparently is stated to be a high demand and need for housing. And so, this is a way that that could be facilitated relatively quickly because these properties would already be zoned and they would now be permitted to do this. So, if there was an interest in advancing that, this could be an option. But if it's, you know, this is being proposed by the Department for review by the three planning commissions for recommendation to the Council, if this is viewed as something that is too risky or inappropriate, then, you know, that could be recommended by the commission and concluded by the Council.

But we don't feel that way, we feel that this is an option to add further flexibility, which we had just been talking about that's being described in our island plans. It's being described in our community plans. It's being talked about in meetings about what good planning concepts are, and so, we're putting forward this proposal. We think that it's going to be executed responsibly by any landholders who do, do it, because this is multi-family development. It's not something that's easy to be done or without insurance or complicated planning and approvals. So, we think it's appropriate and reasonable with the patterns of development that have happened in this County, and we hope it goes through.

Mr. Thompson: Are you concerned at all about the noise or lights and all those other kinds of trucks, et cetera, 24/7 coming into industrial areas? Would that be a concern?

Mr. Hart: So, the ordinance includes a provision that there be appropriate separation from the residential uses. So, that would need to be analyzed at the time that it's presented, the Planning Department reviews building permits. And so, we would be, we would be doing that. And if it was inappropriate screening, then we couldn't be supportive of it. But if it is appropriate screening and separation, then it would be appropriate. And I think that it also needs to be recognized that there's quite a few of these heavy industrial properties that have no actual heavy industrial uses going on on them. So, there's a discussion of these, you know, mills operating or whatever, but they don't exist anymore is the reality. But the properties exist and they're in central locations and they could be mixed use, you know, apartment above existing commercial or outright apartment. And so, you know, this is an option to pursue that goal.

Mr. Thompson: Do, you think that invites more worst industry and less manufacturing. Would that be a concern of ours?

Mr. Hart: As far as, you know, this is going to be anecdotal because we don't have a study backing this up, but in my experience in the Planning Department, we're hearing more of a desire for housing right now than we are for manufacturing or heavy industrial areas. If there were to be a need for more restricted, heavy industrial, you know, it would need to be pushed farther outside of our urban cores because the way that heavy industrial used to be appropriate to operate. For instance, you know, during the break I was talking to Jacky about St. Anthony's School, used to operate right next to the Wailuku Mill. And so, the mill was operating full speed while kids are in class and that's the way it used to be. I used to go to Doris Todd for a little while, just up from the Paia Mill, and they used to burn cane right across the ditch, right outside of our classroom, and that's just how it was. So, that's not the way it is anymore and these uses are not necessarily appropriate for the locations that they were originally conducted. But the land remains there and the designation is there, and so, we are doing a Title 19 rewrite and select properties may be

addressed more specifically, but this is a way right now before that is completed to address locations where it may be appropriate.

Mr. Thompson: Thank you very much for your input.

Mr. Tackett: Thank you for your questions, Dale. Commissioners, any other questions? I see, Commissioner Thayer. Go ahead, Commissioner Thayer.

Ms. Thayer: Thank you, Chair. I have a bunch of thoughts about this that I haven't, like, congealed very clearly yet, but hopefully it'll come out as I talk. But I want to say, I agree with Jordan in that, like looking at how our zoning ordinances were created, these were birthed in like the 60s when these places were still functioning, sugar mills and pineapple canneries and things like looking at the Kahului map now, we have like evolved away from where we were. And I'm pretty sure in all that I've learned about planning and zoning is that it's as dynamic as our population is. So, to stay, to hold ourselves to these M-2 parcels that were established before a lot of Kahului is established, I think, for lack of a better word, would be folly, and that we are here to like look into the future of what our needs are such that we won't say, like this property has been heavy industrial, and it's going to have to stay heavy industrial no matter what is around it. So, looking at the Kahului map, like a lot of the heavy industrial is surrounding the pond, which I think if we're thinking like environmental responsibility, we should not have heavy industrial surrounding one of our last remaining wetlands that we have on this island. And so, I think we should look at altering the uses that are allowed in these places and so, and like Jordan said, it would mean like heavy industrial should be moved out, like looking at where the Millyard is, I don't think there should be like a plastic processing plant built in the middle of there, because there are all sorts of like residential uses surrounding that parcel such that something like apartments would be a better use of that land. And I wanted to ask Jacky like looking at the Kahului parcels that I think are along, like where the car dealerships are across the pond, like how many of those are actually within the 500-foot line that would be required...part of the requirements of something even fitting within the criteria of this ordinance?

Mr. Tackett: Go ahead, Jacky.

Ms. Takakura: Chair Tackett, may I?

Mr. Tackett: Yes, thank you.

Ms. Takakura: In researching, actually only the Kahului Industrial, that would be the south end or the mauka end of Hukilike, the other ones don't have any existing residential near it, within 500 feet, so they couldn't, that answers the question.

Ms. Thayer: Yeah, so they wouldn't...they wouldn't be subject to this change anyway. And like thinking about the comment of these parcels should just be like downzoned to something not heavy industrial, I don't think the County can impose downzoning if I understand the whole process correctly, because that's effectively a take from property rights for people that have M-2 zoning already. Jordan, can you answer that.

Mr. Hart: Without cooperation I think it would be an issue.

Ms. Thayer: Okay, so I think this all being the case, I, I, I am, I think supportive of what the Planning Department is trying to do here because it is addressing our current and projected needs of our residents and population. I think it's a better use of a lot of these lands and we have heavy industrial areas established out of town, which I think they are better suited for anyway. So, I think this is a good step forward and I would even say that all that M-2 around the pond should be changed to something else eventually also, 'cause I don't think you should have these like heavy, intensive industries that create a lot of pollutants right next to like our last remaining freshwater body in town. That's my thoughts. Thank you.

Mr. Tackett: Thank you, Commissioner Thayer. Commissioner La Costa, followed by Commissioner Lindsey.

Ms. La Costa: Thank you, Chair. This question is for Mr. Hart. Would it make sense to limit the apartment or residential areas to the transit-oriented development areas, set aside specific areas so that you would have that town kind of atmosphere and easy ingress, egress from the apartments if you're looking at, at building residential or wanting to do that?

Mr. Hart: We are, we are doing the Kaahumanu Avenue TOD Corridor Study. You know, that could be a proposal of the Planning Commission. We weren't proposing to limit it. You know, generally, when you, when you establish ordinances like this, there will be opportunities to come up that you didn't really realize. And so, we could, we could say that it would be only...we didn't propose to, to direct it only to the TOD Corridor because, you know, there could be other proposals that we hadn't considered that are completely appropriate and we would be supportive of. And so, rather than ruling those out to start, we just basically proposed that if be broad.

Ms. La Costa: 'Cause that to me, would make a lot of sense if you want to, to help our citizens, 'cause not everybody has a car, nor do they want one, so thank you so much Jordan, appreciate it.

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

Ms. Lindsey: Deputy Director, could you maybe clarify for me what process you need to go through to change zoning, to allow for apartments? A lot of those properties are vacant or soon to be and things. So, at this point, there's really no use for them. They'll just continue to gain vacancies. And I'm sure the owners or developers of the properties probably don't want to just have vacant properties. So, can you tell me the major hurdles, possibly also a dollar amount that would it would cost or time...dollar or time to rezone some of these properties like the testifier suggested.

Mr. Hart: Okay, let me, let me try and take that in two parts. So, the vacancies, you know, that's, that's market driven. So, whatever those individual landowners are able to, you know, however they are able to get interest in their properties or figure out the reuse of those. I mean, you know, you can drive around and see the vacancies in some of these properties that are already that are already, that are heavy industrial so that speaks for itself in my opinion. I mean, I think that you

can see where there's activity and you can see where there's inactivity. And if you're one of these commercial...heavy industrial owners and you don't have interest in the heavy industrial uses because you have a property that's there, ready, willing and able. For instance, the...there's a couple of clearly vacant ones just right on Hana Highway that you can drive by and see, and, you know, if there was market demand, you know, there would be activity. But obviously, that's not the case.

