

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

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COUNTY CLERK

April 6, 2021

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

APPROVED FOR TRANSMITTAL

Michael P. Victorino 4/7/21
Mayor Date

For Transmittal to:

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

Dear Chair Lee and Council Members:

**SUBJECT: A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.52
OF THE MAUI COUNTY CODE, RELATING TO HISTORIC
DISTRICTS 1 AND 2 (LAHAINA)**

The Department of Planning (Department) received Resolution 20-166, adopted on November 20, 2020, transmitting a proposed bill to amend Section 19.52.090, Maui County Code, to prohibit the consumption of intoxicating liquor in recreational areas under the jurisdiction of the Department of Parks and Recreation in Historic Districts 1 and 2 (Lahaina). The bill also proposes to revise the definition of "intoxicating liquor" to be the same as in section 281-1 of Hawaii Revised Statutes.

Because the planning commissions would be reviewing the proposed bill, the Department used this opportunity to propose other amendments to clean-up the Historic District ordinances and thus proposes four additional revisions to this part of the code:

1. Many terms in Sec. 19.52.090.B are outdated, and the list of 53 use regulations can be combined and consolidated to 19 with no loss or change of uses. Also, in Sec. 19.52.090.D, the term "setback" is proposed to replace "yard" to be consistent with how the term "setback" is used to define the space between a property line and a building or structure.
2. "Subordinate uses and structures which are determined by the director of planning to be clearly incidental and customary to the permitted uses and structures listed herein," is a

COUNTY COMMUNICATION NO. 21-192

proposed addition to the list of use regulations. This language is the same as in eight other chapters within Title 19 and is intended to make the application process less complicated for property owners. Examples of subordinate uses and structures include swimming pools, a restaurant with onsite brewery, water utility motor control station, or PV charging stations.

3. The revised list of 20 uses is alphabetized.

4. The current height limit of 35 feet is quite tall for single-family and two-family dwelling units in the Historic Districts. In the Residential, SBR, B-1, Rural and Agricultural Districts, the height limit for single-family dwelling units is 30 feet, and the Department proposes the same height limit for new single-family and two-family dwelling units in Historic Districts 1 and 2. Existing buildings and structures would not be affected.

The proposed bill was presented to the Maui County Cultural Resources Commission (CRC) and the planning commissions on Maui, Molokai, and Lanai in February, and the commissions provided the following comments:

- All four commissions fully support the Resolution's intent to prohibit alcohol consumption in the parks under the jurisdiction of the Department of Parks and Recreation in the Lahaina Historic Districts.
- All four commissions support the revised use regulations, the reduced height limit for new single family and two-family dwelling units, and changing the word "yard" to "setback area."
- The CRC did not support the proposed additional use ("subordinate uses and structures which are determined by the director to be clearly incidental and customary to the permitted uses and structures listed herein") because they do not wish to give discretion to the director. However, for the reasons noted in #2 above, the Department has kept this additional use in the proposed bill for ordinance.
- The CRC also requested more information from the Department of Parks and Recreation but this has not been scheduled yet. The Department will provide the Council with an update if there is any further information from the CRC.
- The Lanai Planning Commission recommended changing "expressed" to "express" in 19.52.090.F; this has been included.
- The Lanai Planning Commission also supports revising Chapter 13.04A.080 of the Code for consistency purposes.
- The Maui and Molokai Planning Commissions recommended approval of the proposed bill for ordinance with no amendments.

Here is a summary of the commissions' recommendations:

Honorable Michael P. Victorino
For Transmittal to:
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<u>Commission</u>	<u>Date of Vote</u>	<u>Recommendation</u>	<u>Vote Count</u>
CRC	Feb. 3, 2021	Recommended approval with revision	7-0
Lanai	Feb. 17, 2021	Recommended approval with revision	6-0
Maui	Feb. 23, 2021	Recommended approval	7-0
Molokai	Feb. 24, 2021	Recommended approval	6-0

A revised proposed bill and the Department's memorandum to the commissions are attached for your consideration. The verbatim minutes from the meetings are also attached. Should further clarification be necessary, please feel free to contact me.

Sincerely,



for MICHELE CHOUTEAU MCLEAN, AICP
Planning Director

Attachments

MCM:JEH:JMCT

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ORDINANCE NO. ____

BILL NO. ____ (2021)

A BILL FOR AN ORDINANCE
AMENDING SECTION 19.52.090, MAUI COUNTY CODE,
RELATING TO UNLAWFUL CONSUMPTION OF INTOXICATING LIQUOR
AND OTHER MINOR UPDATES FOR HISTORIC DISTRICTS NUMBERS ONE
AND TWO (LAHAINA)

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

SECTION 1. The purpose of this Ordinance is to prohibit the consumption of intoxicating liquor in recreational areas under the jurisdiction of the department of parks and recreation in the historic districts numbers one and two in Lahaina. Other minor revisions to update language and provide consistency with other parts of this title are also proposed.

SECTION 2. Section 19.52.090, Maui County Code, is amended to read as follows:

"19.52.090 Regulations for historic districts nos. 1 and

2. A. Establishment of plan. For historic district no. 1 and historic district no. 2, the plans, reports, manuals and guidelines set forth in subsection 2.88.080 of this code on file with the department of planning [shall] must be used as a guide for the determination of the required land use, height of buildings, style of architecture, parking requirements, [yard spaces,] setback and lot areas, and any other matter pertaining to that particular historic district.

B. Use regulations. Within historic district no. 1 and historic district no. 2, no building, structure or premises [shall] will be used, and no structure [shall] will hereafter be erected, structurally altered, replaced or enlarged, except for one or more of the following uses:

[1. Single-family dwellings. There may be accessory buildings located on the same lot, the use of which is customary and incidental to that of the residence. These may

include servants' quarters or guest house; provided, that the servants' quarters or guest house shall not have a floor area of more than five hundred square feet, and the lot size shall be seven thousand five hundred square feet, or greater;

2. Greenhouses;

3. Parks and playgrounds—community, public, or privately operated. Recreation, refreshment, amusement, and service buildings or structures may be permitted in public parks and playgrounds when under the supervision of a government agency charged with the duties and responsibilities of maintaining and operating the parks and playgrounds;

4. Churches and dwellings of the clergy connected as an incidental use to that of the church;

5. Schools;

6. Day care centers, nurseries, preschools, kindergartens;

7. Substations used by public utilities for the purpose of furnishing electricity, gas, or telephone services, which are not, and will not be, hazardous, dangerous, or a nuisance to the surrounding areas;

8. Buildings or premises used by the federal, state, or county governments for public purposes that are authorized by law;

9. Two-family dwellings (duplex);

10. Amusement enterprises, including pool halls;

11. Antique shops;

12. Art galleries;

13. Auditoriums and theaters;

14. Banks;

15. Barber or beauty shops;

16. Baths—Turkish and the like;

17. Automobile service stations, without auto repairing;

18. Book, stationery, or gift stores;

19. Business offices and agencies;

20. Catering establishments;

21. Clinics, medical or dental;

22. Clothes cleaning agencies or pressing establishments;

23. Custom dressmaking or millinery shops;

24. Dancing studios, hula studios;

25. Delicatessens;

26. Drugstores;

27. Dry goods and/or department stores;

28. Grocery stores and meat markets;

29. Haberdasheries and women's apparel shops;
 30. Hardware and garden supply stores;
 31. Hotels;
 32. Jewelry stores or fine art shops, including interior decorating;
 33. Laundry agencies or self-service laundries;
 34. Museums;
 35. Music conservatories or studios;
 36. Newsstands and magazine stands;
 37. Photography shops;
 38. Physical culture establishments;
 39. Private clubs or fraternal and sororal organizations;
 40. Professional buildings;
 41. Religious, benevolent, philanthropic societies or functions;
 42. Restaurants, cafes, or bars;
 43. Shoe stores;
 44. Tailor, clothing or wearing apparel shops;
 45. Apartments, boardinghouses or lodging houses;
 46. Auctioneer establishments;
 47. Block printing establishments;
 48. Printing, lithography, or publishing shops;
 49. Public parking areas; provided, that none shall abut Front Street;
 50. Radio transmitting and television stations; provided, that antenna is not located in this district;
 51. Retail stores or businesses;
 52. Sign-painting shops, if conducted wholly within completely enclosed buildings; or
 53. Historical tours; provided, however, that only motor vehicle(s) shall be used, and the same parked or stored in an off-street parking area and that all customer transactions shall be conducted within an enclosed commercial building. As used in this subsection, the following terms are defined:
 - a. "Historical tour" means a tour of all or any part of, and that originates or ends in, historic district no. 1 or historic district no. 2.
 - b. "Motor vehicle" means motor vehicle as defined in section 10.04.610, and does not include any vehicle propelled by human or animal power.
 - c. "Off-street parking area" means a private parking area which meets the requirements of the County's off-street parking ordinance.]
1. Amusement centers.

2. Apartments.
3. Assembly areas.
4. Automobile fueling stations, without auto repairing.
5. Boardinghouses.
6. Day care facilities.
7. Duplexes.
8. Eating and drinking establishments.
9. Education, general.
10. Education, specialized.
11. Food and beverage, retail.
12. Greenhouses.
13. Health clubs.
14. Historical tours, provided that only motor vehicle(s) are used, and the same parked or stored in an off-street parking area and that all customer transactions are conducted within an enclosed commercial building. As used in this subsection, the following terms are defined:
 - a. "Historical tour" means a tour of all or any part of, and that originates or ends in, historic district no. 1 or historic district no. 2.
 - b. "Motor vehicle" means motor vehicle as defined in section 10.04.030 of this code, and does not include any vehicle propelled by human or animal power.
 - c. "Off-street parking area" means a private parking area that meets the requirements of the County's off-street parking ordinance.
15. Hotels.
16. Light manufacturing and processing.
17. Lodging houses.
18. Medical center, minor.
19. Parking areas, public; provided that none abut Front Street.
20. Parks and playgrounds—community, public, or privately operated. Recreation, refreshment, amusement, and service buildings or structures may be permitted in public parks and playgrounds when under the supervision of a government agency charged with the duties and responsibilities of maintaining and operating the parks and playgrounds.
21. Personal and business services, including general office.
22. Philanthropic societies or functions, including private clubs or organizations.
23. Public facilities and public uses.

24. Quasi-public facilities, including dwellings of religious institution leaders and staff connected as an incidental use to the religious institution.

25. Radio transmitting and television stations, provided that antennae conform to the height limitations in historic district no. 1 and historic district no. 2.

26. Retail, stores and businesses.

27. Single-family dwellings. There may be accessory buildings located on the same lot, the use of which is customary and incidental to that of the main dwelling. These may include an additional dwelling; provided, that the additional dwelling does not have a floor area of more than five hundred square feet, and the lot size is seven thousand five hundred square feet, or greater.

28. Subordinate uses and structures determined by the director of planning to be clearly incidental and customary to the permitted uses and structures listed herein.

29. Utility facilities, minor.

C. Height regulations. No building within historic district no. 1 and historic district no. 2 [shall] will be more than two stories high, nor more than thirty-five feet in height[.], except for single-family dwellings and duplexes, which are limited to thirty feet in height. "Story" is defined as that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story [shall be] is that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or cellar is more than six feet above grade, such basement or cellar [shall] will be considered a story.

D. [Yard spacing.] Setback area. Within historic district no. 1 and historic district no. 2, no [yard spacing] setback area [shall be] is required, except that for single-family dwellings, duplexes, [guest houses or servants' quarters,] or additional dwellings, a front [yard] setback area of ten feet, a rear [yard] setback area of fifteen feet, and a side [yard] setback area of five feet [shall be] is required.

E. Selling in public places. It is unlawful for any person to carry on or solicit business in any location on any street, highway, or sidewalk. The same is also unlawful in any location, in any park or open space that is owned or maintained by a government agency without the approval of the cultural resources commission[,] and the responsible government agency having administrative authority over the park or open space.

F. Drinking in public. It is unlawful to consume [any] intoxicating liquor[, whether medicated, proprietary, patented, or

not, in whatever form and of whatever constituency and by whatever name called, containing one-half of one percent or more of alcohol by volume, which are fit for use or may be used or readily converted for use for beverage purposes,] in any public street, park, or open space that is owned or maintained by a governmental agency, without the [expressed] express approval of the responsible government agency having administrative authority over the public street, park, or open space[,], and the cultural resources commission, or in any street, park, or open space [which] that is privately owned without the [expressed] express approval of the owner of the property.]; provided, however, that recreational] Recreational areas under the [jurisdiction] administrative authority of the department of parks and recreation [shall be] are excluded from the restrictions set forth in this subsection. "Intoxicating liquor" means the same as in section 281-1 of the Hawaii Revised Statutes. Any person violating this subsection [shall] will be fined not more than [five hundred dollars,] \$500 or imprisoned for not more than thirty days, or both.

G. Within historic district no. 1 and historic district no. 2, off-street parking facilities [shall] must be provided in accordance with the requirements of chapter [19.36B] 19.36(B) of this [code] title when any building or structure is:

1. Constructed or increased in size; or
2. Put to an intensified use that results in the need for additional parking space.

[No off-street] Off-street parking [facility] facilities constructed in compliance with this section [shall] must not abut Front Street."

SECTION 3. Lawfully existing single-family and duplex dwelling units greater than thirty feet in height are not subject to the height limitations of this Ordinance, and may be reconstructed, expanded, or modified provided that such dwellings may not be increased in height and must meet all other requirements of this code. Building permits for single-family and duplex dwelling units up to thirty-five feet in height submitted within six months of the effective date of this Ordinance may be processed and approved pursuant

to the zoning restrictions and standards in effect immediately prior to the effective date of this Ordinance.

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 takes effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

/s/ Stephanie M. Chen
STEPHANIE M. CHEN
Department of the Corporation Counsel
County of Maui
LF2021-0321
2021-03-30 Ord Amd 19.52.090

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

February 17, 2021

MEMORANDUM

TO: LANAI PLANNING COMMISSION
MAUI PLANNING COMMISSION
MOLOKAI PLANNING COMMISSION

FROM: MICHELE CHOUTEAU MCLEAN, AICP 
PLANNING DIRECTOR

**SUBJECT: A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.52 OF
THE MAUI COUNTY CODE, RELATING TO HISTORIC
DISTRICTS 1 AND 2 (LAHAINA)**

Resolution No. 20-166 from the County Council proposes to amend section 19.52.090, Maui County Code, to prohibit the consumption of intoxicating liquor in recreational areas under the jurisdiction of the Department of Parks and Recreation in the Historic Districts 1 and 2 (Lahaina). The bill also proposes to revise the definition of "intoxicating liquor" so it is the same as in section 281-1 of Hawaii Revised Statutes.

The Department wanted to take advantage of the opportunity to propose amendments to clean up the Historic District ordinances and, therefore, proposes four additional revisions to this part of the code:

1. Many terms in 19.52.090.B are outdated, and the list of 53 use regulations can be combined and consolidated down to 19 with no loss or change of uses. Also, in section 19.52.090.D, the term "setback" is proposed to replace "yard" to be consistent with the general direction of the Department's use of the term "setback" to define the space between the property line and the building or structure.

2. "Subordinate uses and structures which are determined by the director of planning to be clearly incidental and customary to the permitted uses and structures listed herein," is a proposed addition to the list of use regulations.

3. The revised list of 20 uses is alphabetized.

4. The current height limit of 35 feet is quite tall for single-family and two-family

dwelling units. In the Residential, SBR, B-1, Rural and Agricultural Districts, the height limit for single-family dwelling units is 30 feet, and the Department proposes the same height limit for new single-family and two-family dwelling units in Historic Districts 1 and 2. Existing buildings and structures would not be affected.

A summary of the existing terms, proposed changes, and rationale is provided below. As indicated in item 1 above, many of the uses listed in section 19.52.090 fit in with existing terms that are already defined in section 19.04.040; these existing definitions are provided in Attachment A.

Pg/Ref	Existing Term	Proposed Change	Rationale
Department's proposed update and consolidation of 19.52.090.B, Use regulations			
P.1 Ln.30 moved to P.5 Ln.23	1. Single-family dwellings. There may be accessory buildings located on the same lot, the use of which is customary and incidental to that of the residence. These may include servants' quarters or guest house; provided, that the servants' quarters or guest house shall not have a floor area of more than five hundred square feet, and the lot size shall be seven thousand five hundred square feet, or greater	17. Single-family dwellings. There may be accessory buildings located on the same lot, the use of which is customary and incidental to that of the residence. This may include an additional dwelling; provided, that the additional dwelling does not have a floor area of more than five hundred square feet, and the lot size is seven thousand five hundred square feet, or greater	Department recommendation: No change, except change "servant's quarters or guest house" to "additional dwelling"
P.2 Ln1 moved to P.4 Ln.31	2. Greenhouses	10. Greenhouses	Department recommendation: No change
P.2 Ln.2 moved to P.5 Ln. 12	3. Parks and playgrounds—community, public, or privately operated. Recreation, refreshment, amusement, and service buildings or structures may be permitted in public parks and playgrounds when under the supervision of a government agency charged with the duties and responsibilities of maintaining and operating the parks and playgrounds	14. Parks and playgrounds—community, public, or privately operated. Recreation, refreshment, amusement, and service buildings or structures may be permitted in public parks and playgrounds when under the supervision of a government agency charged with the duties and responsibilities of maintaining and operating the parks and playgrounds;	Department recommendation: No change

P.2 Ln. 9 combined with P.4 Ln.19	4.Churches and dwellings of the clergy connected as an incidental use to that of the church;	2. Assembly areas	Department recommendation: This use fits with existing definition for Assembly areas.
P.2 Ln.11 combined with P.4 Ln.26	5. Schools	7. Education, general	Department recommendation: This use fits with existing definition for General education.
P.2 Ln. 12 combined with P.4 Ln.25-26	6. Day care centers, nurseries, preschools, kindergartens;	6. Day care facilities and 7. Education general	Department recommendation: Day care centers, nurseries and preschools fits with the existing definition for Day care facilities; kindergartens fit with the existing definition for General education
P.2 Ln. 14 moved to P.5 Ln. 34	7. Substations used by public utilities for the purpose of furnishing electricity, gas, or telephone services, which are not, and will not be, hazardous, dangerous, or a nuisance to the surrounding areas	19. Substations used by public utilities for the purpose of furnishing electricity, gas, or telephone services, which are not, and will not be, hazardous, dangerous, or a nuisance to the surrounding areas	Department recommendation: No change
P.2 Ln. 18 moved to P.4 Ln.22	8.Buildings or premises used by the federal, state, or county governments for public purposes that are authorized by law	4. Buildings or premises used by the federal, state, or county governments for public purposes	Department recommendation: Remove "...that are authorized by law" to be consistent with same language in other chapters.
P.2 Ln. 21 combined with P.5 Ln.38	9. Two-family dwellings (duplex)	20. Two-family dwellings (duplex), apartments, boardinghouses or lodging houses	Department recommendation: combine with apartments, boardinghouses or lodging houses.
P.2 Ln.22 combined with P.4 Ln.18	10. Amusement enterprises, including pool halls	1. Amusement centers	Department recommendation: This use fits with existing definition for Amusement center.
P.2 Ln.23 combined with P.4 Ln.28	11. Antique shops	9. General merchandising, general office, personal and business services, eating and drinking establishments, retail food and beverage	Department recommendation: This use fits with existing definition for General merchandising.
P.2 Ln.24 combined with P.4 Ln.19	12. Art galleries	2. Assembly areas	Department recommendation: This use fits with existing definition for Assembly areas.
P.2 Ln.25 combined with P.4	13. Auditoriums and theaters	2. Assembly areas	Department recommendation: This use fits with existing definition for Assembly areas.

Ln.19			
P.2 Ln.26 combined with P.4 Ln.28	14. Banks	9. General merchandising, general office, personal and business services, eating and drinking establishments, retail food and beverage	Department recommendation: This use fits with existing definition for Personal and business services.
P.2 Ln.27 combined with P.4 Ln.28	15. Barber or beauty shops	9. General merchandising, general office, personal and business services, eating and drinking establishments, retail food and beverage	Department recommendation: This use fits with existing definition for Personal and business services.
P.2 Ln.28 combined with P.4 Ln.28	16. Baths – Turkish and the like	9. General merchandising, general office, personal and business services, eating and drinking establishments, retail food and beverage	Department recommendation: This outdated term may fit with existing definition for Personal and business services.
P.2 Ln. 29 moved to P.4 Ln.20	17. Automobile service stations, without auto repairing	3. Automobile service stations, without auto repairing	Department recommendation: no change.
P.2 Ln.31 combined with P.4 Ln.28	18. Book, stationery, or gift stores	9. General merchandising, general office, personal and business services, eating and drinking establishments, retail food and beverage	Department recommendation: This use fits with existing definition for General merchandising.
P.2 Ln.32 combined with P.4 Ln.28	19. Business offices and agencies	9. General merchandising, general office, personal and business services, eating and drinking establishments, retail food and beverage	Department recommendation: This use fits with existing definition for General office.
P.2 Ln.33 combined with P.4 Ln.28	20. Catering establishments	9. General merchandising, general office, personal and business services, eating and drinking establishments, retail food and beverage	Department recommendation: This use fits with existing definition for Retail food and beverage.
P.2 Ln.34 moved to P.4 Ln.24	21. Clinics, medical or dental	5. Clinics, medical or dental	Department recommendation: no change.
P.2 Ln.35 combined with P.5 Ln.11	22. Clothes cleaning agencies or pressing establishments	13. Light manufacturing and processing	Department recommendation: This use fits with existing definition for Light manufacturing and processing.
P.2 Ln.37 combined with P.4 Ln.28 or P.5 Ln.11	23. Custom dressmaking or millinery shops	9. General merchandising, general office, personal and business services, eating and drinking establishments, retail food and beverage; and 13. Light manufacturing and processing	Department recommendation: This use fits with existing definitions for Personal and business services (tailor and seamstress services); Light manufacturing and processing (apparel manufacture).
P.3 Ln.1 combined	24. Dancing studios, hula studios	8. Education, specialized	Department recommendation: This use fits with existing

with P.4 Ln.27			definitions for Specialized education.
P.3 Ln.2 combined with P.4 Ln.28	25. Delicatessens	9. General merchandising, general office, personal and business services, eating and drinking establishments, retail food and beverage	Department recommendation: This use fits with existing definition for Eating and drinking establishments.
P.3 Ln.3 combined with P.4 Ln.28	26. Drugstores	9. General merchandising, general office, personal and business services, eating and drinking establishments, retail food and beverage	Department recommendation: This use fits with existing definition for General merchandising.
P.3 Ln.4 combined with P.4 Ln.28	27. Dry goods and/or department stores	9. General merchandising, general office, personal and business services, eating and drinking establishments, retail food and beverage	Department recommendation: This use fits with existing definition for General merchandising.
P.3 Ln.5 combined with P.4 Ln.28	28. Grocery stores and meat markets	9. General merchandising, general office, personal and business services, eating and drinking establishments, retail food and beverage	Department recommendation: This use fits with existing definition for Retail food and beverage.
P.3 Ln.6 combined with P.4 Ln.28	29. Haberdasheries and women's apparel shops	9. General merchandising, general office, personal and business services, eating and drinking establishments, retail food and beverage	Department recommendation: This use fits with existing definition for General merchandising.
P.3 Ln.7 combined with P.4 Ln.28	30. Hardware and garden supply stores	9. General merchandising, general office, personal and business services, eating and drinking establishments, retail food and beverage	Department recommendation: This use fits with existing definition for General merchandising.
P.3 Ln.8 moved to P.5 Ln.10	31. Hotels	12. Hotels	Department recommendation: no change.
P.3 Ln.9 combined with P.4 Ln.28	32. Jewelry stores or fine art shops, including interior decorating	9. General merchandising, general office, personal and business services, eating and drinking establishments, retail food and beverage	Department recommendation: This use fits with existing definition for General merchandising.
P.3 Ln.11 combined with P.5 Ln.11	33. Laundry agencies or self-service laundries	13. Light manufacturing and processing	Department recommendation: This use fits with existing definition for Light manufacturing and processing.
P.3 Ln.12 combined with P.4 Ln.19	34. Museums	2. Assembly areas	Department recommendation: This use fits with existing definition for Assembly areas.
P.3 Ln.13 combined with P.4	35. Music conservatories or studios	8. Education, specialized	Department recommendation: This use fits with existing definitions for Specialized

Ln.27			education.
P.3 Ln.14 combined with P.4 Ln.28	36. Newsstands and magazine stands	9. General merchandising, general office, personal and business services, eating and drinking establishments, retail food and beverage	Department recommendation: This use fits with existing definition for General merchandising.
P.3 Ln.15 combined with P.4 Ln.28	37. Photography shops	9. General merchandising, general office, personal and business services, eating and drinking establishments, retail food and beverage	Department recommendation: This use fits with existing definition for Personal and business services.
P.3 Ln.16 combined with P.4 Ln.19	38. Physical culture establishments	2. Assembly areas	Department recommendation: This obsolete term may fit with existing definition for Assembly areas.
P.3 Ln.17 combined with P.4 Ln.19	39. Private clubs or fraternal and sororal organizations	2. Assembly areas	Department recommendation: This use fits with existing definition for Assembly areas.
P.3 Ln.19 combined with P.4 Ln.28	40. Professional buildings	9. General merchandising, general office, personal and business services, eating and drinking establishments, retail food and beverage	Department recommendation: This use fits with existing definition for General office.
P.3 Ln.20 combined with P.4 Ln.19	41. Religious, benevolent, philanthropic societies or functions	2. Assembly areas	Department recommendation: This use fits with existing definition for Assembly areas.
P.3 Ln.22 combined with P.4 Ln.28	42. Restaurants, cafes, or bars	9. General merchandising, general office, personal and business services, eating and drinking establishments, retail food and beverage	Department recommendation: This use fits with existing definition for Eating and drinking establishments.
P.3 Ln.23 combined with P.4 Ln.28	43. Shoe stores	9. General merchandising, general office, personal and business services, eating and drinking establishments, retail food and beverage	Department recommendation: This use fits with existing definition for General merchandising.
P.3 Ln.24 combined with P.4 Ln.28	44. Tailor, clothing or wearing apparel shops	9. General merchandising, general office, personal and business services, eating and drinking establishments, retail food and beverage	Department recommendation: This use fits with existing definition for General merchandising.
P.3 Ln.25 combined with P.5 Ln.38	45. Apartments, boardinghouses or lodging houses	20. Two-family dwellings (duplex), apartments, boardinghouses or lodging houses	Department recommendation: combine with two-family dwellings (duplex).
P.3 Ln.26 combined with P.4	46. Auctioneer establishments	2. Assembly areas	Department recommendation: This use fits with existing definition for Assembly areas.

Ln.19			
P.3 Ln.27 combined with P.5 Ln.11	47. Block printing establishments	13. Light manufacturing and processing	Department recommendation: This use fits with existing definition for Light manufacturing and processing.
P.3 Ln.28 combined with P.5 Ln.11	48. Printing, lithography, or publishing shops	13. Light manufacturing and processing	Department recommendation: This use fits with existing definition for Light manufacturing and processing.
P.3 Ln.29 moved to P.5 Ln.19	49. Public parking areas; provided, that none shall abut Front Street	15. Public parking areas; provided, that none shall abut Front Street	Department recommendation: no change
P.3 Ln.31 moved to P.5 Ln.21	50. Radio transmitting and television stations; provided, that antenna is not located in this district	16. Radio transmitting and television stations; provided, that antenna is not located in this district	Department recommendation: no change
P.3 Ln.33 combined with P.4 Ln.28	51. Retail stores or businesses	9. General merchandising, general office, personal and business services, eating and drinking establishments, retail food and beverage	Department recommendation: This use fits with existing definition for General merchandising.
P.4 Ln.1 combined with P.5 Ln.11	52. Sign-painting shops, if conducted wholly within completely enclosed buildings	13. Light manufacturing and processing	Department recommendation: This use fits with existing definition for Light manufacturing and processing.
P.4 Ln.3 moved to P.5 Ln.32	53. Historical tours...	11. Historical tours...	Department recommendation: no change
P.5 Ln.30		18. Subordinate uses and structures which are determined by the director of planning to be clearly incidental and customary to the permitted uses and structures listed herein.	Department recommendation: Add this to be consistent with language in other zoning district chapters.
Department's proposed update of 19.52.090.C, Height regulations			
P.6 Ln.1 19.52.090.C Height regulations	No building within historic district no. 1 and historic district no. 2 shall be more than two stories high, nor more than thirty-five feet in height.	No building within historic district no. 1 and historic district no. 2 shall be more than two stories high, nor more than thirty-five feet in height, <u>except for single-family and two-family dwellings (duplex), which are limited to thirty feet in height.</u>	Department recommendation: limit new single-family dwelling units and duplexes to thirty feet in height; existing buildings and structures are not affected.
Department's proposed update of 19.52.090.D, Yard spacing			
P.6 Ln.13	Yard spacing. Within historic	[Yard spacing] <u>Setback area.</u>	Department recommendation:

	district no. 1 and historic district no. 2, no yard spacing shall be required, except that for single-family dwellings, duplexes, guest houses or servants' quarters, a front yard of ten feet, a rear yard of fifteen feet, and a side yard of five feet shall be required.	Within historic district no. 1 and historic district no. 2, no [yard spacing] <u>setback area</u> shall be required, except that for single-family dwellings, duplexes, [guest houses or servants' quarters] <u>or additional dwellings</u> , a front [yard] <u>setback</u> of ten feet, a rear [yard] <u>setback</u> of fifteen feet, and a side [yard] <u>setback</u> of five feet shall be required.	change "yard spacing" to "setback area" and "yard" to "setback" for clarity and consistency with other parts of the zoning code.
County Council Resolution 20-166 proposed revisions to 19.52.090.F, Drinking in public			
p.6 Ln.26 19.52.090.F Drinking in public	It is unlawful to consume any intoxicating liquor, whether medicated, proprietary, patented, or not, in whatever form and of whatever constituency and by whatever name called, containing one-half of one percent or more of alcohol by volume, which are fit for use or may be used or readily converted for use for beverage purposes, in any public street, park, or open space that is owned or maintained by a governmental agency, without the expressed approval of the responsible government agency having administrative authority over the public street, park or open space, and the cultural resources commission, or in any street, park, or open space which is privately owned without the expressed approval of the owner of the property; provided, however, that recreational areas under the jurisdiction of the department of parks and recreation shall be excluded from the restrictions set forth in this subsection. Any person violating this subsection shall be fined not more than five hundred dollars, or imprisoned for not more than thirty days, or both.	Drinking in public. It is unlawful to consume [any] intoxicating liquor[, whether medicated, proprietary, patented, or not, in whatever form and of whatever constituency and by whatever name called, containing one-half of one percent or more of alcohol by volume, which are fit for use or may be used or readily converted for use for beverage purposes,] in any public street, park, or open space that is owned or maintained by a governmental agency, without the expressed approval of the responsible government agency having administrative authority over the public street, park or open space, and the cultural resources commission, or in any street, park, or open space [which] that is privately owned without the expressed approval of the owner of the property[; provided, however, that recreational areas under the jurisdiction of the department of parks and recreation shall be excluded from the restrictions set forth in this	County Council Resolution 20-166 recommendation: Expand alcohol prohibition to include parks managed by Department of Parks & Recreation; include HRS definition of "intoxicating liquor"; and other minor revisions.

		subsection]. <u>"Intoxicating liquor" means the same as in section 281-1 of Hawaii Revised Statutes.</u> Any person violating this subsection [shall] will be fined not more than [five hundred dollars,] \$500 or imprisoned for not more than thirty days, or both.	
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The proposed bill was reviewed by Department staff and the Departments of Parks and Recreation, Housing and Human Concerns, and Public Works, and the Maui Police Department. The Department of Parks and Recreation provided a copy of the comments they provided to Councilmember Paltin; these comments were not incorporated into the original bill that was transmitted by Resolution No. 20-166 but are provided for the Commission's consideration (attached). The proposed bill was also reviewed by the Maui County Cultural Resources Commission on February 4, 2021.

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.

Attachment A

Section 19.04.040, Maui County Code – Definitions

"Amusement center" or **"entertainment establishment"** means any indoor or outdoor establishment where entertainment, either passive or active, is provided for patrons, either as spectators or participants and either independently or in conjunction with any other use. Examples of entertainment include presentations, performances, or activities that include music, dancing, acting, comedy, or other theatrical shows, whether live or recorded; nightclub activities; karaoke; the playing of games such as video games or darts; and other activities provided for the pleasure, diversion, or amusement of patrons.

"Assembly area" means facilities with fixed seats or large spaces designed to accommodate temporary seating on a regular basis for gathering for events or open exhibition halls. Examples include theaters, churches, auditoriums, libraries, auctioneer establishments, museums, art galleries, meeting rooms and spectator sports arenas.

"Automobile services" means a facility providing fueling, greasing, lubrication, rental, and cleaning services (including car washing or detailing) for vehicles. Additional services may include, but are not limited to, minor engine repair, such as replacement of spark plugs, batteries and tires; minor repair of engine parts such as fuel pumps, oil pumps and lines, belts, carburetors, brakes, mufflers, and emergency wiring; radiator cleaning and flushing; towing; safety inspections; and motor adjustments not involving repair of head or crankcase. Services not included are tire recapping and regrooving; body work, such as straightening of frames or body parts; steam cleaning; welding; painting; and storage of automobiles not in operating condition.

"Day care facility" means a facility where persons are cared for on an intermittent basis, but not continuously over a twenty-four hour period, such as, but not limited to, adult day care, preschools, and day nurseries.

Education, general. **"General education"** means a facility offering a general educational curriculum, such as, but not limited to, kindergartens, elementary, intermediate, and high schools, and colleges and universities.

Education, specialized. **"Specialized education"** means a facility that offers a specialized educational curriculum, such as, but not limited to, trade and vocational, language, research and learning, music, dance, art, yoga, and martial arts.

"General merchandising" means businesses within permanent enclosed facilities engaged in the retail sale or rental of goods, including, but not limited to, retail stores, drugstores, department stores, electronic and communication stores, hardware stores, home furnishing stores, pet stores, garden shops, and equipment rentals.

"General office" means facilities used for the practice of a profession, the conduct of public administration, or the administration of business or industry. Examples include offices for government agencies, non-profit organizations, financial, insurance, and real estate companies, professional practices (except medical and dental), television and radio stations, and data networking facilities.

"Personal and business services" means establishments that offer specialized goods and services frequently purchased by individual consumers and businesses. Examples include, but

are not limited to, barber shops and beauty salons; medical, dental, or similar health care services; massage services; photography laboratories and studios; financial institutions; taxi services; tailor and seamstress services; post office and parcel delivery; travel agencies; laundromats; and printing and duplicating shops.

"Eating and drinking establishments" means a business engaged in the preparation and serving of food and beverages to customers, such as, but not limited to, restaurants, delicatessens, cafes, bars, and nightclubs, and also includes a mobile food truck if the vehicle or trailer is parked on the same lot for more than three consecutive days.

Food and beverage, retail. **"Retail food and beverage"** means businesses engaged in the retail sale of food and beverage products, such as, but not limited to, supermarkets, convenience stores, bakeries, liquor stores, and catering establishments.

"Hotel" or **"motel"** means a transient vacation rental, excluding bed and breakfast homes and short-term rental homes.

"Light manufacturing and processing" means enclosed facilities for the production or assembly of products, other than food or agricultural products, involving limited or minor emissions of odors, fumes, noise, vibrations, heat, glare, or electrical interference to the exterior, such as, but not limited to, commercial laundries, laundromats, craft industries, apparel manufacture, and small craft assembly plants.

Parking area, public. **"Public parking area"** means an open area, other than a street or alley, used for the parking of automobiles and available for public use whether free, for compensation, or as an accommodation for clients or customers.

Dwelling, single-family. **"Single-family dwelling unit"** means a building consisting of only one dwelling unit designed for or occupied exclusively by one family.

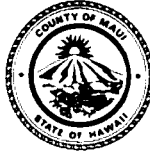
Dwelling, two-family, or duplex. **"Two-family dwelling unit"** means a building consisting of only two dwelling units designed exclusively for occupancy by two families living independently of each other.

"Apartment" or **"apartment unit"** means one or more rooms with private bath and kitchen facilities comprising an independent self-contained dwelling unit in a building containing three or more dwelling units.

"Boardinghouse" means a long-term residential use in a building having not more than five bedrooms where at least one meal may be provided for no more than five persons for compensation.

"Lodging house" means a long-term residential use of any building or groups of buildings or portion thereof having no more than nine bedrooms for three or more unrelated persons and meals are provided.