In order for each of these individual properties to do a change in zoning, depending on whether or not they're also in the Special Management Area, you know, it could, it could get up to, you know, up to even a half a million dollars and like 24 to 36 months potentially to get through a change in zoning on a case-by-case basis. But if there's a change in zoning here that we're proposing where the Department initiates an adjustment to the code, if you're in the Special Management Area, you would need to do an SMA major permit and that would come to the Maui Planning Commission and be subject to public hearing. But if you're outside of the SMA, then you would just need to submit for a building permit approval.

So, it's, it's a significant avenue to potentially accelerate the process of producing housing for properties that are outside of the sensitive area, the Special Management area, and these are all going to be already in the County...the State Urban District and the County's Urban Growth Boundaries. So, we're not talking about, you know, breaking new ground. We're talking about reusing currently urbanized, unused lands or underused lands. For an SMA major permit, you know, it's gonna cost a couple hundred thousand dollars and maybe 12 months or so if everything goes well, you know, if everything goes not according to plan it can take longer and cost more, but that's generally a snapshot of what those things cost you.

Ms. Lindsey: Okay, thank you for that. I think, I think reusing what we have, traveling around there was tons of malls that were while old maybe train stations that were converted into malls, and now the malls aren't useful anymore and now they're converted into apartment mixed use and I thought that was a really efficient way of using space that we haven't capitalized on here, on Maui and it's sad that we don't have...we couldn't do that but now I see why, then I was just like why don't we just build residential housing over the stores at the mall or why don't we convert the old Borders into apartments, but this is the reason, so I think in terms of I think there are other M-2 areas that are outside...where there are less people and these properties that are affected I think are appropriate for apartment, so I am in support of this. Thank you.

Mr. Tackett: Okay. Okay, Commissioners, Commissioner Hipolito.

Mr. Hipolito: Thank you, Chair. First of all, I wanted to say to Ms. Takakura, thank you for sharing the images of the Kahului manufacturing plant, the cannery. I actually work there. I managed that area up until its closure. So, I brought back great memories for me to see to that and the communities that surround it and working with the communities, all those homes, Hale Makua, you know, all those years, and we all coexist.

I have a question for Director Hart. Director Hart, you mentioned in your statement about flexibility, could you share more, expound more on that, about flexibility in your statement about this ordinance? What does that flexibility you're looking for, is that the ability? We don't have

crystal balls, but does that provide to you the ability for potential future potentials and give you, the Planning Department, the ability to better strategically plan for the high need of homes in our community?

Mr. Hart: Thank you, Chair. So, you know, personally, the way I look at it is that, you know, the market drives everything. If there is, if there is a demand or a way to make something valuable for somebody to do, they'll pursue it if they can. And so, what we're proposing to do is basically give the landowners the flexibility to use the options to potentially redevelop or, or pause their properties to be reused because they are located in central portions of our existing communities. So, currently we have, you know, these basic underused properties. Everybody dislikes sprawl and everybody wants to preserve the country. So, here we have these central areas that are supposed to be our highest levels of density that are underused. So, if we open them up, that potentially alleviates pressures on our undeveloped areas because you have people housed in our central areas that already have our services. But if you don't do this, then people will speculate on undeveloped lands on the outside and pursue the tool and each process to get those lands entitled in order to develop. And it's just basically, if we don't create a place for this need to happen, then it'll figure out how it's going to do it itself. And that's the flexibility that I think that we're providing, is letting these owners now take a second look at their property and say, okay, can I do something different now? Like I have a commercial complex that's been largely vacant for it seems like a decade at this point. You know, can somebody come up and propose that they do a residential development now on my property and that would work out for everyone. It would work out for the community, work out for the County, work out for the people who need homes. So, you know, that's the way we're looking at it.

Mr. Hipolito: Then Director Hart, so you feel at presently we have adequate rules, regs, standards in place to provide you...for the homeowner to provide enough review of these potential projects that potentially could come up in the near future that you could say yes or no or allow us, the commission to say yes or no whether or not these potential development could occur or could not occur. Is that correct?

Mr. Hart: I do think that the ordinance that we're putting forward is reasonable and is sufficient regulation for what's being discussed.

Mr. Hipolito: Okay. Thank you. Thank you. Chair.

Mr. Tackett: Thank you, Commissioner.

Mr. Thompson: Chair, I have a question too.

Mr. Tackett: Commissioner Thompson, I had Commissioner Freitas' hand up first, so right after Commissioner Freitas, I'll get to you.

Mr. Thompson: Okay.

Mr. Tackett: Commissioner Freitas.

Mr. Freitas: Thank you, Chair. I'm going back and forth on this. When testifiers, Mr. Mayer and Mr. Perez shared what they had shared in being not favorable to this, I listened and I agreed with them. But I think my fellow Commissioner Thayer had opened my eyes to something where she made it clear that it seems our need is for housing and how much of these types of industrial businesses are, are fighting for land to operate. There is enough out there that they can. I'm just concerned because of the one statement that Mr. Mayer said that if you build a housing development and the land continues to be zoned use as M-2, Heavy, and, and then what if a business comes in and does stuff that will affect those that were there. I'm not sure if there's anything we can do to stop that.

And also, would maybe this is a question for Deputy Director Hart, should we say yes to this, and a project goes through, can we make it a condition that it still has to come through the Maui Planning Commission? Because I know we're trying to do this to simplify all of the, the red tape and bureaucracy to get homes built, which, which I think is the intent of this change, and I agree with that. Will they still be able to come back to us so that we can take a closer look at what's happening? I think, I think each, each parcel is different. There are some that is boonies and there's nothing really happening and you can do it. But there's some that are already mixed, and to throw all kinds of stuff in there, I, I kind of have a problem with that. So, will it come to us if a permit for a housing project is submitted, even if we approve this?

Mr. Hart: So, the way that we are proposing it now, only if it was in the Special Management Area, for instance, would it come to the planning commission. But we're not proposing it as a special use, we're proposing it as an outright permitted use. And I think that, you know, at some point you have to balance regulation with progress and whether or not, you know, you feel the need to review all things even outside of the Special Management Area and the Urban District or whether or not there are unique things that, that have impacts.

You had brought up another issue about whether or not...we have a provision where you can't initiate the housing in close proximity to industrial uses...if there's industrial uses occurring and there's no sufficient buffer. But we didn't address, how do we protect from the industrial uses returning after the housing exists. I think that, that could be addressed. You know, potentially there could be a buffer or the statement could also say that that no new industrial uses could be initiated if sufficient separation was not provided. And there's the Certificate of Occupancy process, which the Planning Department is a signer on, and so, we could assess those things at those times. I would try to encourage the planning commission not to make this a special use. Obviously, your recommendation to the Council is your own discretion, but we were looking at this as a way of...(inaudible)...put this, 201H is categorized as a loophole a lot of times. But it's not a loophole because it's State law. So, State law, it's not...it's intentionally created to cut the red tape because the Legislature understood how difficult it is to get housing developed here in Hawaii. So, rather than follow along with the plans that everybody's working on, you just skip the plans and appeal to the commission and appeal to the Council and say, this is a good deal, isn't it? Can we please do this? And they'll, you know, many times say yes, but that ideally, we plan so that our development community can actually use our system and do their developments the way we want them so that they don't need to rely on the 201H process. So, I would encourage you to make it an outright permitted use so that, you know, all of these properties that would apply or may be able to benefit from this, those are potential properties that are not going to be 201H

out in the Ag District somewhere because now you have industrially zoned land that is open for this use in the urban center.

But if you add the special use process to it, you know, maybe you guys end up approving all of those. But it still becomes uncertain that the developer, they have to find a location, plan the project, get the land tied up, get all their consultants in line, get their project application submitted, get comments from all the agencies, schedule the public hearing, and on the day of the public hearing, that's when they learn if they have a project or not. So, that takes a large commitment of faith that I'm going to get all this together and I'm going to just take the risk...this could, this could get denied or it could be weighted down with conditions so that I can't develop it, but I won't know that for 18 months from now, but I'm going to make my plan...like I'm going to set aside whatever I'm doing and this is going to be my, my project, and it's, we put it...anyway that's significant. So, if you can take friction out of that process, you will have a better chance of actually seeing units come up

Mr. Freitas: Okay, thank you.

Mr. Tackett: Thank you, Commissioner Freitas. Commissioner Thompson.

Mr. Thompson: Yes, and again for Deputy Director Jordan Hart. How are you? So, I do have a question too. Have any of these been EPA flagged or super sites, and here's where I'm going with that, is that we build something on there and then a kid gets cancer, and who are they gonna sue? Well, probably the developer, oh, and the County because we put them on some industrial manufacturing land which was full of heavy metals. ... (inaudible) ... is, for... if this should fly at all, I would say they'd all have to be EPA clear before they would happen. And second, how long would it take, let's say a company comes in and wants to take in plastic, they're gonna build roads, so they need to make a manufacturing plant, they're gonna recycle plastic, clean up the ocean, throw it in this big building and make us new roads, so now they have no more manufacturing property. Let's they want... now if they go to try to make some, zone something, how many years would that take?

Mr. Hart: The first item, you know, you could, you could provide the recommendation that there be environmental assessments done for soil quality. You know, I, I haven't gone through specifically this process as the developer, but I'm going to, you know, I'm certain that through the insurance process and things like that, you're doing those things. But if you want the, the Zoning Code to call attention to that, you know, you could recommend that to Council.

With regard to the change in zoning process, Commissioner Lindsey had already asked a comparable question about doing the change in zoning. So, so basically, it takes, it takes about 24 plus months to get through a change in zoning because you have to go... to prepare your report, go through the Planning Commission, and then you have to go up to Council, and then depending on where they are in the budget cycle, that can have a swing on your schedule. So, it's, you know, 24 months is a pretty safe target, but it can go over that to get a change in zoning on a single property. Whereas, what's being proposed right now is the Planning Department is proposing to change the zoning ordinance, and so, you know, we've, we've gone through the Lanai Planning Commission, we're with the Maui Planning Commission now, we're going to be

with the Molokai Planning Commission next. This will be referred up to Council, and then whenever Council schedules it, if they choose to adopt, and the Mayor signs it, then it's it's an ordinance for everybody that's subject to it. So that would be depending on when Council would be interested in scheduling, it could be significantly shorter than 24 months total, but anyway, that's that process.

Mr. Thompson: Thank you.

Mr. Tackett: Okay, Commissioner La Costa.

Ms. La Costa: Thank you, Chair. Deputy Director, you mentioned a couple of things that you thought the Planning Department would consider in this making amendments. One of them was that no new industrial activities would take place within 500 feet without a buffer, and I presume that would be done in the permit process. And the second was that the EPA soils would be tested prior to any approval of the permits. Can you write those in the, the bill as amendments so that we can get those two items taken care of? Thank you.

Mr. Hart: We've read a version of that. I believe, we'll look into the terminology. I believe it's Phase one, and potentially Phase two Environmental Assessment is what is referred to. But we can, we can add those as comments from the Maui Planning Commission. Jacky will add those in.

Ms. La Costa: Thank you so much.

Mr. Tackett: Thank you. Commissioners, anything else? A couple of, a couple of things, Director. First thing is, is I really like what, what Kimberly says, said about getting the industrial that used to be surrounding our waterways out of there and moved to some place more, more comparable to the day and times we're living in. And if you look at, if you look at the Mill House which was an example that they used, sure somebody could do manufacturing in there, but it seems like the movement of manufacturing should go more towards by the drag strip and towards the...where the Central Maui, where the Central Maui businesses and stuff are, you know, halfway between Kihei, halfway between Wailuku, kind of out in its own place, you know. And it seems like you guys have already started moving things out of town and that those businesses do have places to go which wouldn't necessarily mean that they would, would need to or want to even be in the mill...the old mill area which I go into that area all the time. A lot of those, a lot of those businesses are very benign, you know, and it's a fairly quiet place during the evening with not a lot of manufacturing. So, I think that it's...I think it makes sense to start moving that stuff out into the middle of places where it doesn't really bother anybody and to use our infill the way that best represents our community, and I think best representing our community is doing stuff for the poor, the middle and the working class people that need a place to live, 'cause they're the ones that make this place operate, you know, they're the ones that put in the majority of their life not at the beach but at their job making sure that the rest of us have goods and services, so that's just, that's just my take on it. So, I'm in the favor of it. Commissioners, anybody else want to, want to have any more discussion on it? Go ahead, Commissioner La Costa.

Ms. La Costa: I think that also the transit corridor should be looked at when, you know, when

apartments and residential is put in those areas if this passes, so that people are...not inconvenienced by being far away from those. Thank you.

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

Mr. Freitas: I was thinking, like when I think about this in front of me, I think of an example like the Puunene Mill area as being this M-2, Heavy Industrial District and I think back that, yeah, we're not going to be doing any sugar cane, however, that was built to service in heavy industrial, industrial work for all the sugar cane that was being grown and brought to a central location. A lot of that sugar cane land has turned into Mahi Pono and their, their growing of produce. Now, by allowing this, would it make it difficult for something like the Mahi Pono people? I don't know 'cause most of the land they have is ag, they wouldn't be able to build some kind of a building to process whatever that they're growing, so would this make a challenge for someone like that 'cause where I live and I drive every day, I look at how much they're doing to the land and I'm afraid that we might jam them up by...and again, I'm only focusing on the Puunene and I know that there's more around the island, but in that case, I don't want to hurt a business like that, a very huge part of our island and the direction we're trying to go with being self-sustaining. Mr. Hart, do you see that as being a step back for us trying to be more of a growing our own and providing our own and let's say they want to do a slaughterhouse somewhere because right by my house they've turned that cane field into a cattle grazing area. Now they've got to put a slaughterhouse. Can they just put a slaughterhouse up on? They got to go down to an industrial area is that correct?

Mr. Hart: Well, you can do ag processing in the Ag District. I'll have to double check on whether or not. I'm not aware that slaughterhouses are prohibited. I'll have to look into that, though. The other thing that I would say in addition to that is that my understanding of the Puunene Mill complex is that's under the ownership of one entity, so you know, I don't see, I don't see how...first of all, you can do ag processing on ag land. So, Mahi Pono has a lot of ag land that they could, they could ag processing on.

As far as the industrial areas, this would be the decision of the land owner to transition into a different phase. You know, if they choose that they want to...if they are making great money and great use out of their property in Heavy Industrial there's no motivation to go in this direction. But if they're in the situation where the community has changed around them and they're not getting interest in heavy industrial and they're sitting there with vacancies, this is an opportunity for those to choose situations as well. So, I don't anticipate that it's going to be an issue that landowners are gonna cause themselves a problem by thinking that they had wanted to go residential and then deciding that they had later wanted to go to light industrial. I think that they're gonna have to choose to go one direction. But I think that each of them can make that choice rationally and look out for their own interest and make the right decision.

Mr. Freitas: Okay, thank you.

Mr. Tackett: Thank you, Commissioner Freitas. Commissioners, any more discussion?

Mr. Hart: You know, Chair if I could add a little bit more commentary. There was initial comments about, you know, the land use patterns and the plans that we have and I just want to point out that the way that the Planning Department addresses those things is through the community plan update process. So, when we see that uses are changing on a property, we change the land use designations in the community plan. So, like for instance, let's say that there are properties that are currently light, industrial or heavy industrial and are not being used for heavy industrial purposes, but they start to be used for multi-family purposes, in the next community plan update, those things will start to be changed to a community plan. So, that's how we do the process of moving, you know, uses, for instance, out of the center of town into the remote, more remote areas and vice versa. So, you know, ideally, we're not doing it by changing a segment of the zoning code. I can agree that's the ideal situation. But if you look at the reality of how development is happening, we do think that this is the best way to start that process and to address the need that we have. And then we would recognize those changes in the community plans and then, you know, proceed from there. And then ultimately, if a property was to go completely to multi-family outside of light industrial, then it should be rezoned out of that later. And, you know, at a time when the County is ready to start engaging comprehensive zoning and things like that, we could address those things. But before that time, where we are now, this is a good step towards providing an opportunity to make these changes that we're talking about wanting.

Mr. Tackett: Thank you, Director. Was that all?

Mr. Hart: That was all, thank you.

Mr. Tackett: No, it was good, so...and I think we're all very appreciative and everybody has great questions, and there's...if anybody has any other questions, we can continue with the discussion. And if not, then I'm open to a motion. Commissioner Freitas.