29/1/20
KATHY L. KAOHU
County Clerk
RECEIVED



JAMES G.M. KRUEGER
Deputy County Clerk

RECEIVED

2020 DEC -1 PM 2:45

OFFICE OF THE MAYOR

'20 DEC -7 P1:15

COUNTY OF MAUI
DEPT OF PLANNING
ADMINISTRATION

OFFICE OF THE COUNTY CLERK

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

December 1, 2020

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

APPROVED FOR TRANSMITTAL

Michael P. Victorino 12-2-20
Mayor Date

For transmittal to:

Ms. Michele McLean
Planning Director
County of Maui
Wailuku, Hawaii 96793

Dear Ms. McLean:

Transmitted herewith is a copy of Resolution No. 20-166 which was adopted by the Council of the County of Maui, State of Hawaii, on November 20, 2020. Please replace this copy with the one you received earlier as Exhibit "1" was not attached. We apologize for any inconvenience this may have caused.

Respectfully,

Kathy L. Kaohu

KATHY L. KAOHU
County Clerk

/lks

Enclosure

Resolution

No. 20-166

REFERRING TO THE LANAI, MAUI, AND
MOLOKAI PLANNING COMMISSIONS A
PROPOSED BILL RELATING TO UNLAWFUL
CONSUMPTION OF INTOXICATING LIQUOR IN
HISTORIC DISTRICTS 1 AND 2 (LAHAINA)

WHEREAS, the Council is considering a proposed bill to establish the consumption of intoxicating liquor in recreational areas under the jurisdiction of the Department of Parks and Recreation is unlawful in the Historic Districts 1 and 2 (Lahaina); and

WHEREAS, Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended, require that the appropriate planning commissions review proposed land use ordinances and provide findings and recommendations to the Council; now therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it refers the proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 19.52.090, MAUI COUNTY CODE, RELATING TO UNLAWFUL CONSUMPTION OF INTOXICATING LIQUOR IN HISTORIC DISTRICTS 1 AND 2 (LAHAINA)," a copy of which is attached as Exhibit "1," to the Lanai, Maui, and Molokai Planning Commissions for appropriate action, in accordance with Sections 8.8.4 and 8.8.6 of the Revised Charter of the County of Maui (1983), as amended, and to the Maui County Cultural Resources Commission;
2. That it respectfully requests that the Lanai, Maui, and Molokai Planning Commissions and the Maui County Cultural Resources Commission transmit their findings and recommendations to the Council as expeditiously as possible; and

Resolution No. 20-166

3. That certified copies of this resolution be transmitted to the Mayor, the Planning Director, the Maui County Cultural Resources Commission, and the Lanai, Maui, and Molokai Planning Commissions.

APPROVED AS TO FORM AND LEGALITY

A handwritten signature in black ink, appearing to read "Nini Aupuni", is written over a horizontal line.

Deputy Corporation Counsel
County of Maui

paf:ans:20-308a

Exhibit "1"

ORDINANCE NO. _____

BILL NO. _____ (2020)

A BILL FOR AN ORDINANCE AMENDING SECTION 19.52.090, MAUI COUNTY CODE, RELATING TO UNLAWFUL CONSUMPTION OF INTOXICATING LIQUOR IN HISTORIC DISTRICTS 1 AND 2 (LAHAINA)

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

SECTION 1. The purpose of this Ordinance is to establish the consumption of intoxicating liquor in recreational areas under the jurisdiction of the Department of Parks and Recreation is unlawful in the Historic Districts 1 and 2 (Lahaina).

SECTION 2. Section 19.52.090, Maui County Code, is amended by amending subsection (F) to read as follows:

"F. Drinking in public. It is unlawful to consume [any] intoxicating liquor[, whether medicated, proprietary, patented, or not, in whatever form and of whatever constituency and by whatever name called, containing one-half of one percent or more of alcohol by volume, which are fit for use or may be used or readily converted for use for beverage purposes,] in any public street, park, or open space that is owned or maintained by a governmental agency, without the expressed approval of the responsible government agency having administrative authority over the public street, park or open space, and the cultural resources commission, or in any street, park, or open space [which] that is privately owned without the expressed approval of the owner of the property[; provided, however, that recreational areas under the jurisdiction of the department of parks and recreation shall be excluded from the restrictions set forth in this subsection]. "Intoxicating liquor" means the same as in section 281-1 of Hawaii Revised Statutes. Any person violating this subsection [shall] will be fined not more than [five hundred dollars,] \$500 or imprisoned for not more than thirty days, or both."

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

SECTION 4. This Ordinance takes effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

paf:alkl:20-258b

COUNCIL OF THE COUNTY OF MAUI

WAILUKU, HAWAII 96793

CERTIFICATION OF ADOPTION

It is HEREBY CERTIFIED that RESOLUTION NO. 20-166 was adopted by the Council of the County of Maui, State of Hawaii, on the 20th day of November, 2020, by the following vote:

MEMBERS	Alice L. LEE Chair	Keani N. W. RAWLINS- FERNANDEZ Vice-Chair	G. Riki HOKAMA	Natalie A. KAMA	Kelly T. KING	Michael J. MOLINA	Tamara A. M. PALTIN	Shano M. SINENCI	Yuki Lei K. SUGIMURA
ROLL CALL	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye



COUNTY CLERK

MAUI COUNTY CULTURAL RESOURCES COMMISSION
REGULAR MINUTES
FEBRUARY 4, 2021

A. CALL TO ORDER

The regular meeting of the Maui County Cultural Resources Commission (Commission) was called to order by Chairperson Yvette Celiz at 11:02 a.m., Thursday, February 4, 2021, via BlueJeans meeting no. 975316339.

Ms. Kehler: Members, if you wanna go ahead and unmute your video at this time that would be great. Thank you.

Ms. Spenser: Aloha. This is Commissioner Spenser. My video is just not working today. My apologies.

Ms. Kehler: Oh, that's okay. Thank you for letting us know.

Ms. Spenser: Mahalo.

Ms. Kehler: Thank you. Okay, and I'm going to ask applicants and consultants if they can leave their video and microphone muted until the item is called. Thank you.

Chair Celiz: Annalise, could you do a roll call and see how many members are present?

Ms. Kehler: Sure. So, on my list right now, I have Chair Celiz --

Chair Celiz: Here.

Ms. Kehler: Member Bassford. Ian, are you there? Okay, I see Ian on the thing, but he's not showing up. Maybe he walked away from his chair. We have Vice-Chair Kanahele.

Mr. Kanahele: Present.

Ms. Kehler: Okay. Hi. Thank you. And then we know Member Spenser is here 'cause we just heard from her. And Member de la Cruz is here. So, that's five. Do we have any other members on the call? Oh, I see Brandis is here. Okay. Member Sarich. That's six, six members.

Chair Celiz: Alright, thank you, Annalise. We can go ahead and get started.

Ms. Kehler: Okay.

Chair Celiz: Alright, good morning, everyone.

Ms. Kehler: Sorry, just one more reminder to the members who are on the call, if they are able to, just unmute your video so we can see you. Thank you.

Chair Celiz: Alright, thank you. This is our first meeting of the year since January was canceled, so Happy New Year everyone. Today is January -- I mean today is February 4, 2021, and the time is 11:02 a.m. The Cultural Resources Commission is now called to order. Public testimony will be taken when each agenda item is discussed. Testimony will be limited to a maximum of three minutes with thirty seconds to conclude. So, if you'd like to testify, please send a message in the event chat to notify staff with your name and the agenda item, and please keep your video and audio muted until you are called to offer your testimony. So, we'll start with agenda item B:

Chair Celiz read the following agenda item into the record:

B. NEW BUSINESS

- 1. Maui County Council requesting review of a proposed bill amending Section 19.52.090, Maui County Code, relating to unlawful consumption of intoxicating liquor in County Historic District Nos. 1 and 2 (Lāhainā), as referred to the Cultural Resources Commission by Resolution No. 20-166. The Department of Planning is proposing minor updates to Section 19.52.090, Maui County Code as well.**

The Commission may review amendments to current laws relating to historic sites pursuant to Resolution No. 20-166 and Subsection 2.88.060.M.3, Maui County Code

Chair Celiz: At this time, we'd like to open public testimony for this item. Is there anyone wishing to testify? Alright, seeing none, we will close public testimony. Annalise, could you present the memo report?

Ms. Kehler: Yes. So, the item before you today is -- is really two parts. So, both parts deal with changing the Historic District ordinance, so the Historic District ordinance, we typically deal with it on a development side, so it regulates how things look, but it also regulates what kind of uses and activities are allowed in the Historic District, and so we have one request from County Council and they've introduced a bill to change the uses and activities section as it relates to drinking in public parks, and then the Planning Department, while we were reviewing the Resolution from Council with the amendment, we decided that we would take this as an opportunity to propose a few additional housekeeping items ourselves.

So, first I'd like to tackle the Council Resolution part about intoxicating liquor, and then we can vote on that, and then we'll deal with the Department's recommended changes,

vote on that, if that's okay with you, Chair. Okay, perfect. So, the Council Resolution, it, in the Resolution, it requests your review, and then you're also authorized to review changes to laws that affect historic properties in Chapter 2.88, of the Maui County Code. So, the -- sorry, I'm getting some feedback. If you're not speaking, can I just ask everyone to mute your microphones. Okay, so the Council-introduced bill, what it does, basically, is it -- is intended to make it very clear that consuming alcohol in a public park in Districts 1 and 2, which are in Lahaina, is not allowed, okay, and it also proposes to change the definition of "intoxicating liquor" so that it's compatible and consistent with the State definition, so, right now, we have our own definition and Council just wants to clean that up and change it. So, on page 2, of your staff report, I've included a list of what we know to be the County-owned or controlled parks within Districts 1 and 2. Some of these properties are leased, and then some are currently under Parks' control, and so I watched the Council meeting where this Resolution was introduced, and Councilmember Paltin, as the introducer of the motion, stated that the issue came up as a recommendation from the Clean and Safe Program in Lahaina, it's -- I guess it's kind of a like a social program that helps deal with kind of like some social services issues in Lahaina, there's one in Wailuku as well, and one of their recommendations was just to clarify this drinking issue, and it was also noted at that Council meeting that drinking in some of these parks has been promoting some really inappropriate behaviors, and we all know that that's not good because some of these parks contain extremely significant cultural properties and we wanna make sure that people are behaving appropriately in these areas. And the last thing that was noted during that Council meeting is that prohibiting drinking at these parks would be consistent with the alcohol prohibition at other County parks. So, I do want to make one additional note about that issue. I spoke with the Parks Department yesterday and it's come to my attention that there's another section of the code that they administer, and so we have our section and we deal with parks in -- in the Historic Districts, but then they deal with parks and they administer the entire parks code in a different chapter of the County Code, and so the language in this bill will need to kind of matchup or be consistent with the language in that code, so this item is likely to come before you again at a later date just to kind of clarify some of the language and make sure that we're consistent across the board with the two laws so that they're speaking to each other. So, be mindful that this is not the last that you'll hear about this -- this drinking in the public park issue.

I do want to note that, at the meeting, at the Council meeting, Councilmember Paltin said that she had reached out to several folks in the Lahaina community and that they were strongly supportive of prohibiting drinking in the public parks there, and so that's -- that's really like the sum of the Council-introduced change, and so, on the last -- on page 9, of the staff report, I've laid out four options for you for to take action on. So, the first is that you can recommend Council approves the proposed bill as it's written; the second is that you can recommend the Council approve the bill with amendments, so, basically, you like the bill but here's a couple of suggestions that I would change; the third is you recommend that the County Council deny the bill, so that would be saying we don't like the bill at all,

don't pass it; and then the fourth would be to defer action on the bill and then gather additional information, so if you feel like you don't have enough information and you want me to get that information for you and discuss this at a later date, I can do that, so that's number four.

And then before we get into discussion, I wanna point out one last thing. So, attachment number one, in your staff report, contains the language as proposed by Council, and so it's four pages in is where you'll see verbatim what exactly is being proposed, so everything that's bracketed is proposed to be removed, and anything underlined is proposed to be inserted. So, I just wanted to make that clear. I'm not going to read it out loud to you guys 'cause I know you already read it and if you have any questions about it, let me know.

Chair Celiz: Alright. Any discussion or questions from the Commission at this time?

Mr. Kanahele: Chair?

Chair Celiz: Alright, go ahead, Vice-Chair Kanahele.

Mr. Kanahele: This is Commissioner Kanahele. So, I have a couple of questions.

Chair Celiz: Oh, yes, go ahead.

Mr. Kanahele: Are you -- are you here, basically, speaking for the -- the Planning Department on -- on these recommendations or is there somebody else also here ... (inaudible)...

Ms. Kehler: Oh, well, we -- we have our Administrative Planning Officer here, but what - what this first issue about the Resolution came from, basically, is from Council, so they submitted a letter to our Department saying please take this to the Cultural Resources Commission for comments. I'm not sure if that answers your question.

Mr. Kanahele: So, there's no one here for the -- from the County Council?

Ms. Kehler: No. No one here from the County Council.

Mr. Kanahele: Okay, so, yeah, the questions I have maybe you can answer them. It's kind of -- it seems like this change is complaint -- this -- this recommendation for a change in the language of the ordinance appears to be complaint driven. Is that correct?

Ms. Kehler: I think so. Yes. We did hear, just on my own observations during the community planning process recently in West Maui, we did hear that that -- that had been an issue in the Historic Districts, and it appears, based on the interaction that I heard

during a Council meeting, that, yes, it was a recommendation based on the Clean and Safe Program that this be changed or clarified so that it doesn't happen anymore.

Mr. Kanahele: And who administers the Clean and Safe Lahaina Program?

Ms. Kehler: To be honest with you, I am -- I am not totally sure. I think the County funds some it, but I -- I'll write that down and I'll look into that for you.

Mr. Kanahele: So, I just wanted to know if it's an actual organization or is there an administrator. I mean, it said that the -- the recommendations, the issue came up as a recommendation from the Clean and Safe Lahaina Program and that other organizations -- so I was just wondering if this is an entity, like a nonprofit or is it something that's part of the -- the County or it's some sort of program. I'm not familiar with it. I just wanted to know who -- who they are, who is the person in charge of that.

Ms. Kehler: I think -- yeah. I think it is a nonprofit organization that receives County funding, but beyond that, I am not sure, so I'll make a note about the Clean and Safe Program, find out more about it.

Mr. Kanahele: Chair, if it's okay, I have another question unless somebody else would like to ask a question and you can circle back to me. Chair, are you there?

Chair Celiz: Sorry. My microphone was muted. Yeah, I'll come back to you, Vice-Chair Kanahele.

Mr. Kanahele: Okay, thank you.

Chair Celiz: Commissioner Sarich, you had a question or comment?

Ms. Sarich: I just had a question for Annalise, and I apologize if I wasn't understanding this, but does this affect existing businesses? This is just unlawful drinking, correct? But it's not going to affect businesses that have a liquor license?

Ms. Kehler: No. This is strictly for public parks in the County Historic District.

Ms. Sarich: Okay. Thank you.

Ms. Kehler: So, yeah. Yeah. No problem. I just got an email about the Clean and Safe Program that it is County-funded, and it's run by Lawrence Kauhaahaa, who I believe is a former Maui Police Department Officer.

Chair Celiz: Alright. Thank you for the information. Vice-Chair Kanahele, you had another question?

Mr. Kanahele: Yes. Thank you. So, getting back to the ordinance as it -- it now stands, just, basically, consumption of intoxicating liquor is basically prohibited or unlawful in any public street, park, or open space that is owned or maintained by a government agency, and -- and then there's a section, which reads: Provided, however, that recreational areas under the jurisdiction of the park -- Department of Parks and Recreation shall be excluded from the restrictions set forth in this subsection. So, there's an exclusion to this law and it's -- it's -- what is excluded is -- is recreational areas under the jurisdiction of the Department of Parks and Recreation. Is -- is that correct, as I read it? Is that -- I guess my second part to my question is why -- why is there this exclusion and it's -- and it seems like they're going to remove the exclusion, so why is the exclusion there in the first place? I don't know if you can answer that. And, basically, the -- the language, the new language, is going to remove that exclusion and also include parks that are under the jurisdiction of Parks and Recreation. I just wanted to clarify, a little bit more clarity on that, those questions. Thank you.

Chair Celiz: Sorry. I was having some technical issues. Can you guys hear me? ... (inaudible)...

Ms. Kehler: Hi. I'm back. Sorry. I don't know what happened. I lost connection for a second. Okay, so the last I heard was Vice-Chair Kanahele asking about this exception or exclusion, and then there was a second part of the question but I didn't hear that. Would you mind repeating ... (inaudible)...

Mr. Kanahele: Yeah, my -- yeah, my question why is those parks under the jurisdiction in Parks and Recreation excluded from this law, and there must have been a reason for that, and I'd kinda like to know why. And then it seems that this Resolution wants to remove that exclusion and include parks that are under the jurisdiction of Parks and Recreation specifically in these two Historic Districts.

Ms. Kehler: Okay. So, first part is yes, there currently is an exception, and yes, the Council-introduced bill proposes removing that exception. I -- I cannot speak to why there currently is and why it is being removed, however, I can say that Parks Department will be coming here to meet with you folks at a future meeting to talk a little bit more about this and how it aligns with language in Chapter 13. And hang on. I just got another email explaining -- okay. Oh, okay. Sorry, I -- there was information shared at the Council meeting that I had forgotten about and I was just reminded about it. So, I guess, historically, not historically, but many, many years ago, people used to play baseball at Malu Ulu O Lele Park, and after softball or baseball games, they like to drink, and so that was where we think that exception came from. So, there is that answer. Why it's being removed now, I cannot say, but I can say that Parks will be coming back before you to speak a little bit about this part, this exception part, and how it relates to their code. Oh--

Mr. Kanahele: Because it seems to me that if it's under the jurisdiction of Parks and Recreation, wouldn't -- wouldn't they have the authority to restrict drinking -- restrict drinking in their -- the parks over which they have jurisdiction right now? Couldn't they do that without - I'm just asking the question - without changing the law?

Ms. Kehler: I don't know. Stephanie, do you know if Parks can restrict drinking without changing the law? You're muted.

Ms. Chen: So, Chair, if I may answer.

Chair Celiz: Yes.

Ms. Chen: Hi, Commission. Commissioners, so I don't know the exact answer to that question. I mean, it's pretty unusual. Parks is not -- they don't really do law enforcement. So, I'm not sure about the history of this but I was wondering if, Annalise, if you had any information regarding Parks -- the Department of Parks and Recreation's support of these proposed amendments? Perhaps that would be helpful to the Commission, and if -- if you don't have information regarding Parks' support of this, then that may be helpful as well.