Mr. Freitas: One more question. Yeah, thanks, Chair. Can someone, Mr. Hart, can you clarify then Commissioner La Costa's...oh, no, not Commissioner La Costa, I think it was Commissioner Thompson about if a residential...residential or some kind of housing is being built that the land will be cleaned or made sure that it's safe, environmentally safe to be built. Did that get...did you say that that's gonna be added in?

Mr. Hart: We'll add that as comments from the Planning Commission to the Council that there be an assessment of the soil, environmental assessment of the soil to verify that it's appropriate for use.

Mr. Freitas: Okay, and then one more question. If a housing development is placed on a big property or lot and then a developer wants to come in and do industrial work, right now, the rule is only 500 feet, can that be even further?

Mr. Hart: So, so, right now, the proposal is that if there is already existing residential uses within 500 feet, then, then we feel that it's appropriate to, to add uses because those uses are already coming pretty close to the heavy industrial uses that could be occurring there. So, the Planning Commission can recommend to the Council that you want to make it, make it even further. We

feel that 500 is good and addresses existing situations. But the further that you would do push it away, the fewer properties that are actually going to be potentially able to take advantage of this change. But if it's, again, if it's, this is the Planning Department's recommendation about what we feel, if the commissions don't, you know, if they feel like it's too much and the Council feels like it's too much, then it doesn't go anywhere.

Mr. Freitas: Thank you. I have another question. So, let's take the Puunene area, again, you have a mill there that is not in use, but I'm not sure if they can put some grease and crank it up and it starts going. But if a housing...we agree to this, you put a housing development in, will you folks, whoever is going to approve this because we're not going to be there and we're not going to be people can't testify on this, and you agree to one, are you going to try and put it further away in the event that they do crank it up? That's question number one. And if that is not workable, when you put that there, can you folks like I said, then ask them, you guys gotta be further, further away and what that will be.

Mr. Hart: So, when...before they, so we want assurances of a buffer before they start. If there is no, there's no existing use, we're going to have to be kind of careful about the anticipated return, which we had just discussed about like where will you tell us that this buffer in the separation will be? And then, once that's established through the initial creation of the, the units, when you occupy areas for commercial uses, there's a Certificate of Occupancy process that you go through with the Planning, with the Department of Public Works, but the Planning Department is a reviewing agency and we would address those kinds of concerns. The other thing to bring up is that, and this is the issue that, that always happens is that once you bring residents into an area, they become a controlling factor by their ability to, you know, petition the government and public...testify at public meetings and things like that. So, you know, the biggest regulator of returning noxious uses in close proximity to the residential areas would be the residents who would, you know, prevent it from happening, you know, in addition to the Planning Department watching for it. So, I think that if properties are going to choose to go this direction, they're already going to be properties who have gone away from light...or from heavy industrial some time ago, and they don't anticipate...(inaudible)...Commercial property is a business decision either you think that you're going to make money on the, on the industrial aspect of it or you think you're going to make money on the residential aspect of it. It's not just a hobby situation. So, if they think that there is better money for them in heavy industrial, they're going to say there's no way I'm going to bring residential people into here and compromise my ability to do my industrial uses. But if they're already surrounded by these other uses and light industrial or heavy industrial cannot come back because they're already captured by the existing residential uses in close proximity, then they might as well just embrace the development that's happened around them and go in the other direction but that would be for them to decide. We're just trying to basically make an option available for a decision where it doesn't exist now.

Mr. Freitas: Okay, thank you.

Mr. Tackett: Thank you, Commissioner Freitas. Commissioners, any other discussion? If not, I'll entertain a motion. Commissioner Thayer.

Ms. Thayer: Thank you, Chair. I would like to make a motion to approve the proposed bill with the comments that we discussed here.

Mr. Tackett: Thank you. A second by P Dee, and I know, I know Commissioner Lindsey came up with the second too, but she was just a little bit first. Commissioner La Costa, would you like to speak to...um, Commissioner Thayer, go ahead and speak to the motion and then I'll get Commissioner La Costa.

Ms. Thayer: Okay, thank you, Chair. I think I said a lot of my thoughts previously but I guess to sum everything up. I see this as a progressive step in the right direction towards better utilizing the existing not only land that we have but also our infrastructure, services, everything that goes along with land use. This is paving the way so to speak for urban redevelopment which I think is like an antidote for urban sprawl. And like my husband and I went travelling and we stayed in a loft that was in an old pencil factory. And this whole area was formerly factories, and they got converted into apartments with like small businesses under them, and the place is thriving now. And I think this opens the door for us to achieve that kind of really good progressive land use that I think we should move towards. So, that is why I am going in support of this. Thank you.

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

Ms. La Costa: Thank you, Chair. It was so succinctly and well put by Commissioner Thayer that I'm going to just leave it at that and I will be voting in favor of this. Thank you.

Mr. Tackett: Thank you, Commissioner La Costa. Commissioners, anyone else choose to speak to the motion? Director, could we have a roll call vote please.

Mr. Hart: Thank you, Chair. Thompson.

Mr. Thompson: No.

Mr. Hart: Thayer.

Ms. Thayer: Aye.

Ms. Lindsey: Lindsey: Aye.

Mr. Hart: Hipolito.

Mr. Hipolito: Aye.

Mr. Hart: Freitas:

Mr. Freitas: Aye.

Mr. Hart: Edlao.

Mr. Edlao: Yes.

Mr. Hart: La Costa.

Ms. La Costa: Aye.

Mr. Hart: Tackett.

Mr. Tackett: Yes.

Mr. Hart: So, Chair, I have seven yes, one no.

Mr. Tackett: Thank you, Director.

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

**VOTED: To Recommend Approval of the Proposed Bill to the County Council
as Recommended by the Department and with the Commission's
Comments as Discussed.
(Assenting – K. Thayer, P D. La Costa, K. Freitas, J. Edlao,
M. Hipolito, A. Lindsey, C. Tackett)
(Dissenting – D. Thompson)
(Excused – K. Pali)**

Respectfully Submitted by,

CAROLYN TAKAYAMA-CORDEN
Secretary to Boards and Commissions II

you in. And, I don't see any in the chat. So, thank you very much. Last call for public testimony. Seeing none, the Chair will reserve the right to open up public testimony again when we hear this. Yes, Jordan?

Mr. Hart: I'm sorry. I wanted to make sure that you stated the next date that it would be heard.

Chair Buchanan: Oh. Which is when?

Mr. Hart: I believe that that would be January 12, 2022.

Chair Buchanan: Thank you very much. The Chair will reserve its right to open up public testimony when we hear this public hearing item again on January 12, 2022. Thank you very much. With that, this item is deferred until January 12. And then I wanted to go on to a Public Hearing, item number 2:

Chair Buchanan read the following agenda item description into the record:

2. **MS. MICHELE MCLEAN, AICP, Planning Director, referring to the Molokai Planning Commission a proposed bill to amend Maui County Code Chapter 19.26 – M-2 Heavy Industrial District, to allow apartments when located on the same lot as business or industrial uses and when the property is located within 500 feet of any property with existing residential use; transient vacation rental use is prohibited. (J. Takakura)**

The entire text of the proposed bill for ordinance is available at:
<https://www.mauicounty.gov/DocumentCenter/View/129722/Bill-for-Ordinance-updating-Chapter-1926---M-2-Heavy-Industrial>

Chair Buchanan: With that, we would like to open up for any public testimony on this public hearing agenda item. I see none in the chat, and -- and then same thing. Jacky, thank you very much for waiting all day, but seeing no public testimony, I will close public testimony at this time, but the Chair would like to reserve the right to open public hearing testimony when we rehear this item again on January 12, 2022. Until then, this item is deferred till those public hearing dates. Let me check one chat over here. Okay. So, I just wanted to make sure because some people did not hear, during the first item, that public hearing was closed for the first item B, item number 1, the County Code 19.04, so testimony was close if nobody heard that at that time. And then again, the public testimony is close for this agenda item as well, Public Hearing, item number 2, the proposed bill to 19.26. So, that's it, and we're going to hear that on the 19th so --

Mr. Hart: Is it, Chair --

Chair Buchanan: I mean the 12th, January 12 --

Mr. Hart: Thank you.

Chair Buchanan: 2022. Too many items in the -- yeah, go ahead.