Ms. Kehler: Sure. So, I can't speak to support but I can say that there's some language that they want to change that's -- that's in this Resolution as it's written just so it talks to and is consistent with their code 'cause, right now, there's two parks in the -- in the current park code that are also in the Historic District that are spoken about so -- and that's Kamehameha Iki and Malu Ulu O Lele, and the language that's in the Parks code right says, "Except as otherwise authorized by permit, license, lease, or concession issued in accordance with the code, it is unlawful for any person to consume any intoxicating liquor while within the boundaries of the following parks," and then it says, specifically, Kamehameha Iki and Malu Ulu O Lele, which are both in the Historic District, so that's where this inconsistency comes in and how this code is saying, okay, you can't drink in these areas unless you're authorized by a permit, and this one, in the Resolution, is a flat-out ban, period. No drinking ever.

Mr. Kanahele: Also, Chair, if I could -- if I could just make a quick comment on what I've just heard and like a little bit of my concern.

Chair Celiz: Yes, Vice-Chair Kanahele, go ahead.

Mr. Kanahele: You know, sometimes when things are done and we don't know the historic background of it, we'll make a decision and not knowing whether it's the right or wrong decision because we don't know why the law was -- was -- the language in the law was put in the way it was, so I -- I, personally, would like to hear from the Parks Department and what their feelings and -- are with regards to these changes in the ordinance and whether they support it or not, and I'd also like to have a little bit more

clarity about why this exception was in their in the first place. And I'm a little bit confused because it seems to me that if the Parks have jurisdiction over their parks, that they could prohibit drinking, they could put signs up, something along that nature, so I'm -- I just feel like I don't -- for me, personally, I don't feel like I -- I think I need additional information to make a decision based on what I've heard so far unless I hear something from the Parks Department. If someone in the Parks Department can speak to this that would be great. Thank you, Chair. I don't have any further questions.

Chair Celiz: Alright, thanks, Vice-Chair Kanahele, for sharing your thoughts. Do we have any thoughts or questions from any of the other Commissioners or any discussion on this? Yes, Commissioner Randy.

Ms. Wagner: I'm just curious why some parks are under Parks and some are under historic, and how is that decided?

Ms. Kehler: The -- well, so the list of parks that are on page 2, of the staff report, they're all, technically, under Parks' control, but they're also -- they also have Historic District zoning, so there's an overlapping 'cause Parks' jurisdiction and then Historic District zoning, so we need to make sure that whatever we're doing, it's consistent and compatible across the ordinances.

Ms. Wagner: Okay. Thanks.

Chair Celiz: So, just adding on to that to clarify, Annalise, the proposed law is for over all of the County parks, I'm just making that ...(inaudible)... so there's some parks located in the cultural and Historic District, that's why it's coming us to comment on.

Ms. Kehler: No, actually, the -- the Resolution from Council is specific to the -- the parks in the district.

Chair Celiz: Oh, okay.

Ms. Kehler: Yeah.

Chair Celiz: Stephanie mentioned that there was other parks that have alcohol prohibition and they wanted to get these parks also in line with that.

Ms. Kehler: There are other parks that do have alcohol prohibitions but they're not part of this amendment. Yeah.

Chair Celiz: Okay, thank you, Annalise. Any other questions? Yes, Commissioner Sarich.

Ms. Sarich: Did you hear at the Council, are there people who are actually against this?

Ms. Kehler: No. There was actually no testimony. It was just Councilmember Paltin had shared that she spoke with several different groups, including like Lahaina Town Action Committee, and Lahaina Restoration Foundation, and Keeaumoku Kapu, and folks like that, and they were supportive.

Ms. Sarich: Okay.

Ms. Kehler: But no testimony and no testimony against.

Chair Celiz: Commissioner Bassford.

Mr. Bassford: Thank you, Chair. I've spoken with Keeaumoku about this issue in the past. This is -- the idea, my understanding of this, is to try to help clean up Lahaina Town to stop the vagrancy, and the homeless, and the open intoxication that occurs in those parks because those parks do all have cultural historical significance, they contribute to the overall quality of Lahaina Town, and having that type of unruly behavior, lewd behavior, things like that lead to other types of drug issues, such as needles, which I've observed myself out there. The truth of the matter is is that it's one thing for a couple bruddahs to go play a game of basketball or a game baseball and have a couple of coldies in the parking lot versus a bunch of bums sitting under a tree, getting drunk, drinking hard liquor, harassing people, which could -- which help dampens and tarnishes the overall image of Lahaina. I, for one, completely support this a hundred percent. I know that if I want to go to Wahikuli Park, which is a park where locals go to have a couple beers at the end of the day, five-0 is not going to roll up on me and give me a problem unless I'm the one who's causing a problem. So, just for the record, I wanna say I support this a hundred percent. Thank you very much.

Chair Celiz: Thank you, Commissioner Bassford. Any additional comments, questions? So, I'm hearing that, you know, we want to gather additional information but also Commissioner Bassford, you know, also really supports the proposed bill. Does anybody want to introduce a motion or do you need any further discussion on this on whether we should wait to hear more information or, you know, I, personally, support the bill as well. I mean, I'm not sure about the specific language, but at least, you know, for these historic -- historic parks that I would also support an alcohol ban but, again, I know there's always concern about making sure we understand the history of why this was brought up, so any discussions or -- yes, Commissioner --

Mr. Kanahele: Yeah ...(inaudible)...

Chair Celiz: I'll hear from Commissioner Bassford first just 'cause I saw his hand raised, and then, after that, Vice-Chair Kanahele can speak.

Mr. Bassford: Thank you, Chair, and pardon me, Commissioner Kanahele. I'm not saying that we should vote on this today. I'm just expressing my support about this. I'm happy to agree to defer if we all need further information. I think that the fact that the County is going to be coming back to us on this kind of same issue, I think that we have a little bit of leeway there, so I agree with Commissioner Kanahele that maybe we ought to get everything and just do 'em one time, pau, rather than piecemeal it out, so I support it but I'm happy to -- to defer for additional information. So, that's all good. Thank you very much.

Chair Celiz: Thank you. Vice-Chair Kanahele.

Mr. Kanahele: Yeah, I was pretty much -- Commissioner Bassford took the words out of my mouth, but, yeah, since I feel like if the -- if the Parks, if the County, if this is going to come back to us anyway and -- and I think I heard Annalise say that Parks would be also perhaps present because of some changes they want to make and -- and I think other related laws that are also related to this that it would make more sense to get all the information we can and do everything at one time at that -- at that point. I do -- I do feel that anything that would take away from the historic and sacred nature of Lahaina Town, so unruly behavior related to intoxication is something that should definitely address and if these changes are -- are going to address that, I would support it, but I, personally, feel I'd like to have a little bit more information and -- and perhaps do everything one time moving forward, so unless there are any other comments, I would make a motion to defer the proposed bill for the purpose of gathering additional information.

Chair Celiz: Do we have a second that motion? Commissioner Bassford will second that motion?

Mr. Bassford: I'll second.

Chair Celiz: Alright.

Ms. Wagner: Can I make a comment?

Ms. Chen: Any discussion --

Chair Celiz: Oh yes. How about, yeah, any discussion on the motion? You can go ahead.

Ms. Wagner: Yeah, I think that we should add into the motion that we support the intent of the bill and that we are waiting for the further information so that it can be finessed to be proper and consistent.

Chair Celiz: Alright. Do we need to make a friendly amendment for that or is that something we can just add on?

Ms. Chen: Thanks, Chair. Yeah, if Commissioner Kanahele would adopt that as a friendly amendment then --

Mr. Kanahele: I would -- I would -- I would adopt that as a friendly amendment. I like the addition. Thank you, Randy. Commissioner Wagner.

Ms. Chen: Okay, and, Commissioner Bassford, just for the record, you're fine with that as the seconder?

Mr. Bassford: Yes.

Ms. Chen: Okay.

Chair Celiz: Alright, so we'll, if there's no further discussion, we'll take a vote on this motion. Annalise, could you do the roll-call vote?

Ms. Kehler: Sure. Chair?

Chair Celiz: Aye.

Ms. Kehler: Vice-Chair?

Mr. Kanahele: Aye.

Ms. Kehler: Member Sarich.

Ms. Sarich: Aye.

Ms. Kehler: Member de la Cruz. Oh --

Mr. de la Cruz: I'll sustain on that.

Ms. Kehler: I'm sorry?

Mr. de la Cruz: I'll sustain on that vote.

Ms. Kehler: Okay, you're --

Mr. de la Cruz: I'm not for. I'm not against. I'll ...(inaudible)... 'cause I want to know what was the ... as Commission Ian B is to, you know, to control the homeless and I don't think I wanna be a part of trying to control the homeless people.

Ms. Kehler: Okay, so you're going to -- sorry, go ahead.

Mr. de la Cruz: I sustain ...(inaudible)...

Ms. Chen: Sorry, Commissioner de la Cruz.

Mr. de la Cruz: Pardon?

Ms. Chen: Sorry. If I could interrupt. The motion on the floor is to defer -- defer transmittal of comments to Council pending receipt of additional information.

Mr. de la Cruz: Oh, is that all?

Ms. Chen: So, is that in line with -- is that ...(inaudible)...

Mr. de la Cruz: So, it's my misunderstanding. Okay, it was my misunderstanding, and I didn't know that this vote was to defer it. I thought that this was for number two.

Ms. Chen: Okay.

Mr. de la Cruz: Okay.

Ms. Chen: So, it sounds like that's ...(inaudible)...

Mr. de la Cruz: My -- my mistake.

Ms. Chen: Okay, so perhaps, Annalise, you could call for Commissioner de la Cruz's vote again.

Mr. de la Cruz: If it's for number four, yes. I vote yes.

Ms. Kehler: Okay. Thank you.

Mr. de la Cruz: Am I being understood?

Ms. Kehler: Yes. You're -- you're voting in favor of the motion on the floor, which is to defer and to gather information with the friendly amendment that the intent of the bill is supported.

Mr. de la Cruz: Okay. Yes.

Ms. Kehler: Okay. Okay. Thank you, Member de la Cruz. Member Spenser?

Ms. Spenser: Aye.

Ms. Kehler: Thank you. Member Wagner?

Ms. Wagner: Aye.

Ms. Kehler: Thank you. Member Bassford?

Mr. Bassford: Aye.

Ms. Kehler: Okay, I think that takes care of any -- everyone. Did I miss anyone? If so, please shout your vote out.

Chair Celiz: Yeah, I think that's everyone.

It has been moved by Commissioner Daniel Kanahele, seconded by Commissioner Ian Bassford, then unanimously

VOTED: to defer transmittal of its comments on the proposed bill to gather additional information, and that the Commission supports the intent of the bill.

(Assenting: I. Bassford; Y. Celiz; A. de la Cruz; Daniel Kanahele; B. Sarich;
E. Spenser; M. Wagner)

(Absent: L. Albino)

(Excused: T. Lee-Greig)

Ms. Kehler: Okay, so we've taken care of the first half of this item, now let's -- let's talk about the second half. So, the second half is changes that have been initiated by my Department. So, we -- when we, like I mentioned before, when we got this Resolution from Council, I started going through the list of uses that are obtained in the same section as the liquor prohibition, so that's Section 19.52.090, of the Maui County Code, and I -- several other folks in my Department reviewed it as well, and so we thought that we would take this opportunity to kinda clean it up a little bit.

A lot of this section is very, very old, like really old, where I think I found where this -- most of the uses came from and it came from an ordinance that was written in 1958, and it was eerily similar to a -- a Santa Fe Historic District ordinance, so, anyway, there are 53 uses listed in this section, that's a lot, that's like excessive, and so the Department is proposing

to consolidate those 53 uses into 19 uses, and that is without any loss or change of uses. So, 53, as I mentioned, is like excessive, and so rather than giving an exhaustive list of every imaginable -- imaginable use, we propose replacing specific uses with more broad general categories, and these categories are already defined in our zoning code, so I should also mention that of these 53 uses, a lot of them don't even have definitions, so kind of compressing this down into general categories where most of these things fit under is the first part of the Department's recommended changes, and, as I mentioned, most of the categories that are listed in the Historic District ordinance, they're already covered in these general topics, and so this table, it begins on page 3, of your staff report, and it goes all the way to page 9. In the first column, you'll see every single use that's currently allowed in the district, and then in the second column, or, sorry, it's rather the existing term, that would be the second column, that's where you'll see the existing uses, so single-family dwellings, greenhouses, parks and playgrounds, etcetera. Next to that is the proposed change, so, in that column, you'll see where we're proposing to change it, and that's where those general use categories come in, so we're proposing to thin the specific uses into general categories in some instances.

The second proposed amendment to this section is speaking about height limits for buildings. So, currently, the height limits established in this section is across the board, and it's 35 feet, and when I was looking at this, I noticed that that's really high for single-family homes and duplexes, so we're proposing to bring it down to 30 feet just for homes, not for commercial buildings or any other type of building, and that is also consistent with the height limit that's in other residential zoning districts, so we're just trying to make it consistent and not allow homes to be that tall.

So, the third change involves giving the Director of Planning a little bit of leeway to determine uses that might be incidental or customary to the -- to the list of permitted uses, so an example of that would be like a shed, a shed in a commercial property or a residential property is like something that would be considered customary and incidental, but it's not necessarily listed in the code as an allowed use.

And then, finally, the last change that the Department is proposing is just to swap out the term "yard" for "setback," and that's just because I think this -- the Historic District ordinance might be the only place in our zoning code that uses the term "yard" instead of "setback," so there's no affect, it's just to make the language consistent.

So, that covers all of the Department's changes. It seems like a lot, but if you look at the table, it kind of explains what it would look like if it were approved, and so, like the Council's introduced bill, you have four options and, one, is to recommend Council approve the proposed bill as crafted currently; two, is to recommend Council approve the bill with amendments; three, recommend Council deny the bill; and then, four, defer action and -- or, yeah, defer action and gather additional information. So, please let me know if

you have any questions or if anything I said wasn't clear. And that -- that concludes my part.

Chair Celiz: Alright. Thank you, Annalise. Any questions or comments? Yes, Commissioner Brandis Sarich.

Ms. Sarich: What happens to houses that are already over 30 feet tall?

Ms. Kehler: Nothing. Well, my understanding is that like when we pass these zoning codes, they're not retroactive, so we don't go in and say, oh, you're -- you're too tall. You better reduce the height of your house now. It's just going forward if you're going to make an addition on the house and it's not already 30 feet, or something like that.

Ms. Sarich: So, just any new construction on a house has to conform but you don't have to bring your whole house into conformance?

Ms. Kehler: Yeah.

Ms. Sarich: Okay.

Ms. Kehler: That's my understanding.

Chair Celiz: Any additional questions or comments?

Mr. Kanahele: Commissioner Kanahele.

Chair Celiz: Alright, go ahead, Vice-Chair Kanahele.

Mr. Kanahele: So, yeah, I understand that these are like four requests, and the first one has to do with the uses and going from 53 to 19, not -- my understanding that none of the uses currently allowed will be lost, they'll just be consolidated into 19 broad general uses. I -- I just had a -- in that regard, I just had a question on one of the general uses is assembling, and there's a lot of things that can fall under assembling, and so all it says is check the definition of "assembling," so I think I understand what the -- anything that is assembled, put together, so that could -- that could cover a very broad range of uses. Correct?

Ms. Kehler: Vice-Chair Kanahele, let me -- let me find the definition for you and read it to you. I had a list -- I had all the definitions in my staff report and then I didn't -- there was an oversight. I should have included it in my staff report. I'm sorry. Let me read them to you. Okay, assembly area. Sorry, I'm --

Mr. Kanahele: They're like a meeting -- meeting area. Some --

Ms. Kehler: Yeah, okay it says, "Means facilities with fixed seats or large spaces designed to accommodate temporary seating on a regular basis for gathering for events or open exhibition halls, examples include theaters, churches, auditoriums, libraries, auctioneer establishments, museums, art galleries, meeting rooms, and spectator sports arenas.

Mr. Kanahele: Okay. Yeah, I was just wondering because there are a lot of terms that could check the definitions and I guess you were going to include that.

Ms. Kehler: Yes, and I didn't, so you know what? If you think that you don't have enough information right now to make a decision, we can defer, and I'll give you the definition for next meeting. I'll give you that big long list of all of the categories with definitions.

Mr. Kanahele: I think I'm fine.

Ms. Kehler: Okay.

Mr. Kanahele: The other question I had was the height limit, changing it from current height limit is 35 feet, which in -- which, right now, would include single-family and duplexes.

Ms. Kehler: Yes.

Mr. Kanahele: And so, you wanna change it to 30 feet so it's only family homes and -- and duplexes. That would -- that would include two-story family homes?

Ms. Kehler: Yes.

Mr. Kanahele: So, no higher than 30 feet from grade?

Ms. Kehler: Yes.

Mr. Kanahele: And, right now, they're allowed to build 35 feet, right?

Ms. Kehler: Yes.

Mr. Kanahele: Above grade?

Ms. Kehler: In the Historic District. Yeah.

Mr. Kanahele: In the Historic District. So, a duplex will be -- will remain in the -- in the -- I think duplexes is not going to be deleted, right? It's going to be -- be kept. Is that correct?

Ms. Kehler: Yes. That's correct.

Mr. Kanahele: Okay. And, Chair, I have like -- I think I have one more question if I may? Otherwise, you can circle back to me.

Chair Celiz: Vice-Chair Kanahele, yeah, I'll circle back to you.

Mr. Kanahele: Okay.

Chair Celiz: Commissioner -- Commissioner Wagner.

Ms. Wagner: To kinda piggyback on what Brandis had mentioned about compliance after the fact because what happens if supposing there's a historic home that's already over 30 feet and someone wants to put a greater than 50 percent addition on to it, are they going to be required to then -- 'cause normally you'd be required to bring it to code, and I think it should be somehow made explicit that you wouldn't do anything that would jeopardize a conflict between the current code and historic privilege?

Ms. Kehler: When you say, "up to code," do you mean like the building -- the building permit office once you --

Ms. Wagner: Well, yeah, like when you -- yeah, when you go in and you're filing for a property, sometimes they make you -- well, usually they make you bring, if it's a certain substantial addition or remodel, they make you bring the entire property to code, to meet the current code, and I just don't want it to create a conflict that, you know, it's one thing to go through a community and tell everyone they have to conform, that would never happen, but in the case where someone's doing a substantial change, you wouldn't want them to fall into a trap that they have to modify a historic home because the code's now saying, oh, it can't be more than 30 feet and you're doing a 75 percent change to the property.

Ms. Kehler: No. No. Like if you're doing some kind of substantial addition to a house that already exist, and it's higher than 30 feet, we, the Department of Planning, is not going to say you need to lop off the top of your roof.

Ms. Wagner: Okay. Just to make that clear that's all.

Ms. Kehler: It's just, yeah, it's just like you're building a new house, you can't go higher than 30 feet.

Ms. Wagner: Okay.

Ms. Kehler: Yeah.

Ms. Wagner: So, as long as that's clear that it's only for new construction, this limitation.

Ms. Kehler: Yeah.

Chair Celiz: That's good to know. Commissioner Sarich.

Ms. Sarich: Can we add language about three stories?

Ms. Kehler: Three stories?

Ms. Sarich: You know like in the district, we've seen cases where people are saying it's to raise their house above flood level but it's apparent they're making a third story. I don't know if there's any way -- I mean, I think that the 30 feet will go a long ways toward that but --

Chair Celiz: We can submit amendments. I mean, we can comment --

Ms. Kehler: Yeah.

Chair Celiz: But what specific wording were you thinking about?

Ms. Sarich: Me?

Chair Celiz: Yes.

Ms. Sarich: Oh, I need help with that one. But I, maybe Randy can help also, I just think that when you've got the case of a house that is being raised, somehow, I don't know how you regulate that there's not a third story being added on the bottom, basically, because that really is not ...(inaudible)... with the district.

Ms. Kehler: I think so -- sorry. Go ahead.

Ms. Wagner: I was just going to mention that I think when there is a flood elevation, they do allow height exemptions already, you know, like if you have to raise your house six -- if you have a seven-foot height elevation, you can have your lowest structural member at a foot above that, then they -- they do give you a grace to go over 30 feet currently, so I don't know. It might be hard to change that. But -- but usually they don't allow you to build anything in that area, it just, you know, it's just a open area and if you started to fill it in, they would probably come after you.

Ms. Kehler: That's correct. Thank you for bringing that up. There is exceptions in the flood code, which is also in the zoning code, about height restrictions and you are allowed grace to go above height restriction in certain zoning districts to accommodate for flood, but I -- we can just, you know, if you make a motion, whatever it is, you include the recommendation to work out some kind of language regarding three stories or consider some kind of language without three stories.

Chair Celiz: Yeah, I think I like that intent just kind of working at how we can word that out.

Ms. Sarich: And I mean, I, personally, believe that 30 feet is an appropriate max height in the residential district even if you have to raise your house.

Chair Celiz: I mean, yeah, I don't know if there's something that we can include where, you know, 30 feet height limit and I don't know if, yeah, something that impose that even within the flood if we can still just keep just 30 feet, so if, you know, if we can word something around that intent, it would be good to add as an amendment. Any --

Ms. Sarich: Although --

Chair Celiz: Oh yes. Yes, Commissioner Sarich.

Ms. Sarich: In the community plan that, basically, says that residential houses should be one story in the district.

Ms. Kehler: I'm sorry. Can you repeat that?

Ms. Sarich: I'm sorry. I thought there was something in the community plan that expressed that -- that the normal pattern of development in residential areas of the Historic District are one story and that the commercial district has two stories.

Ms. Kehler: I think there is some language though, like in policies, about respecting the character of one and two-story buildings. I can't remember exactly but I'll have to --

Ms. Sarich: And I think that's the community plan for Lahaina but I don't think that's enforced or that's only where you have a historic house that is demolished. I don't know.

Chair Celiz: Maybe we can recommend that the code be consistent with the community plan in terms of three-story homes height restrictions; something along those lines.

Ms. Sarich: Thank you.

Ms. Kehler: I'll make a note about that.

Chair Celiz: Alright, any additional comments?

Mr. Kanahele: I had an additional question.

Chair Celiz: Yes, Vice-Chair Kanahele.

Mr. Kanahele: So, this relates to the language that's planned to be added to the list of use regulations giving the Planning Director more discretion about -- about uses with regards to subordinate uses and structures which are determined by the Planning Department to be clearly incidental and customary to the permitted uses and structures listed herein, and I think, Annalise, you gave the example of a shed, if I recall. Is that correct?

Ms. Kehler: I did. Yes.

Mr. Kanahele: Could you -- could you -- could you just reiterate that section again and what -- what this language would do?

Ms. Kehler: Maybe we could ask Jacky. I know Jacky is on the call. I can't speak much to this because my focus was mainly on making the things categorized under broad categories, so maybe Jacky could share more about that.

Mr. Kanahele: And Jacky is who?

Ms. Kehler: Jacky -- sorry, I apologize. Jacky is our Administrative Planning Officer, so she's the lady who deals with all of our code amendments to the zoning code, and so she's -- I've been working with her on this.

Mr. Kanahele: Okay. Yeah. If she can answer it or clarify it.

Chair Celiz: Hi, Jacky, I think you're still on --

Ms. Takakura: Chair, is it okay?

Chair Celiz: Oh yes, go ahead, Jacky.

Ms. Takakura: Hi. Hello, Commission. Thank you. So, this additional language about adding this -- allowing the Director some discretion to allow things that are related to these uses is a similar item in other zoning districts where we have it and it just gives some flexibility for things that are obviously related to something, like Annalise had said about the shed, so that it doesn't have to go through this really complicated review or we don't

have to come back again, but it's directly copied from several other chapters that already have this language. If that answers your question.

Mr. Kanahele: Yeah, just a follow-up question. So, this -- this, as you said, relates to things that could be allowed, it could also relate to things that could not be allowed at the discretion of the Planning Director?

Ms. Takakura: That would be correct because if it's something that the Director determines is not directly connected to a -- a regulated use, then the Director could deny that -- that use.

Mr. Kanahele: So, in this area of subordinate uses and structures, the Planning Director does not have discretionary power to make those decisions and that's why you want to put this language in?

Ms. Takakura: That is correct. This language is not in 19.52 right now but it's, like I mentioned, it's in about five other zoning chapters that's already in existence.

Mr. Kanahele: So, if the Planning Director does not have discretionary power at this point with regards to what's in this language, then who makes those determinations right now? Who would decide whether something like a shed is allowed or not allowed? Where does that go?

Ms. Takakura: Well, right now, in the zoning code, there's either a permitted use, a special use, or it was accessory use, and if something is not listed in those three, then it's, basically, not allowed, and then I think they would either have to come in for, say, a conditional permit or a perhaps one of those other -- like a County use permit but -- or maybe a change of zoning to allow that use, but so there's a process but it's much longer and much -- it's a really, really long time.

Mr. Kanahele: And it's not -- it doesn't involve the Planning Director; it involves other staff in the Planning Department? I just want to ...(inaudible)...

Ms. Takakura: If -- if something were to -- say something is -- is not listed and the applicant wants to come in for a conditional permit, that would require public hearings and, before the Commission, and also County Council, so those are usually really big things that, you know, which is really important to get a lot of ...(inaudible)... back and public input, but for something minor, like say a shed, that would be kind of -- I think a lot of time and expense for something that would be kind of minor and related to the --

Mr. Kanahele: So, something as minor as a shed or could be found not allowable and then it would have to go through this public review process, plenty, perhaps, expensive

public review process in order to be approved either before the County Council, for example. Correct?

Ms. Takakura: That would be my understanding. Yes. And I don't know if Stephanie or the Deputy Director wanna chime in, but that's my understanding, so it just kind of gives a little bit of flexibility for the property owner for things that are, you know, related allowed uses.

Mr. Kanahele: Chair, just to kinda explain my line of reasoning, why I'm asking the questions is because this language would give the -- the Planning Director discretionary power to make decisions, use decisions, and so usually that means that it would come under the purview of the Planning Director and not before a public review, like before the County Council. I completely understand how, you know, wanting to do this would -- would maybe result in someone not having to go through a lengthy and expensive review process to get an approval, but I'm always concerned when you're going to give discretionary power, that means you're taking power out of the hands of the people, and then you're giving it to someone who's not -- who is, you know, appointed to their position and elected, so I always -- I always like to give a little extra scrutiny when you wanna give someone discretionary power and that's why I'm asking the questions to get some clarity on it and make sure we're making the correct decision. Thank you, Jacky, for answering my questions.

Ms. Takakura: Thank you. So, just that language is in eight other zoning districts. Thank you.

Chair Celiz: Alright, thank you, and thanks, Jacky, and thank you, Vice-Chair Kanahele, for sharing your concerns. Yeah, I understand that too or your concerns with -- with number three. I mean, I, personally, would feel a lot better if I knew that Annalise was the one looking through it and making sure if that -- if that was okay or not and that, if that shed was way too huge, you know, she would then bring it to our attention. I mean, I'd feel comfortable with that but I kind of get what you're saying where it's worded as giving the Director of Planning some, you know, that part to make decisions. Does the Commissioners have any other -- have thoughts about that?

Mr. Hart: Chair, is it possible maybe I could add a little context to that?

Chair Celiz: Sure. Yes. That would be helpful.

Mr. Hart: So, this is Deputy Director Jordan Hart, so -- so just for clarification, the Director is responsible for everything that happens within the Department, so like, for instance, the Cultural Resources Planner isn't necessarily a responsible party in the context of the way the ordinances are written, so the Director would rely on her expert in this scenario, but the way the code would be written, it would apply the responsibility to the Director, so --

so I don't think that there's any expectation that the Director, as an individual, would be reviewing these proposals and coming up with her own independent decision on them. The way work is assigned, you know, through the Department is -- is that anything that relates to cultural resource issues is, you know, Annalise is participating on that and, you know, the same with her predecessors and her successors will be the same situation. So, I just wanna clarify that little portion of the discussion.

Chair Celiz: Alright. Thank you, Deputy Director. That was helpful. Any other questions or comments from the Commissioners? Would anyone like to introduce a motion at this time? I know we were leaning toward -- towards recommending that the Council approve this portion of the bill and with the amendments that we were discussing. Anybody have any thoughts, comments, or would like to introduce a motion? Yes, Commission Sarich.

Ms. Sarich: I would feel comfortable recommending the -- the new categories of the uses, but the other parts I don't feel like we have enough information.

Chair Celiz: So, Commissioner Sarich, you're saying you're comfortable with number four, the uses, but not the other three, or was that the other way around?

Ms. Sarich: Yes.

Chair Celiz: Oh, okay. Any other thoughts from the Commissioners about how they feel about this proposed bill?

Mr. Kanahele: Commissioner Kanahele.

Chair Celiz: Yes, Vice-Chair Kanahele.

Mr. Kanahele: Yeah, I support the changes, you know, reducing the list of allowed uses from 53 to 19, but I -- I have some concerns about the others.

Chair Celiz: Alright. I'm hearing number one is, you know, the ones we all support, the - - consolidating the existing list of 53 to 19. Number two, how do you guys feel about that? I know I do support limiting it to 30. I know we had some concerns about making sure it doesn't affect the existing structures, and then we also had amendments on this one. How do you guys feel on the height limit? Or do we need more information on this?

Ms. Wagner: I'm okay with the height limit.

Chair Celiz: Alright, so it looks like we're all good with one and two. So, number three is the one that Vice-Chair Kanahele had a concern about -- and we'll go back to that, but how does -- how do you all feel about number four, replacing the term "yard" with "setback," using the word?

Ms. Wagner: That makes sense.

Chair Celiz: That makes more sense. Alright. I don't know if we can approve it piecemeal. Approve but maybe include a section about -- oh, hold on -- how we can do this. Yeah, let's go back to number three because I know that's the one we had concerns about and Deputy Director did, you know, clarify that even though it says, "Director of Planning," it goes through the Planning Department and that would trigger the cultural planner to also help with that assessment. I mean I -- that makes me feel a little bit better but how do you still feel about it, Vice-Chair Kanahele?

Mr. Kanahele: You know, I -- I'm a little concerned because I always tend to favor more public review of anything if possible versus something that's done in-house through discretionary powers, so it's like if you wanted -- if you had something that was a use that was maybe not substantial or a subordinate use and then someone could say yay or nay, I would like to know that it's something that you are in compliance with whatever you wanted to build, there was a -- there was a avenue for you to have some sort of review beyond that of the -- the decision by a director of a department but there would be a way for you to -- to have your -- your concerns addressed. I, you know, having it come before the CRC is, you know, it's good because it gives people an opportunity to give public testimony on an item and whereas if something is discretionary, the public may not have the opportunity to give input. All I want is -- all I'm really concerned about is transparency and the opportunity for the public to be involved in certain decisions, which sometimes discretionary -- discretionary powers take that away from the public. I know it's -- it's kind of a manini thing, but maybe it may not be manini for someone down the road. Maybe the language could be, I don't know, maybe we could change the language or something like that that would provide for greater review but not do it all. I don't know. I just -- and just for government transparency, transparency and accountability.

Chair Celiz: Thank you, Commissioner Kanehele. Commissioner Wagner.

Ms. Wagner: When we change these categories, don't they, by nature, include accessory structures that are related just automatically? I mean, why does it need to be specified that the Director has discretion?

Ms. Kehler: Jacky? Oh, okay. There you are.

Ms. Takakura: If I may. Thank you, Chair and Commission Members. I believe, from -- from my experience, I find that we are constantly playing catch-up.

Ms. Kehler: Oh, cannot hear you.

Ms. Takakura: Can you hear me now okay?

Ms. Wagner: I can hear.

Ms. Takakura: Okay. There's always new uses coming about that we -- they don't exactly fit in black and white in the existing 19.04 definitions, and new things that come up and, yeah, I find that the Department's always trying to playing catch-up with new uses and new things that people think of to do with their properties, not a very good explanation, but that's what I see.

Ms. Wagner: Can you give me an example of one that wouldn't fit into these broader categories, these 19?

Ms. Takakura: Okay, one that -- yes, if I may? One that came up in a different zoning district, not here, but was the definition of a taproom or a brewpub where I guess they make the drink, the beer on premise to serve to customers, and it doesn't really fit in with a light industrial because it's also being served, but then it's a little bit different from simply an eating or drinking establishment because there's some production going on on the property at the same time, and, like I mentioned, this is not for Historic District, this is -- this is an example somewhere else that we had to answer this kind of question, well, does it fit or does it not fit. That's a recent example that I heard of in a different area.

Ms. Wagner: For instance, in that example, would one of those uses not have fit, like would a pub have fit but not manufacturing, or manufacturing with it but not a pub?

Ms. Takakura: I think that's where it kind of -- it kind of partially fit in one and partially fit in another 'cause it was the production -- well, actually, the production didn't fit in light assembly because that doesn't include food production, but, yeah, it was just one of those weird ones that we didn't know what to do with.

Ms. Wagner: I see. I don't know what to say.

Mr. Kanahele: Chair?

Chair Celiz: Yes, Vice-Chair Kanahele.

Mr. Kanahele: I think some of this has to do with the rights of a property owner to use his property in -- in a certain fashion; basically, you know, the code and uses in the code and ordinances control what property owners can do, so if a property owner comes up with a use that does not fit nicely into any of the -- the uses within the code, then I think it's -- it's not on the property owner, it should be on -- on the government to figure that out 'cause I respect property rights. I think, you know --

Chair Celiz: Thank you, Vice-Chair.

Mr. Kanahele: That's an -- that's an important aspect of our Constitution, respecting property rights in what they can use their properties for. So, yeah, it means more work, but, you know, I think we -- we should uphold the rights of how a property owner can use their property within the confines of the law so, yeah, that's kind of my thinking on that.

Chair Celiz: So, it sounds like we're all are in agreement with everything except number three, with that language, so I don't know if that's something that, you know, since -- that we can say that we approve one, two, and four, but that we don't approve number three, and we can list your guys' feedback and comments that we've been discussing as to the reasons why. Any thoughts on that or -- okay, if that's the case -- oh, yes, Commissioner Bassford. Sorry, I think you're still on mute. Still showing up as mute.

Mr. Kanahele: We cannot -- can we approve what we -- what we feel comfortable with and defer what we want to defer? Is that possible? Maybe get more information, like option number four on one of the items, like four things we're looking. I can support three of them. Three out of the four.

Chair Celiz: Thanks, Vice-Chair Kanahele. We'll see if we can hear from Commissioner Bassford. I know he was having some technical issues. Can you try your mike again?

Mr. Bassford: Yeah, no, I know, it was -- it kept kicking me off.

Chair Celiz: Alright. Now I can hear you.

Mr. Bassford: So what -- okay, so what about just changing the language from by the Director of the Planning -- of Planning to Planning Department in general, and that way it's not being specific toward an individual, it's giving it to the discretion of the overall Planning Department? I think that may address Vice-Chair's concerns in regards to a solution or, you know, so that's just a suggestion or an idea. Thank you.

Chair Celiz: Thank you, Commissioner Bassford. Yeah, that is a suggestion. Stephanie, I know you were about to chime in. Stephanie, do you have anything thoughts on how we can approach, you know, whether we should -- if we're able to piecemeal approve some of these and defer on some?

Ms. Chen: Thanks, Chair. Annalise, what would you suggest in terms of transmitting the comments and recommendations to Council? I don't know that piecemeal approving them would be an effective way of transmitting, but, Annalise, do you have any -- any information on that?

Ms. Kehler: I mean --

Chair Celiz: Would the Council approve with amendments? You don't know. What do you think, Annalise?

Ms. Kehler: Yeah, I mean I think part of the -- I think part of their motion could be that they agreed with numbers one, two, and four, but they don't support the discretionary part of the bill and then --

Chair Celiz: ...(inaudible)...

Ms. Kehler: And then, yeah, I think -- I think that that would be fine. I'm not sure. Stephanie, does that sound okay?

Ms. Chen: Yeah, or perhaps with their reservations regarding number four and those reservations are, you know, and those could be delineated. I'm not clear if -- if that's the general consensus of the Commission in terms of number four or if that's, you know, a concern that's unique to Commissioner Kanahele. Perhaps clarity on, you know, the consensus there. If that's by consensus that there's -- there are issues with number four, then -- then I think Annalise's suggestion is good.

Mr. Kanahele: It's number three, not number four.

Ms. Chen: Sorry. Number three.

Chair Celiz: Well, if there are no objections from the Commissioners, we'll --

Mr. Hart: Chair?

Chair Celiz: And if there's a consensus that we disagree with number three. Yes?

Mr. Hart: Deputy Director again. So --

Chair Celiz: Yes.