Mr. Hart: If I can -- if I can make a clarifying statement for any members of the public. Just -- just to clarify, there's this specific legal procedure of the public hearing that we have to close, it's associated with the notice, but if the Chair opens for public testimony, that's -- that's a different thing from the public hearing, but the Department will collect all of those comments and we'll incorporate that with the Commission's comments and transmit that to Council.

Mr. Hart: Okay. Thank you very much. So, Commissioners, timestamp, it's --

Ms. Chen: I'm sorry, Chair, just for the record, too, that's January 12, 2022, at 11 a.m., right?

Chair Buchanan: At 11 a.m. Yes.

Ms. Chen: That's the Commission's regular meeting.

Chair Buchanan: Thank you very much. Okay, so whipping it on. So, Commissioners, it is 4:13 p.m. We do have one last item on here. I don't know how you guys feel if you guys want to defer it. If you guys had enough. It is item d. is:

Chair Buchanan read the following agenda item description into the record:

C.1.d. MR. LUIGI MANERA, on behalf of LJ Howard, proposing an after-the-fact (ATF) approval for the replacement of an existing culvert at 8555 Kamehameha V Hwy, Kaunakakai, Molokai, (TMK (2) 5-7-007:069) (SMX 2021/0173) (Valuation \$4,000) (W. Bradshaw)

Chair Buchanan: I think we're going to have some questions about it, so if -- and it might be a little bit longer than 15 minutes, do you guys want to defer this item? Jordan?

Mr. Hart: Chair, I would say that the Department also anticipates that this is going to be a complicated conversation with the Planning Department --

Chair Buchanan: Okay.

Chair Buchanan: And the Chair votes in the affirmative.

It was moved by Commissioner Bridget Mowat, seconded by Commissioner Laakea Poepoe, then

VOTED: to defer the action on the proposed bill to gather specific additional information, as discussed.

(Assenting: L. Buchanan; D. Kelly; W. Moore; K. Moss; B. Mowat; J. Pele;
L. Poepoe)

(Absent: C. Machado)

(Excused: L. Albino - due to technical difficulty)

Chair Buchanan: Motion carried to defer. Thank you very much. And, we can speed right along. Jacky?

Ms. Takakura: Thank you, Chair. If you have specific things you want me to research further, can you let me know and I'll do that.

Chair Buchanan: Okay, Jacky. Thank you. Will do. Anybody need a five-minute? No? Okay. Moving right along to under item B., Unfinished Business, number 2:

Chair Buchanan read the following agenda item description into the record:

2. **MS. MICHELE MCLEAN, AICP, Planning Director, referring to the Molokai Planning Commission a proposed bill to amend Maui County Code Chapter 19.26 – M-2 Heavy Industrial District, to allow apartments when located on the same lot as business or industrial uses and when the property is located within 500 feet of any property with existing residential use; transient vacation rental use is prohibited. (J. Takakura) (At the Commission's December 8, 2021 meeting, the Public Hearing was opened and closed. This item was deferred at the December 8, 2021 meeting.)**

**The entire text of the proposed bill for ordinance is available at:
<https://www.mauicounty.gov/DocumentCenter/View/129722/Bill-for-Ordinance-updating-Chapter-1926---M-2-Heavy-Industrial>**

Chair Buchanan: Jacky?

Ms. Takakura: Thank you, Chair. Again, I do have a short presentation so I'm going to share screen. Can everybody see the blue and white? This one is -- it's not very long so

...(inaudible)... Okay, so, as the Chair mentioned, this is about the heavy industrial district and allowing apartments. And, I'll just start off saying that Molokai does have some parcels in this zoning district but the proposed changes do not apply, not at this time, to these parcels. And, so I'll just go through this quickly and then we can discuss further.

So, heavy industrial zoning, that's the zoning district normally reserved for manufacture or treatment of goods from raw materials, an example is the former pineapple cannery in Kahului, so that's those photos before were how it used to be like in the '60s and '70s, and this is what it looks like now where it's transitioned from cannery to shopping center, warehouses, and other business use, and it's part of the transit oriented development corridor along Kaahumanu Avenue, so it's not industrial, really, anymore. Another area that's similar is the Wailuku Sugar Mill area, near where Saint Anthony, you can see the old Saint Anthony Church here, West Maui Mountains, Wailuku Sugar Mill, and this is what it looks like now, it's the Millyard with businesses and services. So, a lot of places that have transitioned over the industrial to not so industrial anymore to a lesser degree. So, what the Department is proposing is that allowing apartments when all of certain criteria are met. By having it really restricted and having criteria, we're still going to -- we're trying to protect the integrity of the zoning district for uses that our heavy industrial. So, what we're proposing is that apartments could be allowed when all of these criteria are met: That they're located on the same lot as business or industrial uses; an existing business or industrial use is located within 500 feet of any existing residential use; appropriate physical or spatial buffers are provided between residential and noxious uses, and transient vacation rental use ...(inaudible)... so all of those criteria would have to be met.

The next pages are just some maps of where these zoning districts are located, so this is Central Maui, you can see by the harbor and Puunene area going out to the Central Maui Baseyard down here, West Maui, just mauka of the highway, South Maui, near Maalaea, down here in Kihei, and Molokai, you have this bigger lot here, you have the smaller one here. The bigger one is off of Mauna Loa Highway, and then the smaller one is 40 Hio Place. This is just some screenshots of those lots. This is the one near the harbor here in the blue outline, and then the other one is a little bit further west, I guess, off of the highway. It's this area here. You folks are more familiar with it than me. Sorry. Then, on Lanai, there's just near the harbor and then not too far from the airport.

So, with that specific criteria that we're proposing, the parcels on Molokai would not meet the criteria so apartments wouldn't be permitted, like I mentioned, it doesn't have all the criteria. The ones that can are mainly the ones in Central Maui, and then in West Maui. Molokai and Lanai and South Maui, those M-2 properties don't meet the criteria so they wouldn't be able to. Not at this time anyway. That's it in a nutshell. It's just to provide that option for housing in certain -- in certain areas that meet the criteria. The Commission can recommend approval, can make amendments, or deny, or defer if you want to. I can

always go back to these maps. That's it for the presentation. I'll stop sharing here. Okay, and that's all for -- thank you.

Chair Buchanan: Thank you. Commissioners, any questions? Commissioner Pele.

Mr. Pele: Yeah, Jacky, I'm assuming these kind of things are brought up because you guys are trying -- we're trying to address housing shortages in the County, affordable housing especially, so I'm -- I'm also assuming that these are developed by private owners who own those -- those industrial areas, and I'm just wondering what kind of -- what kind of ordinances or safeguards are in place to -- to ensure that those are affordable units? I mean, we can say we want to build affordable housing and then, if they're charging \$3,000.00 a month, once they build those units, that's no longer what I consider affordable. So, I mean, I'm just trying to figure out how -- how this kind of plays out. Are we just thinking that the areas in which they're located in can't -- can't be built out to -- to get higher rents. Is that -- is that the thought? I mean, is there any safeguards in place to, I know we don't have rent control in Hawaii, but I'm just trying to figure out how do you stop these somewhat affordable projects from becoming unaffordable? Sort of like what Chair Buchanan said about the ohana dwellings where they said they're going to build it and they're not going to rent it out, and then they build it first, and then it ends up they use it for commercial purposes. That's my only concern with -- with this and if there's any kind of safeguards against guaranteeing affordable units for the people.

Ms. Takakura: Thank you, Commissioner Pele. Chair Buchanan, is it okay if I answer? One of the most important thing about this bill is that the infrastructure is already there for these properties, or at least for most of them, like, say, Wailuku Industrial or Kaahumanu Shopping Center. I -- I still like Kaahumanu because I grew up in Kahului so we used to ride my bike and so I know there's residential right across the street, but, anyways, you know, these areas already have the infrastructure. They're not in resort areas. They're not on the beach. You know, I, specifically, put that provision in about transient vacation rental use being prohibited. I think that's a big one to make sure that the prices don't go up. But, because the infrastructure is there, that helps with the cost, and they're not single-family dwellings, which are going to be more sprawling, bigger, and more costly; these are going to be apartments which tend to be cheaper and that they cannot have the vacation rental use, I think that -- those are going to be big things about keeping the prices down. I don't know if Jordan wants to share any more thoughts on that.