Mr. Hart: Important context for you guys, basically, these are recommendations to Council, so you're hoping the Council will understand and, basically, do what you're asking them to do, so, basically, any context that you can provide to Council on why you have concerns or what you would like to see would be helpful in them basically ultimately making a decision closer to your interest than oppose to trying to interpret why you might have not support various items.

Chair Celiz: So, sounds like, yeah, we can say we recommend to approve one, two, and four, and then, for number three, we'll list, you know, our comments and feedbacks why

we're hesitant on number three, and I know we've already discussed that ... (inaudible)... you know, transmitting our comments, it'll list those things. Yes, Commissioner Wagner.

Ms. Wagner: I have a question for Deputy Director, Jordan. If a project is coming to the Historic District or a use that is looking to be approved in one of these 19 categories and it's something that is not a normal use that's very clear or has been used a lot, would the normal process be that Annalise, or a person in her position, would look at the project and then also bring it to the Cultural Resources Commission, the CRC, because it seems like we see a lot of the projects?

Mr. Hart: Yeah, I'm going to ask Annalise to actually discuss, you know, the current function versus how it would change under the proposal, current proposal.

Ms. Kehler: So, whenever I get -- so whenever I get a question about some kind of use that isn't listed in the current code, then I have to go through this process where I consult with the -- with the Zoning and Enforcement Division and I have to ask them is this something that would fall under this specific use, and then that's how we determine, yeah, that -- that -- that fits, or no, it doesn't, and I don't know -- I don't know how -- I don't know like if the discretionary thing is taken out, I don't know think that that process would change.

Ms. Wagner: Yeah, it seems like what the County is trying to do is just to legitimize the process that's already in place by saying we have the final word but it already does have the final word. I mean, the buck stops at the Director so that's why they put the Director's name in there and -- but -- but it doesn't seem like, in essence, this is going to change anything except to give legitimacy to the process in the County, which is what it seems like Daniel is a little bit concerned about, but it doesn't seem like it's going to change anything really. It's almost like just bookkeeping on their part, they've already got it in eight, they just want it in this one too, but I'm not saying I recommend that because I can see his concerns, but I don't think it's going to change the way things function is my guess. That's what I got from Jordan ... (inaudible)...

Chair Celiz: Yeah, does that sound right, Deputy Director, what Randy is saying that it doesn't really change the process, it's just --

Mr. Hart: Well, I think it's a clarification that we feel is necessary. I think that, you know, what -- what the Commission would expect out of the Department shouldn't change. I mean, I think that our -- our behavior is going to be consistent, but I think that, you know, we do think that these changes would help the administration and the process, which is why we are proposing it.

Ms. Wagner: My question I guess is would it make -- would it start skipping the CRC then, you know, like would it just be all the Director just has final word, we don't need to consult the CRC anymore, stuff like that?

Mr. Hart: You know, I'll leave Annalise to -- to reply to that. I might assume that if things are considered to be non-substantive, it might not be referred, but that I really have to have Annalise kind of provide and put on -- on the context of the crafting of this draft.

Mr. Kanahele: And, Chair, that's kind of my concern.

Ms. Wagner: Yeah, that's what I thought.

Mr. Hart: Annalise, could -- but that -- that is, generally, the thought. Is that -- is that right?

Ms. Kehler: What -- what was the question again? Could you repeat it, please?

Mr. Hart: What scenario would items not be transmitted to the CRC for -- to also review under the proposed draft that the Department put forward?

Ms. Kehler: Well, the CRC's primary role in regards to 19.52 is in development, and so if there's an existing building and someone wants to use it for something, then we have to -- we, as a Department, look at it and we talk about the use. If they're not proposing any changes to the building itself, then we kind of discuss the use internally and determine whether or not it fits under 19.52. But if the use involves construction and changing the use, then we'll talk to the Commission about it.

Mr. Hart: So -- so, could you give an example of -- of work scopes that you think might not come to the CRC under the proposed revisions where, currently, they are coming to the CRC?

Ms. Kehler: I don't -- I don't think that it will change that, but it -- yeah, I don't think it's going to change.

Mr. Hart: Clarification. Do you mean as a matter of -- of the way the Department is doing things or the authority that would be granted to the Director?

Ms. Kehler: Well, as it's current, I don't know. Sorry. I'm sorry. I just -- I can't answer that.

Ms. Chen: So, perhaps that's the -- the comment that should be transmitted then regarding number three is that the -- the Commission's concern is that it does not want projects to bypass Commission, CRC review. The projects that currently come before

the Commission, it wants those projects to still come before it so we'd like Council to give consideration to that. Is that an accurate understanding of what the Commission is saying?

Chair Celiz: Thanks, Stephanie. I think that is the intent of what the Commission was thinking. Vice-Chair Kanahele, does that sound alright to you?

Mr. Kanahele: Could you -- could you repeat that? Jacky, could you repeat what you were recommending or suggesting?

Ms. Chen: Oh, thanks, Vice-Chair Kanahele. This Stephanie. I should have said.

Mr. Kanahele: Oh, Stephanie.

Ms. Chen: Deputy Corporation Counsel. So, the, and, Jordan, you know, Deputy Director and Annalise, perhaps you can comment on the wording of it or, you know, make it better, but the gist essentially is that the Commission, it sounds like the Commission agrees with changes one, two, and four, the proposed changes. The Commission is concerned with the proposed change number three and that the Commission would like -- would not like to forego its review of projects currently placed in front of it. So, if this amendment were to change that, the Commission would like Council to give that due consideration. Is that accurate?

Mr. Kanahele: Yeah. What I'm -- what I'm pondering is when you -- when you give someone discretionary power, it removes it out of the public domain in essence that the decision is made solely and completely by -- by the Director ultimately, and then there's no public input on it. There's no need for further public input. Anything that will provide opportunity for public input, I would support.

Ms. Chen: Okay. So, perhaps --

Ms. Kehler: Can I?

Ms. Chen: I mean -- oh, go ahead.

Ms. Kehler: Sorry. I'm going to suggest something here and I hope it doesn't get me in trouble. Let's see how it goes. I'm wondering if -- if adding in something about Director, like so giving the discretionary authority to the Director with the review of the CRC, or after the CRC reviews it. Somehow incorporating CRC into the review process before that discretionary decision is made. I don't know. I hope I didn't say something that's a bad idea, but what I'm hearing is that there's fear of a use coming in that is not acceptable and that adding this extra layer of public review might help determine or help the Director

make a determination about these. I don't know. Again, I'm sorry if that's not okay to say, but that was just what I was hearing.

Mr. Kanahele: Yeah.

Ms. Chen: To that and then I think you would wanna be -- if -- if that's something the Commission wants to consider, I think you'd want to consider what type of review would be sought by the CRC, would it be comments after, you know, comments are received from the CRC, would it be after, you know, a determination is made if that's something that the Commission wants to include. Sorry, yeah ... (inaudible)...

Mr. Kanahele: I think ... (inaudible)...

Ms. Chen: ... (inaudible) ... overstep but we're just trying to help formulate some language for transmittal.

Mr. Kanahele: I think before a determination would be made by the Planning Director.

Chair Celiz: Yes, Commissioner Wagner.

Ms. Wagner: It seem like that the Resources Commission is a unique commission in the County because of the actual influence its allowed, you know, where we can make -- kinda like make policies or we really -- as opposed to like Urban Design Review Board where there's just like, yeah, you can make your comments but it doesn't really matter, and so I feel like that Daniel is right in that we don't really want to advocate that position by allowing -- I don't know if this -- this little conformance to all the other zoning ordinances or whatever they are, the boards or whatever, wherever she said it appears eight times, I don't know if they're all apples to apples or if it's -- this is a unique context and why isn't it already here if that's the case, you know, has it been rejected before. I think we just need more -- more understanding and more thought on this.

Mr. Kanahele: Commissioner. Sorry, Chair, if I may add to --

Chair Celiz: Yes, Vice-Chair Kanahele.

Mr. Kanahele: ... (inaudible) ... yeah, basically, I just want to provide a form for the public to be able to -- to testify on a matter, a public forum, someplace they can go to -- to state their concerns or their reasons or to support whatever they're trying to do, just give them a platform before the decision is made, you know, through discretionary power and that's -- that is what I would hope could happen, and I wonder if that would happen with the language as it is right now. I don't think so.

Chair Celiz: Right. Okay. So, yeah, so what I'm kind of hearing is, you know, we can say that we recommend that the County Council approve one, two, and four, but that we don't support number three for all of the reasons that Vice-Chair Kanahele listed as well as, Stephanie and Annalise, you guys help with that language too, I think you guys kind of understand the intent that we're trying to do where we don't want it to bypass the CRC review, something along those wordings where we can, you know, list our reservations as to why we don't support number three. So, if that sounds like something we can all agree on, and if that's doable. Stephanie, did you have anything to add?

Ms. Chen: Thanks, Chair. And then if -- if the Commission's intent is to, you know, defer pending receipt of additional information regarding that particular provision, then I think I would recommend just not transmitting any comments until, you know, bring it all at once, and if the Commission, if there is a motion to defer, then I would suggest just being specific in exactly what information the Commission would like placed in front of it, you know, if it's the other references to this provision in the code, you know, where the places that's included elsewhere, that may be helpful, or I don't know, whatever -- whatever would help the Commission just so the Department knows exactly what information to provide. So, yeah, I'm not sure how -- how you're going to go, or how this motion's going to go, or what's going to be put forth, but that would be my suggestions if that's the motion.

Chair Celiz: Sure. I mean, I think, yeah, I mean I know we want some of additional information, but I'm also wondering, I don't know if you can clarify, Annalise, that, you know, this is in front of the County Council, it's not like something they'll make a decision without our comments right, so we'd have to, you know, give them our comments before they can adopt this proposed bill?

Ms. Kehler: Okay, so --

Chair Celiz: ...(inaudible)...

Ms. Kehler: Whenever a -- an amendment to the zoning code is made, there's several bodies who have to review the code before it goes to them, Planning Commission is one of them. I can't remember -- there actually might be a provision in one of your guys' ordinance about Cultural Resources reviewing as well, but I don't think the Department would send it to Council to discuss without getting your comments. We'll send the reso, the other one, the Resolution 20-166, which was the liquor, or, sorry, you deferred that. Never mind. Delete that part that I just said. And -- but I don't think that we're going to - it still has to go through Planning Commission review anyway so there's more time for you to review I think.

Chair Celiz: Right.

Mr. Hart: You know, Chair, just -- I just wanna say one final thing. Basically, what we're discussing is that it's the CRC's position that there's no single thing that cannot -- that shouldn't come before you. That's essentially what this -- this condition -- or this proposed amendment is saying is that there are things that are basically clearly incidental or subordinate that the Director has the ability to determine, so -- so there is not a thing then that doesn't require to be referred to you in that context, like if that is not to be supported. I just want to point that out, so like, you know, that would be like mailboxes, you know like a storage shed, you know, any thing or use, none of those things can be determined by the Director to be, you know, sufficient to move forward without the CRC and -- and that's fine, you know, like if that's what the Council decides, that's exactly what the Department will do, but I just wanna, basically, try to give some sort of context as to why the Department would think it would be helpful for the administration of this -- these areas and for the owners of property in those areas to have some relief valve for minor level items. So, anyway, just -- just making sure that that is clear.

Ms. Wagner: I have a question.

Chair Celiz: Yes, Commissioner Wagner.

Ms. Wagner: Why do you say that, Jordan, because that's not how it is right now? So, why would it change if we don't change anything?

Mr. Hart: Let me -- let me revisit, Annalise. What is the threshold to refer items, the change of use or development of a new use?

Ms. Kehler: Yeah, so if someone is coming in for development and a new use, and the new use is not listed in the code, then we'll -- we'll bring it to the CRC to discuss, but if it's an existing building and someone just wants to occupy it and use it for something and I'm not sure if it's allowed under our current list of uses, then I work with the various divisions to determine that.

Mr. Hart: So, for clarification on the reference to structures, that's referring to is that they're accessory to structures and not accessory structures themselves?

Ms. Kehler: No. I'm just talking about a -- a building, like someone's going to occupy a building and they wanna use it ...(inaudible)...

Mr. Hart: Okay, so -- so this might have been my error. I may need to walk back what I just said. Accessory structures are not currently an issue of concern that's being addressed by that section.

Ms. Kehler: Sorry. I don't understand.

Mr. Hart: Let's say -- let's say somebody is -- is in the Historic District and they filed a building permit for a shed that's large enough to need a building permit, and they're design is consistent with the requirements of the district, what is the review process that's going on?

Ms. Kehler: That's not allowed. It's not a use.

Mr. Hart: Sheds are not allowed?

Ms. Kehler: No.

Mr. Hart: Okay. So, that -- that is consistent with what I just said. Okay. But mailboxes are allowed, hypothetically?

Ms. Kehler: Yeah.

Mr. Hart: Okay. So, basically, you have told people, for instance, that they can't build a shed accessory to their home?

Ms. Kehler: Someone did, I think, don't quote me on that, but I think that that has happened.

Mr. Hart: Okay. So, either -- either individuals are building sheds without permits or they're coming to the Department and the Department is telling them, oh no, you can't do that.

Ms. Kehler: Yeah.

Mr. Hart: Okay. Okay. I just want to make sure. So -- so, basically, this allows the Department to make some level of determination that certain structures or uses are clearly incidental or subordinate to existing uses, at least that's the way I'm reading it, so I just want to make sure that that's what we're discussing. So, in that context, I do -- I do recognize the -- the Commission's concern that the Department would get carried away and start to approve things that may be arguable to be incidental or subordinate, but I do think that there is appeal processes for those kind of situations, but, you know, I do, you know, maybe I'm bias, but I do think that the Department is full of pretty reasonable responsible people and are -- we're trying to administer the regulations, you know, appropriately and that something like this is more to the benefit of the average lot owner maybe who may be trying to do a basic permitted, not even permitted, but a basic proposed use that wouldn't seem to be contentious, and I'll also say, you know, obviously every administration is different and people's agendas are different, but, in general, the Department's goal is not to create controversy, you know, that we would be totally responsible for and, generally, the concept is that if we think that something is going to

be an issue of concern for the community, then that -- those are the kinds of things that get referred to boards and commissions even when there might not be a specific trigger in order to make sure that there's, basically, peace in the community when something does happen. But, anyway, I just wanted to -- when I was reading it and considering that it's talking about items that are clearly incidental and subordinate, you know, that's kind of a specific term that's used in various places in the code and it means exactly what it says, clearly being something that's expected to go on.

Chair Celiz: Alright, thank you, Deputy Director, for that clarification. I know it's kind of hard to really think about how it would impact the Cultural Resources Commission design review. Now let's see. Yeah, and yet we don't want to piecemeal the thing because I know we agree on one, two, and four, and it's just number three that we don't agree on, so I don't -- I mean, I guess I'll hear from the Commissioners. I don't know if we want to say that we recommend approval with amendments but list our hesitation and reservations on number three as an amendment, or if you guys feel strongly enough to recommend denying the proposed because this is a bill as a whole, and say, well, we support one, two, and four, but we feel strongly about our reservations for number three. I mean, and then there's still the option of deferring to get additional information and clarification, but I feel like even if we did get additional information, we still would be hesitant on number three anyways as it is so any thoughts from the Commission?

Mr. Kanahele: Chair, since listening to -- to the Deputy Planning Director, it almost sounds like they -- they can make these decisions regarding subordinate uses and structures anyway within the Department. I mean, that's already happening.

Chair Celiz: Okay. So --

Mr. Kanahele: I guess it becomes a problem when someone challenges it and they want to -- wants to appeal any decisions, and they're doing it anyway so -- but now they want to give the Planning Director discretionary power to, you know, either go yay or nay, maybe make it more clearer as to what they're doing. That's what I -- that's what I'm hearing from Jordan that they're doing it -- they're already doing -- making these decisions on a daily basis.

Chair Celiz: Okay.

Mr. Hart: Let me -- let me clarify, Annalise. Is that accurate to your -- your experience?

Ms. Kehler: I have to -- all I can say is that I have to consult when I get -- when someone asks me I want do this use or someone says is this allowed, I have to, if I'm not sure, then I have to work with others in the Department to figure that out, and then we get like after the -- I think the shed thing was an after-the-fact permit and I was like I don't even -- this

use isn't listed, like I don't know how you're going to use that for a shed 'cause it's not listed, so that's the process.

Mr. Hart: Let me clarify. Now, more -- are there, more relevant to -- to Commissioner Kanahele's comments, are we interpreting that subordinate uses or structures can be approved even though they're not clearly articulated in the code?

Ms. Kehler: Not that I know of.

Mr. Hart: Okay. Thank you.

Mr. Kanahele: So, Annalise, this -- this change only applies -- this changes applies to what's happening in the Historic Districts 1 and 2, this language is already found in other parts of the code, right? But you want to add this to the code that applies to Historic Districts 1 and 2 in Lahaina. Correct?

Ms. Kehler: You're asking if I want to?

Mr. Kanahele: No. Is that what -- is that what the intent is?

Ms. Kehler: That's -- that is the Department's intent.

Mr. Kanahele: So, they just want to make what's happening in the Historic Districts consistent with -- with codes outside of the Historic Districts?

Ms. Kehler: It appears that they wanna do that for this one thing. Yes. The Department wants to do that for this one thing.

Mr. Kanahele: For the -- for Historic Districts, right, specifically, they wanna add this language as it applies to uses, subordinate uses and structures, you know, within the Historic Districts?

Ms. Kehler: Yes. That's correct. They want to do that in these districts.

Mr. Kanahele: Well, I like -- I kinda like the fact that the Historic District is different than any other place on the island of Maui, it's special, and it has an extra layer of review, and, in essence, we're often that extra layer of review, the CRC, so it just kind of gives me another reason for not supporting number three.

Chair Celiz: Okay --

Mr. Hart: I just want to add a couple more comments. I definitely respect, you know, everybody's, you know, their position and, you know, your guys' total discretion to take

whatever position you want. Just -- just in the context of responsibility of what the Department is doing, I just want to make sure that you guys, you know, remember that the entirety of Historic District 1 and 2 are in the special management area, so let's say that somebody did propose to build a shed, as an example, or propose to conduct a new use that would include impacts, our position would be that they are required to file an SMA assessment application and assess all of those impacts, so I don't want, you know, recognizing that, you know, what you just said as far as, you know, sticking to the position, but I just want to be clear that, you know, it's not -- we're not talking about a freewheeling situation and we actually do have quite a bit of regulations that we do administer. So anyway, just -- just for a little bit of further context of how the Department is administering these areas and where we're coming from, but -- but definitely respect, you know, the issue of concern and the desire to remain completely in the loop on all of these things, and there's no opposition to that going forward. I just wanted to, you know, kinda talk about some of things that we have to do when we're administering for individuals who come in for things.