Mr. Hart: Just on the overall affordability issue. Basically, we have the residential workforce housing ordinance in the County of Maui and so developments that are subject to that are required to enter into a residence -- residential workforce housing agreement with the Department of Housing and Human Concerns and that's the way the requirement for affordability to be maintained is -- is established. So, there's a contract with the department.

Mr. Pele: And all these developments would -- would have to abide by that contract, that that ordinance?

Mr. Hart: No. No. I'm not aware that these are all required to only be affordable but, generally, there's a trigger for affordability after you reach ten units. I can check the ordinance to -- to check on this.

Mr. Pele: No. I'm talking about the residential housing contract that you stated. Everybody who develops enters into that agreement that -- follows that residential housing --

Mr. Hart: Oh, there's a trigger. Right. So, there's a trigger of -- of how many units you develop when you are required to contribute affordable housing, and then once you -- once you do that, you enter into agreement, and there's the ordinance that establishes what affordability rates that distribute on the number of units that you need to establish, and then there's a contract on -- on that you will do that and that they'll remain affordable, and then the Department of Housing and Human Concerns participates in -- in the -- well, establishes a process of how you can qualify people and then, you know, distribute those units to qualified buyers or renters. And that's Maui County Code, Chapter 2.96.

Mr. Pele: Thanks.

Chair Buchanan: Thank you, Commissioner Pele, for the question. Commissioners, any other questions or comments? Commissioner Poepoe.

Mr. Poepoe: Yeah, I'm only vaguely familiar with Maui. You know, immediately when the industrial zone switched for Molokai, I know that nobody is going to go for any apartment living in any of those locations. Would -- are there -- I don't know if this -- whether or not this question is very appropriate, but are there any locations that are kind of spec for -- for this type of development for apartment use that is not right next to the holding tanks for propane and -- and fuel? Because I -- I only know that portion where you turn off the -- where is that? Like right before Young Brothers, you go to fuel farms, and that's what I thinking like as far as industrial and stuff.

Chair Buchanan: Thank you, Commissioner Poepoe. I had the same thought. Any other Commissioners have feedback? Commissioner Moss.

Ms. Moss: For the -- the parcels on Molokai, is it we're not going to be -- are not able to do this because they're not next to -- they're not within 500 feet of an existing residential use? That's why those parcels can't qualify? And would there be a chance? Is there even residential properties around it, like so if it was ever built up as a residence, then

they could put an apartment? I know probably not the one down by the wharf, but not sure about the other, the other one.

Ms. Takakura: Commissioner Moss, thank you. So, you are correct that for the Molokai parcels, they don't meet the criteria because they don't have -- they're not within 500 feet of any existing residential use. And, looking at the one by the harbor, it kind of looks like it's all businesses and -- down there, but I can look at the digital zoning map for the other -- the other one off of ...(inaudible)... that area, but I can look.

Chair Buchanan: Thank you, Commissioner Moss, for the question. So, while Jacky is looking, is it fair to say, Jordan and Jacky, that while the current conditions and criteria do not support apartment buildings on Molokai, at this time, in the designated areas, that's not to say that, in the future, through change of zoning or future development, that it might, in the future, meet that criteria?

Mr. Hart: I think it's fair to say that the conditions could exist in the future.

Chair Buchanan: And then, Jackie, while you still looking, I -- I do not support this change in the ordinance myself. The reason being that all of the industrial M-2 areas that I know are all poison. They poison. They toxic, period. Why -- why would I want a family to move into one toxic area or be in close proximity to a toxic type of area? That's the reason why industrial -- and then I think when you do one presentation to the public, you need to let us know that, under industrial zoning, there's M-1, M-2, and 3, and all of those have different permissible uses. And so, for this one is M-2, so, you know, maybe M-2 wasn't the sugar mill, the Pioneer Sugar Mill, or whatever, but I tell you what. That site on Molokai that is now zoned M-2 is toxic. The other industrial areas are in close proximity to what Commissioner Poepoe had pointed out. Even in Wailuku, at the time that these decisions are made, is the public aware that there are blast zones? That there is a history of industrial toxic use? I mean, you know, you start off with industrial zoning so you think that, oh, putting residential people there is no problem, but it's actually the opposite. The opposite is that that's the reason why they in industrial zone 'cause it's not appropriate for people. So, just in the name of affordable housing or more housing because we no more housing and the cost of one medium house in Hawaii is 1.5 five million dollars, I not going put people in toxic industrial apartments. I mean, I understand the -- the -- the reasoning behind it, Jacky, like Kaahumanu and stuff. Okay, now, take Molokai, for example, yeah, we approved an 18-room hotel, hotel, not apartment, hotel in Kaunakakai, between American Savings and Misaki Store, so that's apartment buildings, you know, in close proximity to one before industrial site, which is the old Maui Electric Company. We found that that was okay. So, I was looking, you know, for instances where -- where it is okay, you know. I don't know, guys, because how bad is the industrial use? You know, so all of that back research has to be done 'cause you don't want to put people in toxic areas. I'll go back to Jacky. Jacky look she might have found the answer for Kaleialoha.

Ms. Takakura: Thank you, Chair Buchanan. So, I'm going to share my screen. I pulled up the digital zoning map. Can you see that? So, this bright pink is this one that we were talking about, this big one here, and then here's the little one by the harbor. The lighter pink, I think it's interim, and then the green, the light green around it is agriculture zone, and then the light blue is rural zone. So, you can see, like right on this mauka side of the bright pink parcel, it is ag, and then along here is ag. Yeah, I guess, you know, technically, I mean I don't know what this big lot is, but ag does allow housing so, at some point, if there were to be a house built within 500 feet, it could -- then that could trigger the allowance for that, the one. So, is that good?

Chair Buchanan: Thank you, Jacky. I was going to tell you to leave the map up. But I wanted to speak to my earlier comment about the future development. So, during the CPAC community plan update, Molokai Ranch did come in to the CPAC for rezoning in order to do that whole -- that's all Naiwa, yeah? That's above, across the street from Seventh Day Adventist Church, it's the Maui Electric facility, and then above that Naiwa Landfill. At the time, they wanted to rezone all of that heavy industrial, I think M-6, which pretty much gives you carte blanche to do whatever. But, at the time, they could not say why they needed that -- that heavy industrial zoning for that entire piece. So, that's just one comment only because I was involved in it so I know that that request was made, and it goes back to future zoning, yeah, Kaleialoha, that even though the -- that's how come when all of these ordinances come in, it's set in stone, yeah? And so, somebody can come in in the future and rezone, and do all kinds of stuff, and then you wonder why, and it's because we allowed it. That's why. Thank you, Jacky, for the map. Was helpful. Any more questions for Jacky on -- or comments on heavy industrial and apartments? If there's no questions at this time, I'll just quickly open -- reopen for, 'cause it's a public hearing, for members of the public. Anyone in the public wishing to testify, please, unmute yourself, state your name for the record, and I can swear you in.

Ms. Esmeralda: Hi, Chair, this is Suzie. I don't have anyone signed up.

Chair Buchanan: Thank you. Okay. So, going back, and thank you again, Jacky, I knew -- Jacky, why you guys brought this forward? I see in -- it was because allowing mix uses in Kahului.

Ms. Takakura: Thank you, Chair. You know, over time, land uses change as people and, you know, the island has changed, so these areas would be appropriate to have more housing. Land doesn't stay put the way, like how we had those photos of the pineapple cannery and the sugar mill, so things change to keep up with the changes.

Chair Buchanan: Thank you, Jacky, and thank you, Commissioner Pele, go ahead.

Mr. Pele: Yeah, I just was wondering, I know by the wharf, I'm kind of mixed on this. I know we don't want it on Molokai, but, you know, when you're on the boat and you have a house, you know, people who are on the boat, sometimes it's really easy to pull up the anchor, but I don't know if -- there's a lot of desperation on this island for people trying to find a place to live so I don't want to say that people wouldn't go live over there because we don't know what people who don't have would do to find a place to live. And the second site, across from the Seventh Day Adventists, I know we have like a fitness center there, our cable there, Nature Conservancy has a building there that they've been using, we have a store -- I mean, a company that -- a distribution center. Do they have any experience with toxic -- toxicity in their environments? I know the Nature Conservancy has been there for a while and their whole staff runs out of there, and is there a lot? Is there a threat of toxicity to those -- to those businesses that are there now, or has there been any reports of toxicity to the -- to the people who work in those, you know, some, for years, have been working in those -- that environment? Just -- just for my knowledge.