Chair Celiz: Alright. Thank you, Deputy Director. At this time, we'll take a ten-minute recess, so we'll resume at about 1:01 p.m.

(A recess was called at approximately 12:52 p.m. The meeting reconvened at approximately 1:06 p.m.)

Chair Celiz: . . . resume our meeting. Alright, so we'll reconvene our meeting. So, I just wanted to get a consensus that, all of us, that we do not support number three, so if you do support number three, please say so now so that we know. Alright, so if there's no objections, I -- it seems like we have a consensus on that, so in that case, I would like to make a motion to recommend that the County Council approve the proposed bill, with amendments, and the amendment being that we completely remove the wording of number three. Does anybody want to second that?

Mr. Bassford: I'll second it.

Chair Celiz: Seconded by Commissioner Bassford. Any discussion on the motion? Alright, if there is no further discussion, we'll go ahead and take a vote. Annalise, can you roll call again?

Ms. Kehler: Yes. Chair, go ahead.

Chair Celiz: Aye.

Ms. Kehler: Thank you. Vice-Chair?

Mr. Kanahele: Aye.

Ms. Kehler: Thank you. Member Sarich?

Ms. Sarich: Do you have quorum if I abstain?

Ms. Kehler: Yeah, we should. Yeah.

Ms. Sarich: Okay, I'll abstain.

Ms. Kehler: Thank you. Member de la Cruz?

Mr. de la Cruz: Aye.

Ms. Kehler: Thank you. Member Spenser?

Ms. Spenser: Aye.

Ms. Kehler: Thank you. Member Wagner?

Ms. Wagner: Aye.

Ms. Kehler: Thank you. Member Bassford?

Mr. Bassford: Aye.

Ms. Kehler: Thank you. Okay, motion passes.

Chair Celiz: Alright, thank you. So, moving on --

Ms. Esmeralda: Can I -- this is Suzie. Can I just make a note that when someone abstains, it counts as a yes vote.

Mr. Hart: Thank you, Suzie. I was just about to text Stephanie to talk about that.

Mr. Bassford: That's good to know in the future for sure.

It has been moved by Chair Yvette Celiz, seconded by Commissioner Bassford, then

VOTED: to recommend that the County Council approve the proposed bill with the amendment to completely remove the wording of number three.

(Assenting: I Bassford; Y. Celiz; A. de la Cruz; D. Kanahale; B. Sarich-Abstain;
E. Spenser; M. Wagner)
(Absent: L. Albino)
(Excused: T. Lee-Greig)

Chair Celiz: Alright. Okay, thank you for that clarification. So, alright, thanks everyone for sticking around and for your patience. So, we'll move on to agenda item B.2.

RECORD OF ATTENDANCE:

Present:

Yvette Celiz, Chairperson
Daniel Kanahale, Vice-Chairperson
I Bassford
Andrew de la Cruz
Brandis Sarich
Emily Spenser
Mary Randall Wagner

Absent:

Louella Albino

Excused:

Tanya Lee-Greig

Others:

Jordan Hart, Deputy Planning Director, Department of Planning
Jacky Takakura, Administrative Planning Officer, Department of Planning
Annalise Kehler, Cultural Resources Planner, Long-Range Division, Department of Planning
Stephanie Chen, Deputy Corporation Counsel, Department of the Corporation Counsel
Suzette Esmeralda, Secretary to Boards & Commissions II, Current Division, Department of Planning

**LANA'I PLANNING COMMISSION
REGULAR MEETING
FEBRUARY 17, 2021**

A. CALL TO ORDER

The regular meeting of the Lanai Planning Commission (Commission) was called to order by Ms. Shelly Preza, Chair, at approximately 5:07 p.m., Wednesday, February 17, 2021, online via BlueJeans Meeting No. **326 384 589**

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

Ms. Shelly Preza: . . . started. Just, if for anyone who is joining us for the first time, if you're a Commissioner and if you'd like to turn your video on that be great. And if you're not a Commissioner, if you could mute your video off until you'd like to testify, if you would like to. And to just get started, I'll start with roll call to make sure that we have quorum today. So is Chelsea here? Okay. Roxanne?

Ms. Roxanne Catiel: Here.

Ms. Preza: John Delacruz? Not here yet. Sally Kaye?

Ms. Sally Kaye: Here.

Ms. Preza: Thank you. Sherry Menze? John Ornellas, I think he's not able to join. Natalie Ropa?

Ms. Natalie Ropa: Here.

Ms. Preza: Thank you. And I believe Shirley has not been able to attend. Unfortunately, that doesn't put us at quorum. That's only four commission members here. So I'm not sure if we want to give them a few minutes. I know that Shirley and John said they weren't able to make it, but I believe Chelsea and John did confirm their attendance. Can you confirm that Leilani, that they said they would be here.

Ms. Leilani Ramoran-Quemado: Can you hear me?

Ms. Preza: Yes.

Ms. Ramoran-Quemado: Yes, John Ornellas – excuse me, John Delacruz and Chelsea did indicate they were planning to attend also.

Ms. Preza: Okay. So do you think it would be best if we just get started anyway and hope that they pop in before we have to vote on anything?

Ms. Ramoran-Quemado: I'll defer that to --

Ms. Preza: I think we'll go --.

Ms. Ramoran-Quemado: -- Richelle.

Ms. Preza: I'm sorry, what was that Leilani? Sorry, what was that Leilani?

Ms. Ramoran-Quemado: I would defer that Richelle to see whether or not if we can continue the meeting without a quorum.

Ms. Preza: Okay. Richelle, are you there?

Ms. Richelle Thomson: Hi Shelly. Hi Chair.

Ms. Preza: Hi.

Ms. Thomson: So what I recommend is that we just wait for a little while before we start the meeting. If we, we can have presentations and testimony without quorum, but you wouldn't be able to deliberate or ask questions. So you can just receive the testimony or presentation, but you couldn't take any action, you know. So if you, if you can give it like another ten minutes or so and just see if you know, enough folks show up and that's what I'd recommend.

Ms. Preza: Okay. Yeah. Sounds good. I'm sorry. Everyone who's joining us on, on time, if we could just wait a little while. Thank you, Richelle, for your input.

Ms. Kaye: Can I ask a question, Shel? Is it possible, Richelle, to do any of the back end items or would that require a motion to amend the agenda? You know, the report on the Miki Basin that kind of thing that doesn't require any action?

Ms. Thomson: Um, right, it kind of doesn't matter because it's all, you know, on the same agenda. So we can take it out of order anyway. Yeah.

Ms. Kaye: Okay.

Ms. Preza: I'm sorry. Can I just confirm; can you all hear and see me okay? Because I'm showing that my internet is not doing great. Okay, thumbs up. That's good. Thank you. I can never tell but yeah, thank you all for your patience. And actually while we wait to see if anyone else, any other Commissioners hop on, I'll just go through the kind of meeting protocols if you're joining us for the first time via BlueJeans. Thank you for being here.

So public testimony will be taken when each agenda item is discussed and testimony will be limited to a maximum of three minutes. Testifiers will be called by me to offer testimony and are asked to mute their audio and video when you're not testifying. If you're testifying via video, you can sign up using a chat function by providing your name and the item you wish to testify on. You can message that directly to Leilani. The Commissioners will be not, will not be checking the actual chat, so please don't put anything there because we won't be, we won't

be addressing that personally. But if you can, if you can directly message Leilani that would be great. And if anyone's calling in via the phone, I'll call for testifiers after anyone who's calling into BlueJeans has testified. Yeah, and it says Commissioner shall not be contacted by the chat function. So anyway, thank you all for your patience. Hope you all are all doing well.

Okay, I guess we'll give them another five minutes if that's okay, just because yeah, I would be good to, if others could hop on. How are Commissioners doing, Roxanne, and Natalie and Sally?

Ms. Kaye: It's cold. Very cold.

Ms. Preza: Yeah, it's quite gloomy outside. Today's a good day for soup. Yeah, I was going to say this is the one good thing about a BlueJeans meeting is that you can stay in your warm house and we don't have to, like, go to the Senior Center and brave the weather. So I'm just going to mute myself and then we'll see where we're at at 5:10. And apologizes to everyone who's tuning in. We can't get started until we have a quorum. But if you want to go take a break, get some water, get a snack, this would be a good time to do it.

Chelsea are you there? I think I just saw Chelsea hop on. Chelsea, can hear us? I think she's still connecting. Oh, hi, Chelsea. It seems like she's still messing with her video.

Ms. Chelsea Trevino: Hi there.

Ms. Ramoran-Quemado: Shelly, you're muted. You're muted, we can't hear you.

Ms. Preza: Oh, sorry. Thank you. So now we have quorum. Okay, we actually did --. Chelsea just leave? Sorry, I only I can only see you popping in and out.

Ms. Trevino: I'm here. I think it kicked me off. I had to connect . . . (inaudible) . . . I'm sorry, I just got home.

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

1. A BILL FOR AN ORDINANCE AMENDING SECTION 19.52.090, MAUI COUNTY CODE, RELATING TO UNLAWFUL CONSUMPTION OF INTOXICATING LIQUOR IN HISTORIC DISTRICTS 1 AND 2 (LAHAINA)

MS. MICHELE CHOUTEAU MCLEAN, AICP, Planning Director, transmitting County Council Resolution 20-166 referring to the Lanai Planning Commission a proposed bill to establish that the consumption of intoxicating liquor in recreational areas under the jurisdiction of the

Department of Parks and Recreation is unlawful in Historic District 1 and 2 (Lahaina). Some minor updates are also proposed. (J. Takakura)

The entire text of the proposed bill for ordinance is available at <https://www.mauicounty.gov/1127/Legislation---Proposed>

Ms. Preza: Oh no worries. Okay, great. So we have quorum now so we'll get started on Item B.1. If possible, I think, we, we have a presentation. So if you would like to sign up to testify, please directly message Leilani, and then I will open public testimony after any presentations. But this item is on a bill for ordinance amending Section 19.52.090 of Maui County Code relating to unlawful consumption of intoxicating liquor in Historic Districts 1 and 2 Lahaina. And I believe a resolution is being transmitted and I'm not sure if a representative from the County has the presentation for us to listen to. I see Jackie is there. Hi, Jackie. All right, feel free to get started whenever you're ready.

Ms. Jackie Takakura: Okay, thank you, Chair Shelly Preza.

Ms. Preza: Thank you for being here.

Ms. Takakura: Hi Planning Commission members. It's gloomy here on Maui too, so it's nice to be in my office. Okay, so we're here talking about Chapter 19.52 of the Maui County Code. And this is Historic Districts 1 and 2 Lahaina, and I know this is separate. It's not related directly to Lanai, but because it's part of the zoning code, we do get the feedback from all three planning commissions. And I think this place is probably quite familiar to you because, you know, the ferry is right there and so you probably pass through this area often when you come to Maui if you take the ferry.

So I do have a brief presentation for you that I'll go through. I'm going to share my screen now and then I will ask for a thumbs up, uh, blue screen. I think you folks received this in advance. So can I -- I can see your little images if you can just give me a thumbs up that you can see the presentation that I have and you can hear me okay. I'll try to pay attention to my screen, too, so I don't forget where I'm at it.

Okay, so like I mentioned, this is Chapter 19.52 of the Maui County Code, and we just have some revisions. And at the end of last year, the Planning Department received Resolution 20-166 to prohibit drinking alcohol in the county parks in Historic Districts 1 and 2. And that's Chapter 19.52.090. The bill that we're presenting also proposes to revise the definition of intoxicating liquor. So it is the same as what you would find in the Hawaii Revised Statutes, Section 281-1.

And since we received this resolution, we took this as an opportunity to update this whole part of the Code, because if you had a chance to look at the memorandum report, you can see that there's terms that are antiquated and there's some that are redundant. It's just like when we went through that Airport District zoning code and we saw those words like haberdashery

and those things that, you know, you have to look them up. We don't even know what those terms are anymore. So those terms are still in this part of the Code, so we'd just like to clean it up and use modern terms. And there's some definitions like dry goods and then some other store type definitions that are in there that are redundant. So we're trying to put them together and then put them in alphabetical order, and so that they're lined up with also not just in alphabetical order, but with what you would find in other parts of the zoning code.

In addition, we're proposing to make the height limit for single family dwellings and duplexes consistent with the height limit in other chapters of the code. And I'll go into more detail about each of these.

So I want to just go over the parts that we're proposing to update in order of what you would see in the Code, and so this is 19.52.090B. And what we propose to do is take that list of 53 uses and consolidate them down to 19, and use terms that are already in our definitions chapter, 19.04.040. Or, if they're not in there, then just leave them as they are. And that results in 19 uses instead of 53. And in the memorandum, I included all 53 and the proposed consolidation so that you can see we're not trying to delete anything or change anything. We're just trying to consolidate.

We want to add a new use proposed and that would be subordinate uses and structures which are determined by the Director of Planning to be clearly incidental and customary to the permitted uses and structures listed herein. And that language is exactly the same as what you would see in a lot of other zoning districts like Apartment, Industrial. I did a search and this is the same language as in eight other chapters in the zoning code.

So consolidating the 53 uses down to 19, adding this one would equal 20 uses. And by the way, these photos are reminiscent of the time when these use regulations were in existence back in the days of, like I mentioned, haberdasheries, and servants' quarters, and dry goods, and meat markets, and newsstands, et cetera. So it's kind of interesting to go back in time. But, you know, we would like to have the zoning code be pertinent to the present.

So the next change is to 090C, and that is proposing new heights for single family dwellings and duplexes. Right now, the height limit in the historic districts is 35 feet for all buildings and structures. But in most other zoning districts, for single family dwellings, it's 30 feet. And so what we're proposing is to make this part of the Code consistent with other parts of the Code so that single family dwellings and two family dwellings are limited to 30 feet in height. And that would be only new ones. It would not affect existing structures. And I did a search on this one, too. And this is the same as what you would see in residential, service business residential, neighborhood business, rural and agricultural zoning district, is 30 foot, 30 feet height limit.

This is just another change. This is a 090D and changing the term from yard to setback just because that's the general trend in the Department is to use the word setback. And so we'd like to be consistent with that. And you might see this when we get closer to the Title 19 rewrite

in the, in the . . . (inaudible) . . . But we're not changing the numbers or the size of the setback at all. Just this term from yard to setback.

And this is the part that came from -- this is 090F -- and this is the one that came from the County Council Resolution. And right now the current prohibit, prohibition on drinking in parks excludes county parks. And so you can see this yellow here on the screen, we have the bracket going around that yellow part. We want to take that out so that they're not exempted from the --. Well, then they should be just treated like every place, all the other parks in this area. And this recommendation came from the Clean and Safe Lahaina program. Drinking in public parks has become an issue over the years. Some of these parks are culturally significant, you know, like the Courthouse or Moku'ula. Additionally, prohibiting drinking at County parks in the Lahaina Historic Districts would be consistent with the alcohol prohibition at other County parks.

According to the minutes from the November 20th County Council meeting, there's broad community support for this bill, including from the Lahaina Town Action Committee and the Lahaina Restoration Foundation.

Just so you know that the Planning Commissions review the changes to Title 19, but there would be one other provision that would also need to be amended in relation to this. And this is Maui County Code Title 13; 13.040.04A in order for us to take effect. So Corporation Counsel will work with the County Council and the Department of Parks and Recreation to make sure that once this part, Title 19 part, passes through the Planning Commissions' reviews, that additional section would be included for Committee and then Council approval, so that the two parts of the Code are consistent.

So this is a map of the locations. You can see Historic, Historic District 1 is the light blue, and Historic District 2 is the pink. And then I -- we have the green outlines of where those recreational areas are that are under the jurisdiction of the Department of Parks and Recreation. But those are probably familiar to you; the Banyan Court, the Courthouse, you know, right near the harbor. So those are the parcels that would be affected by this change.

So in a nutshell, we'd like to do is modernize, consolidate, and alphabetize the list of used regulations. We'd like to add this additional use, subordinate uses and structures determined by the Director of Planning to be clearly incidental and customary to the permitted uses and structures. Reduce the height limit for new single family dwellings and duplexes to 30 feet, just like other residential areas. And then update the part about the drinking. No drinking alcohol in County parks.

So what the Commission can do is hopefully approve the proposed bill. If you have amendments, you can consider those or include those, you can recommend denial, or you can vote to defer action. So that's the present, that's the basic information. We can answer questions, but I'll stop screen sharing here. Thank you.

Ms. Preza: Thank you Jackie. So, Commissioners, as you are you thinking about any questions for her, I'm going to open public testimony. Leilani, has anyone signed up to testify?

Ms. Ramoran-Quemado: Thank you, Chair. No one has signed up for this item.

Ms. Preza: Okay, thank you. One more chance for anyone calling via the BlueJeans. If anyone would like to testify, you can unmute yourself. And if not, I don't think I see anyone calling in via phone, but I'll just ask. Is anyone calling in via phone who would like to testify on this agenda item? Okay, if not, then I'll close. Okay, actually, so I'm not supposed to be checking the, the chat, but I saw that Andrea asked — has a question to ask. So Andrea, would you like to testify and you can pose the question to the Commission then we can ask Jackie?

Ms. Andrea Ippen: Yes, please. I would just like to ask if we could hear more in depth as to the reasoning behind the prohibition of liquor in those areas.

Ms. Preza: Okay, thanks Andrea. Maybe, Jackie, if you have any background on that to answer her question.

Ms. Takakura: So . . . is the question regarding the, the exception right now that -- because drinking is allowed in the County parks in the historic district now. So what we're proposing to change, what the resolution would like to change is that drinking would be prohibited in the recreational areas under the jurisdiction of Parks and Recreation. I guess I'm not . . . (inaudible) . . .

Ms. Preza: Yeah, could you say your question again, Andrea?

Ms. Ippen: Yes, I would like to know more, please, about the reasoning behind making alcohol or intoxicating liquor illegal in those parks.

Ms. Takakura: May I Chair?

Ms. Preza: Yes, please.

Ms. Takakura: Thank you. So, yes, this came from the Clean and Safe Lahaina program. And I guess over the years they've been starting to see the problems with homelessness and vagrancy in some of these parks. This would be one of the tools to help, try to help resolve some of these issues that they're starting to see in these parks especially because as you saw in the map, a lot of them are culturally sensitive places.