Ms. Takakura: Commissioner Pele, I don't have an answer to that question for you, but that was a question that was brought up at the Maui Planning Commission, and so what they recommended was that you do a soil analysis prior to any development of housing. I have to look at the minutes again for the exact wording, but we could put that in there.

Mr. Pele: Yeah, and don't misconstrue my -- my concerns. I just -- I just know, for Molokai, there's a lot of desperation for people to find housing. They can't even afford rents now. That's what I hear from people like -- and when people are desperate, people just want a roof over their head. You know, it's easy for me, when I have a place to live, to say, ah, ah, you know, but when you don't have a place to live, it's a different story, and you're trying to raise a family, make ends meet. There's just a lot of different variables in our community.

Chair Buchanan: Thank you, John Pele, for the question. And then, Jacky, there -- there's a existing business in the industrial site that is subject to the EPA, Clean Air Branch discharges. I've been on the website before. There has been noncompliance in the past that you could probably look up that is public record. So, there is some Federal regulations within that industrial zoning. And then, to get back to if anybody else had question, my -- oh, I forgot what I was going say before Commissioner Pele. I never write 'em down. Oh, I know. Was kinda simple. Why don't they change the zoning to conform to make it -- they don't wanna down zone because they want to keep the industrial zoning resale value or because it's toxic already?

Ms. Takakura: So, that question came up too at the other commissions and it was to, basically, allow the property owners the flexibility to have these options available to them. I mean, it doesn't mean that they have to have apartments, but, you know, especially like,

say, they're profitable in their existing businesses, you know, they -- they don't have to do this, but it's just another option for property owners.

Chair Buchanan: Okay, so here's the flip side. Soho. So, if you think of Soho in the industrial zoning in the continent, they're very high in apartment buildings, in industrial, old industrial sites that have been repurposed, reconstructed, rebranded and resold. So, take Kahului, for instance, the heavy industrial use lies on the banks of a protected wilderness area. Is that correct? Kahana Ponds. Right? You have that heavy gas industrial use right next to one -- one wild wilderness site.

Mr. Hart: Chair, I think that that's -- you have to remember the existence of the special management area. So, you know, prior practices on land use designations, they're not where they are today, and that's part of the issue with this is that basically you had these industrial uses throughout the County, and especially on Maui Island, the development patterns have changed so they're no longer -- like, for instance, you had the industrial center of Kahului, and now it's basically a residential commercial center. And so, this pattern is changing so we have these underused or even unused heavy industrial properties, so is there more demand for residential or commercial, and would this allow those properties to actually be used properly as opposed to just being vacant spaces and dilapidated former warehouse -- warehouse type structures? So that's -- setting that aside, you know, this is an opportunity to -- to -- for potential redevelopment, and then we also have a housing need on Maui Island as well as Countywide. With regard to things like being right on Kanaha Pond, that's just, you know, it was inappropriate at the time it was done, and anybody who comes through to try and do a redevelopment is subject to the SMA Rules for the Maui Planning Commission, and, you know, they'll have to propose what they would propose and have sufficient mitigation that would satisfy the Maui Planning Commission, but I think that that's a very difficult test when you have, you know, native species and endangered species right there as well as the habitat, so, you know, that's that process but I don't think that it's -- this is not a -- there's multiple layers of regulation. You know, we just talked about the residential situation where just because you have the zoning says you can do something, it doesn't mean you can actually do it when you try to put your development together. So -- so, there may be situations where there's heavy industrial that's underused that's outside of the SMA and also already has residential nearby and is not even doing heavy industrial, you know, those properties may be appropriate, and you mentioned some of them already. But, if you have ones that are already doing -- currently doing heavy industrial, then there's not going to be sufficient buffer for any sort of residential uses to move in there. And, we should also bring up that -- that the other -- the Maui Planning Commission, specifically, they had expressed concern. They wanted to see soil testing, and they also wanted to see information on how you would maintain separation from the industrial uses or let's say that the -- the residential use was developed and then industrial uses wanted to move in, back in, how would those things be regulated? And so, you know we're -- that's going to be on the

Council's radar and we'll come up with additional suggestions about how those may be addressed. And then, the final thing is that, back to those critical habitat areas is that -- that generally those are in the special management area and that's just a completely separate -- separate from whether or not a use is permitted, you have a public hearing, you have a whole bunch of information that's presented, and then you have the ability to approve or deny, and then that approval is with conditions. So, I think that you have to look at -- at the various layers and authorities that that exist including the planning commissions when you kind of consider how development gets carried out in the County.

Ms. Mowat: Lori, you mute.

Chair Buchanan: Mute again. I said, oh, what a mess. We all know that Wailuku was diverted in the river and that ended up with all kind of messy issues in perpetuity now to -- that Wailuku has to -- I mean, Kahului has to deal with. So, is one of those criteria, Jacky, a clean bill of health? So, in order for you to put one apartment in one heavy industrial M-2, would the -- would the property need a clean bill of health?

Ms. Takakura: Chair, we could add that. I'm not sure if, Jordan, you're aware that -- if that's already a requirement by other agencies.

Mr. Hart: We can look into getting that information for -- for the -- for the Council. Like I had said, that had been brought up by the Maui Planning Commission so we're, basically, finalizing our -- you know, after we go through all the planning commissions, we'll be finalizing our package to the -- to the Council. But, the -- the soil testing, I'm not aware that that -- we'll have to see which agency regulates that and where that comes into the process, but, anyway, I'll just leave it at that.

Ms. Buchanan: Thank you, Jordan. For me, it's not only soil, yeah? It's asbestos, it's airborne, it's, you know, smokestack, it's all kinds of stuff, you know, it's fumes, you know, all of that kind of heavy industrial use, you know, and then you going put kids in there with asthma. So, whatever. Okay. I just wanted to raise my concerns and objections to substantiate why I'm not supporting it at this time. So, what do you guys want to do, Commissioners? You guys want to make a motion?

Ms. Mowat: Lori?

Chair Buchanan: Yes?

Ms. Mowat: I, myself, I'm just saying keep industrial industrial, keep residential residential because if you're looking at Kahului and -- and across from the shopping center by the Dairy Queen, that used to be -- my -- my brother lived there, there was houses there, and now no more the houses, and they have the -- the dorms now, but which became, what,

apartments I think, they're more, not homes as residential, what I see as residential or homes, but there are high rises. So, for myself, it -- it gets really compressed. I mean, buildings, industrial, malls, you know, there isn't that home quality home life for me. So, I -- I kinda not -- not into that and -- and stick to, you know, the residential so people going have quality life instead of -- so I no think I going support this one either because I -- when I'm looking at the -- the places on Molokai, I wouldn't want to have anybody living up there. And -- and, do we hook onto the infrastructure that's already there or, you know, to me, it's just we got better -- better land that we can use for homes. I think it's, to me, it's opening up a door for more high rises. We don't want to just put people anywhere because they need homes. Let's give them nice land and a good environment to give them that options instead of just pushing them into dry industrial. Industrial is industrial. So, that's my mana`o.

Chair Buchanan: Okay. Thank you. But that's not a motion. But that's good feedback.

Ms. Mowat: No, not a motion. Not a motion. Were you looking for a motion?

Chair Buchanan: I am entertaining a motion but hang on. Commissioner Kelly.

Ms. Kelly: I would like to make a motion to just say, "except for Molokai." I mean, you know, not even consider it and just leave it the way it is. So, that would be my motion.

Chair Buchanan: Okay. Thank you. There's a motion on the floor and that would be for feedback to Jacky to take back to the commission to say "except on Molokai." Is there a second? I see everybody thinking. I'm -- I'm inclined to second that motion, and I believe I can unless Stephanie tells me I cannot. I usually exercise let the Commissioners do motions and stuff, but I'll second it for discussion. I agree, Debbie, except for Molokai. I think I can -- I have some perspective. My mom, her father and her mother, and she lived in Spreckelsville, that's where she was raised. She was born in Ulupalakua. She was raised in Spreckelsville. As children, we went breath in that stink smell from the sugar mill 24/7. We lived right there next to the mill. Then my sister Cookie got married. She married a former police officer, Jimmy Walker. She lived directly across the street from Pioneer Sugar Mill in Lahaina for many, many years. I mean, right across the street. I can see right into their industrial uses. And so, you know, from that, I've lived next to crematories. I'm all in industrial areas. Across the pineapple packing plant in central Molokai, Manawanui, the only home right across all of that? So, I think it's really important. I know the landowners wanna transition, but they really have to have a clean bill of health in order to do that and -- and just because already residential use across the street is not the criteria for that, the criteria would be human health. And so, that's how come I no see that the criteria goes far enough to -- for make allowable uses for humans to dwell in industrial areas right now. I don't see that there's strong enough criteria to support that in this ordinance. But if Maui needs to do this because we know industrial

sites on the shoreline for developers, not for affordable housing, but for upper-scale types of living or just living quarters is needed, then that's -- then Maui have to deal with that. But I -- I'm okay Commissioner Kelly's motion at this time with that caveat. I'm thinking about like Kalaeloa and Campbell Industrial. Commissioner Poepoe.

Mr. Poepoe: So this -- we're in discussion now?

Chair Buchanan: Yeah.

Mr. Poepoe: Okay.

Mr. Pele: Did you second already? 'Cause I'll second that motion, but has it been seconded?

Chair Buchanan: The Chair seconded Debbie Kelly's motion.

Mr. Pele: Got it

Chair Buchanan: For only on Molokai. Okay. Go ahead, Commissioner Poepoe. Comments?

Mr. Poepoe: Yeah. This seems to pose a -- a moral dilemma, moreso for Maui, but due to my unfamiliarity with Maui Island and lack of information, this, yeah, punt the ball across the channel and go for it, guys, and do your best for be able for fall asleep at night. I wouldn't be able to support this here.

Chair Buchanan: Thank you. Commissioner Pele.

Mr. Pele: I'll support. I'm also in support. I don't want you guys to get me wrong. I don't want to see it on Molokai either. But when we say it's toxic, I think we have our State over there now. Right? Isn't our State headquarters on that piece of land across or is it the County shop? I mean --

Chair Buchanan: Yeah.

Mr. Pele: We -- so when we say it's toxic, that means we're putting the Nature Conservancy people in toxicity, our County workers in toxicity, our -- our health center. How -- does anybody see the irony in using the word "Community Health Center" on a toxic -- in toxic environment, or the Nature Conservancy, which is our leader in conserving, you know, our environment and they're stationed out of a toxic environment? So, that's all I was trying to say is that we have people over there every day living over there, not living, but there for years, and that's -- that's just the dilemma that I, you know,

I see people, you know, I know we love to save the land, and I'm all about it, but sometimes when I see our people starving, it's a tough choice for me. We're saving the land for who? Maybe rich people? 'Cause when our people are starving, that's a -- my back's always against the wall on that, and so I'm -- I'm totally in support of you guys. I just, you know, sometimes I just tend to think, think a little bit too much maybe.

Chair Buchanan: Thank you, Commissioner Pele. We still in discussion. Anyone else have discussion or else I can call for the vote?

Ms. Mowat: Lori?

Chair Buchanan: Yes?

Ms. Mowat: I just wanted to say I was -- I wanted to second, but I -- I wanted to include Maui and everybody else because, to me, our lives and their lives matter to me and -- and -- but I'll -- I'll -- I'm going to support Debbie's motion because we've always been protective of and we're also mindful of -- of what may come. So, I -- I would support it also, Debbie's motion. Thank you.

Chair Buchanan: Thank you. Okay, Commissioners, in discussion. Commissioner Poepoe.

Mr. Poepoe: Yeah, I'll jump on the same point that you never know what the other guy thinking and the potential for risk is always there if you mixing residential with industrial, and industrial is -- is the word that shock to hear into, you know, oh, something wrong. I mean, there's fuels and power and, you know, our grid is run out of -- I mean, our electrical grid is run out of that location. Things going up and down that road that aren't just regular cars. I mean, we just speaking specifically for Molokai right now and in the industrial zones by the -- below the dump, but that's -- that's a rough spot to have to live anyway. Thank you.

Chair Buchanan: Yeah. Thank you, Commissioner Poepoe, and I just happened to be involved with the permitting for the quarry at the end of the road in that industrial area, and, at the time, we asked, because the industrial use was going to involve heavy use by big equipment ingressing and egressing out of that heavy industrial site, cement trucks and whatever, that they make road improvements, which never happened, and additional lighting for safety, which again never happened, but that was a special use permit, yeah? For the quarry. So, but it's still there. The quarry still there. Coffees of Hawaii, you know, they do roasting and, again, yeah, we have incinerate electric coal plant. So, that's all the industrial uses on one road with only one ingress and egress so -- and then the County does have a new baseyard where they have large fuel, the State Highways and County have fuel storage so, and nobody, to my knowledge, lives there. Okay. Thank you. Okay,

if there's no discussion, we'll call for a vote, which would be, you know, corresponding to Jacky our thoughts and the minutes too. So, all those in favor to suggest to the County Council on the bill for an ordinance to amend Chapter 19.26, heavy industrial to include apartments to say "except for Molokai." Commissioner Bridget.

Ms. Mowat: Okay, I'm voting in support with addition "except for Molokai."

Chair Buchanan: Thank you. Commissioner Kelly? Kelly?

Ms. Kelly: Aye.

Chair Buchanan: Commissioner Poepoe?

Mr. Poepoe: Aye.

Chair Buchanan: Commissioner Moore?

Mr. Moore: Aye.

Chair Buchanan: Commissioner Pele?

Mr. Pele: Aye.

Chair Buchanan: Commissioner Moss?

Ms. Moss: Aye.

Chair Buchanan: And the Chair votes aye.

It was moved by Commissioner Debra Kelly, seconded by Chair Lori Buchanan, then

VOTED: to include "except on Molokai" in the proposed bill.

(Assenting: L. Buchanan; D. Kelly; W. Moore; K. Moss; B. Mowat; J. Pele;
L. Poepoe)

(Absent: C. Machado)

(Excused: L. Albino - due to technical difficulty)

Chair Buchanan: Motion carried. Okay. I think this is a good time for a break. Jacky, you got what you needed from us?

Ms. Takakura: Yes. Thank you very much.

Chair Buchanan: Okay. Awesome. So, it is 1:26. How 'bout we reconvene at 1:40? Is that okay? Too much time 1:40? Okay. Thank you. With no objections, we are in recess. Okay.

(Chair Buchanan called at recess at 1:26 p.m. and reconvened the meeting at 1:46 p.m)

Chair Buchanan: Hi, everyone. Welcome back from recess of the January 12, 2022, meeting of the Molokai Planning Commission. We are currently starting up on item C., under Contested Cases, and under Contested Cases:

Chair Buchanan read the following agenda item description into the record:

C. CONTESTED CASES

Pursuant to Chapter 91-10, Hawaii Revised Statutes, and Subchapter 4 of the Molokai Planning Commission Rules of Practice and Procedure, any individual wishing to testify on these items is required to do so under oath, and may be asked questions by the applicant and members of the Commission. The applicant may provide comments in response to each testifier and should notify the Commission if it wishes to do so.

MS. MICHELE MCLEAN, Planning Director, notifying the Commission pursuant to Section 12-302-13.1(a) of the Molokai Planning Commission's Special Management Area Rules that the following proposed action(s) located within the Special Management Area is not a "development" and is therefore exempt from the requirements of the Molokai Planning Commission's Special Management Area Rules. The Commission's options with regard to the proposed action(s) are governed by Section 12-302-13.1, Molokai Planning Commission's Special Management Area Rules.

1. SPECIAL MANAGEMENT AREA (SMA) EXEMPTION DETERMINATIONS

- a. MR. WILLIAM PORTER HODGINS requesting to construct an approximately 2,900-square-foot two-story single-family dwelling with carport and covered deck situated in Kainalu, located at 9891 Kamehameha V Highway, Molokai TMK (2) 5-7-004:058 (SMX 2020/0195) (Valuation: \$350,000) (W. Bradshaw)

Pursuant to Section 12-302-13.1 of the Molokai Planning Commission's SMA Rules, the Commission may vote to issue a SMA exemption, not issue a SMA exemption, or defer.