Ms. Preza: Thank you, Jackie. Andrea, I hope that answered your question. Commissioner, she didn't really ask, she didn't really pose any comments. But do you have any questions for Andrea? We always ask that for testifiers. Okay, if not, has anyone signed up to testify? Leilani, no one has sent you anything?

Ms. Ramoran-Quemado: I'm sorry. No, sorry, no one else has signed up.

Ms. Preza: Okay, thank you. And thank you so much, Jackie. So I'll close public testimony at this time and Commission --. And I also see that John Delacruz has joined us, so now we're at six. Hi John. Commissioners, do you have any questions for Jackie or any discussion on this agenda item?

Ms. Kaye: I have just a tiny suggestion on the prohibition. The old language actually has, I think, what is probably just a typo that started from years ago and just got carried through. But I'm going to read it "in any public street, park, or open space that is owned or maintained by a government --"

Ms. Preza: Wait, sorry Sally to interrupt you. Could you let us know where you are so I can look too?

Ms. Kaye: Okay, if you want to go to the handout, the original one from the Department, not, not the power point, on page eight. Okay, the language in the middle. What it's assuming is that it would be prohibited without permission or approval from a governmental agency that's in charge of the areas. I'm only challenging the word "expressed" because that's a legal term of art and it's usually without the express approval not expressed. So I would just recommend that that word be changed from expressed, e, d, to express. That's it.

Ms. Preza: Thanks Sally. Any other comments or questions? Well, so we have a few --. Oh, yes, Richelle, hello. I think you're muted.

Ms. Thomson: I just wanted to --. Oh, sorry. Can you hear me now? Okay, thanks. I noticed that in the Planning Department's staff report, they also included the Parks Department's recommendation, recommended language and noted that there was a change to 13.04A.080. And I wanted to because I know that you're as a Commission you're just considering the changes to Title 19, 19.2. But you could convey if you want to either support or whatever for the Park Department's proposed changes. And if you are in support of, of those changes to 13.04A.080, there might be an additional change to suggest to the definition of parks in 13.04A.030. Right now the definition in that title, in Title 13, says parks means a public area owned and operated by the County, and it goes on. So the suggestion might be to copy the language owned or maintained by a governmental agency or by the County because several of the parks in the historic districts are an executive order. So they're not technically owned by the County. So just that small clean up too.

Ms. Preza: Thanks. So just to clarify, the, the, what you're referencing wasn't in our packet, right? Like that's a separate thing that will need to get changed in the future, potentially to align with what we're proposing to do here?

Ms. Thomson: Right.

Ms. Preza: Okay.

Ms. Thomson: And it's -- since you're, you know, kind of considering what Parks has also suggested, if you're in support of that change that the Parks is recommending, I would, I would maybe suggest that in your transmittal that that comment is noted just so the council members are aware.

Ms. Preza: Okay, that sounds good to me. Thank you for bringing that up.

Ms. Thomson: Sure.

Ms. Preza: Okay, so with that, we have a few routes we can go. We can recommend approval of the proposed bill, recommend approval with amendments, denial, or defer. Would anyone like to make a motion so we can move forward with our agenda?

Ms. Kaye: I'll move that we recommend approval of the proposed bill with that one amendment from expressed to express.

Ms. Preza: Thank you. So there's a motion. Would there be any --? Sorry, Sally, do you want to include what Richelle was suggesting as well?

Ms. Kaye: I don't understand how we can recommend an amendment to something that's not in front of us. I'm just not sure how that works.

Ms. Preza: I see.

Ms. Kaye: Because I, I -- we don't have 13. We don't have the language. And I'm not -- I didn't catch where that's appearing in what we have in front of us so maybe I just didn't understand clearly where she's going with that.

Ms. Preza: I see. And Richelle, you can feel free to chime in.

Ms. Thomson: Actually the reference to 13.04A is on -- let's see -- it's attached to the Department of Parks and Rec. There's a letter just following the Planning Department's staff report and dated September 25th. And it's, it's the third page of that letter from the Parks Department.

Ms. Kaye: Got it. I'm sorry. Yeah.

Ms. Thomson: So, yes, I think you're absolutely correct, though. It's, you know, really you're recommending -- the motion is to approve the changes to 19.52 with that change that you noted, which I'm so, I really appreciate your careful read of that. That's excellent. And then if you also wanted to include your opinion on the Parks recommendation to the amendments to

13.04A you can do that as, you know, like a cover letter and just ask Planning to transmit the comments.

Ms. Kaye: I'd be happy to amend the motion to include that the definition in 13.04A.080 be as proposed by the Department. Would that help?

Ms. Preza: Yes. Thank you, Sally. And Richelle, does that is that does that suffice?

Ms. Thomson: Yeah. So there's maybe the changes proposed by Parks to 13.04A and also that they consider aligning the definition of park in 13.04A also. I think even something that kind of generic can, you know, convey what you're talking about.

Ms. Preza: Thank you. So Sally, are you amending your motion to reflect that?

Ms. Kaye: Exactly what Richelle said. So now we just need a second.

Ms. Preza: Thank you. Would anyone like a second that motion?

Mr. Delacruz: Second.

Ms. Preza: Okay, John seconds. So with that, is there any further discussion on this agenda before we take a vote? Okay, if not, then I'll just as we have done in previous meetings, I'll just call out your name, and if you could let me know how you vote. Okay, John Delacruz?

Mr. Delacruz: Aye. Or is it yes?

Ms. Preza: Sally Kaye?

Ms. Kaye: Aye.

Ms. Preza: Natalie?

Ms. Ropa: Aye.

Ms. Preza: Roxanne?

Ms. Catiel: Aye.

Ms. Preza: Chelsea?

Ms. Trevino: Aye.

Ms. Preza: And I also vote yes, so it passes unanimously. Thank you all very much.

Ms. Takakura: Thank you.

Ms. Preza: And thank you Jackie, for your presentation, and for answering questions. And as always, thank you, Richelle, for your guidance. Great.

It was moved by Ms. Sally Kaye, seconded by Mr. John Delacruz, then unanimously

VOTED: To recommend approval of the proposed bill with the amendments as discussed.

(Assenting: R. Catiel, J. Delacruz, S. Kaye, S. Preza, N. Ropa, C. Trevino)

(Excused: J. Ornellas, S. Samonte)

(Absent: S. Menze)

2. A BILL FOR AN ORDINANCE AMENDING SECTION 2.80B, MAUI COUNTY CODE, TO ADD 'MITIGATE CLIMATE CHANGE AND WORK TOWARD RESILIENCE' AS A NEW GOAL OF THE COUNTYWIDE POLICY PLAN

MS. MICHELE CHOUTEAU MCLEAN, AICP, Planning Director, in accordance with Section 2.80B.060, Maui County Code, transmitting County Council Resolution 20-170 referring to the Lanai Planning Commission a proposed bill to add a new goal and related objectives, policies and implementing actions to the Countywide Policy Plan of the Maui County General Plan 2030. (Jennifer Maydan)

The entire text of the proposed bill for ordinance is available at <https://www.mauicounty.gov/1127/Legislation---Proposed>

Ms. Preza: So we'll move on to Item B.2, which is a bill for an ordinance amending Section 2.80B Maui County Code to add mitigate climate change and work toward resilience as a new goal of the Countywide Policy Plan. I'm not sure if we have anyone here to present. We didn't receive any slideshow, like, hard copies in our packets. But, um, is anyone from the County here to speak a bit more on this or are we just going to jump straight into public testimony?

Mr. Jordan Hart: Chair, this is Jordan Hart, Deputy Director of the Planning Department.

Ms. Preza: Hi.

Mr. Hart: Hi. One item I just wanted to check on is, is do we substantively address both agenda items relating to the, to the historic district?

Ms. Preza: Sorry, both agenda items?

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

Ms. McLean: Chair, the next item is also a bill that was transmitted to the Commissions for review from the County Council. And this one would establish that the consumption of intoxicating liquor in recreational areas under the jurisdiction of the Department of Parks and Recreation is unlawful in Historic Districts 1 and 2 which are both in Lahaina and some minor updates are also proposed. And for this one, Jacky Takakura has a brief overview for the commission

Ms. La Costa: Thank you, Director. Ms. Takakura, if you will please.

- 3. MS. MICHELE CHOUTEAU MCLEAN, AICP, Planning Director, transmitting County Council Resolution 20-166 referring to the Maui Planning Commission a proposed bill to establish that the consumption of intoxicating liquor in recreational areas under the jurisdiction of the Department of Parks and Recreation is unlawful in Historic Districts 1 and 2 (Lahaina). Some minor updates are also proposed. (J. Takakura)**

The entire text of the proposed bill for ordinance is available at <https://www.mauicounty.gov/1127/Legislation---Proposed>

Ms. Takakura: Thank you. Thank you, Chair and Commission Members. So, I just have a short presentation. I'm going to share screen now. Can everyone see that blue?

Ms. La Costa: Yes, we can see it.

Ms. Takakura: Okay, thank you. So, this is specifically regarding kind of a specific area, the Historic Districts Number 1 and 2 in Lahaina, and they are under their own chapter, Chapter 19.52 of the Maui County Code. So, at the end of last year, the Planning Department received Resolution 20-166 from the County Council, which proposes to amend Section 19.52.090, Maui County Code to prohibit the consumption of intoxicating liquor in recreational areas under the jurisdiction of Parks and Recreation in the Historic Districts 1 and 2 which is Lahaina. The bill also proposes to revise the definition of intoxicating liquor so it is the same as in HRS 281-1.

In addition, the Department is proposing to make some updates to this very old part of the Code. Some terms are obsolete, some are redundant and some fit in with terms that we already have in 19.04.040, which is the section on zoning code definitions. So, I don't know if you had a chance to look at the memo report, but it has those terms. Remember, we talked about some of these terms in Airport District, haberdasheries, magazine stands and just these terms that are antiquated and no longer in use. So, when we received this resolution, we took this as a chance to say, hey, why don't we bring this into, you know, 2021 and just revise these terms so that they're, you know, terms that we use now, and there's also a lot of terms that are redundant, like dry goods and department stores and so forth when they're all basically the same. So, we want to revise the uses and also put them in order because for some reason they're not in order.

And then in addition, we're proposing to make the height limit for single family dwellings and duplexes consistent with the height limit in other chapters of the Code, and I'll go into each of these in more detail.

1
2 Okay, so I'm going to go in order of the way the Code is, and this is 090.B and that's use
3 regulations. Right now, there's 53 uses, and so we're going to...we're proposing to consolidate
4 them down to 19, and that would be with no loss or change in use. A lot of the terms that we're
5 putting them into, consolidating them into are already in existence in our definitions, and ones that
6 don't fit in, we're just going to leave them as is and that results in 19 instead of 53. And, you
7 know, I put all of them in the memorandum and that's why it's so long, but I really wanted to make
8 it clear that we're not trying to delete anything, we just want to modernize it and consolidate it.

9
10 We are adding, proposing to add one new use, subordinate uses and structures which are
11 determined by the Director of Planning to be clearly incidental, customary to the permitted uses
12 and structures listed herein. And this language is the same language that we have in eight other
13 chapters of the Zoning Code. So, it's also adding this to make it consistent with other parts of the
14 Code. So, taking 53, reducing it to 19, adding one, and so then, we would end up with 20. And
15 by the way, these photos are reminiscent of the time when these use regulations were in
16 existence, you know, haberdasheries, servant's quarters, dry goods, meat markets and so forth.
17 It's just kind of interesting going back in time and seeing how it used to be.

18
19 So, the next part is 19.52.090.C and this is regarding the height limit. Right now, the height limit
20 for all buildings is 35 feet, but this is rather high for dwelling units. In other dwelling units like
21 Residential, Rural, Ag, the height limit is 30 feet, so we're proposing that new single family and
22 duplexes be limited to 30 feet just like in the other zoning districts. It would have no impact on
23 existing structures or structures that are not single-family dwellings or duplexes.

24
25 The next change for 090.D, is just changing the language from yard spacing to setback, and that's
26 to be consistent with the general direction of the Department on the use of those words, and you'll
27 see this more as we get into the Title 19 proposed revisions and other updates, but we're not
28 proposing any change in the size of the setback areas.

29
30 And, 090.F, this is the where the resolution comes in and this recommendation actually came
31 from the Clean and Safe Lahaina Program. There's a Clean and Safe Wailuku and a Clean and
32 Safe Lahaina Program, and drinking in public parks has become an issue over the years, and
33 some of these parks, especially in the Historic Districts, are culturally significant, and I'll show you
34 a map of these in the next slide. By having this prohibition at the County parks that would also
35 make it consistent with the alcohol prohibition at other County parks. According to the minutes
36 from the November 20th, County Council meeting, there's broad community support for this bill,
37 including from the Lahaina Town Action Committee and the Lahaina Restoration Foundation.

38
39 Just so you know, the Planning Commissions review changes to Title 19, but there would be one
40 other provision that would also need to be amended in relation to this, and that's Maui County
41 Code, Chapter 13. So, the two would have to change in order for this to take effect. And what
42 will happen is Corporation Counsel will work with the County Council's office and Department of
43 Parks and Recreation to be sure that once this part, 19.52 passes the Planning Commission
44 reviews that that Section 13.040.A would also be included for revision in the committees and then
45 for Council approval.

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1 This is a map of the two Historic Districts. The light blue is Historic District 1, and the pink is the
2 Historic District 2, and then you can see the little green outlines of the parcels that are parks. And
3 some of them, I'm sure are familiar to you, the Banyan Tree area, the courthouse, Mokuula, so
4 you know, these are pretty important places and significant places, and those are the ones that
5 are under the jurisdiction of Parks and Recreation.

6
7 So, in summary, we want to modernize, consolidate and alphabetized the list of use regulations.
8 We want to add use of subordinate uses and structures, reducing the height limit for new single-
9 family dwellings and duplexes to 30 feet, just like in other Zoning Districts, and then prohibit
10 alcohol in the County parks. So, it's up to the commission to approve as proposed or if you'd like
11 to make amendments or you could deny or you could defer. So, that's the presentation. I'll be
12 here for questions if you have any. I'm going to stop showing my screen. Thank you.

13
14 Ms. La Costa: Thank you, Ms. Takakura. Commissioners, do we have any questions on the
15 presentation? Commissioner Pali.

16
17 Ms. Pali: Just for the record, I'm only going first because no one else is going first since I figure
18 I'll break the ice. I have a five-second rule. Okay, question. I'm going to start with the definitions.
19 Thank you, Jacky. If we're going to consolidate the definitions, is it correct for me to understand
20 that as you're implementing policy based off of these definitions, it's just going to obviously make
21 it easier? Is that kind of the thought process? Okay, so I think I only have one recommendation
22 that I'm not big on, but I just feel like it's just really different is the word, assembly. Hold on, where
23 did it go? Here, so you have the new definition called, assembly areas, and then you also have
24 a definition called, entertainment...oh, amusement center, and so I get that right now the
25 definition, the proposed definition for assembly area is facility with fixed seats, so it's more focused
26 on sorta the building structure, but the groups that you've thrown into assembly area, I feel are
27 just really different. You've got churches, dwellings of clergy connected to an incidental use, that's
28 part of a church. You've thrown in art galleries, you've thrown in auditoriums, and then you've
29 thrown in theatres, and then under amusement center, it seems like that's maybe more...you have
30 indoor or outdoor establishment, but then you've kind of got a broader like entertainment, passive,
31 active, patrons comes, spectators, independent or private, examples are acting, comedy,
32 theatrical shows, live recordings. Then you've got nightclubs, which if it's if it's a nightclub, it would
33 have fixed seats, karaoke, we have lots of karaoke here in Wailuku. And so, I would almost
34 recommend to...,'cause I feel like a rule that would be imposed on a church because there's, I
35 guess, special rules sometimes for churches. It might not apply to the art gallery and the theatre.
36 I feel like art gallery, auditoriums and theatres might be more appropriately put in as an
37 amusement center like the bars and the nightclubs versus an assembly area. So, when we're
38 starting to write policy, something that would normally be given a provision for the church may not
39 really apply for an art gallery. And so, my recommendation would be separate that a little bit
40 better. Just a recommendation. That's my first little thing here.

41
42 And then the other one is, it's a question for you. I heard you say, moving forward, you want to
43 reduce the maximum height from 35 feet down to 30. Are there current homes and buildings in
44 that area that are over 30 now, or have we just never built up to the 35, so it's clear that it's
45 common that they're building under the 30. So, moving forward we might as well just keep it
46 under 30. Do you know the answer to that question?

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1 Ms. Takakura: If I may Chair?

2
3 Ms. Pali: That's for Jacky.

4
5 Ms. Takakura: Yeah.

6
7 Ms. La Costa: Go ahead, Ms. Takakura.

8
9 Ms. Takakura: We did...one of my co-workers did an informal measurement of some of the Front
10 Street structures, and some of them, and these are going to be the commercial structures, we're
11 probably about 32 feet high. There's probably some churches like maybe Maria Lanakila that
12 might be over.

13
14 Ms. Pali: Okay.

15
16 Ms. Takakura: But those would be considered, you know, nonconforming and no, they wouldn't
17 be a problem. So, generally speaking, you know, along Front Street, they're all, they would all be
18 within the 35-foot height, and they wouldn't be affected by any of this proposed change. I don't
19 know of any homes that are over.

20
21 Ms. Pali: Okay, okay, ... (inaudible)...question. And then, I love the setback that's common sense,
22 I love that. Yard spacing that kind of takes you in the time zone, yeah, yard spacing that's cute.
23 Okay, and then the only other thing is if I'm reading the intoxicating liquor revisions, it excludes,
24 so, no drinking in the public areas except for if it's under jurisdiction of Parks and Rec., and that
25 was the map you showed. So, all those halls would not be subjected to no can drink over there
26 like that's...so in the words, you have your baby luau, you know, they going to have the cooler of
27 beer like those are excluded from this, but all other County parks cannot, can just clarify that?

28
29 Ms. Takakura: My understanding is that in other County parks outside of the Historic District,
30 alcohol is already prohibited. For some reason, this one district has that caveat provided,
31 however, recreational areas under, you know, Parks and Rec shall be excluded from these
32 restrictions, whatever reason, the Historic District was excluded from that prohibition. So, the
33 proposal is to just take that out.

34
35 Ms. Pali: The whole District was excluded?

36
37 Ms. Takakura: Chapter 19.52 which is only related to Historic Districts 1 and 2.

38
39 Ms. Pali: Okay, okay, so can you just repeat, can they drink in that map area that you showed us
40 or cannot drink? Because sometimes the double negatives and all that, like I'm just my brain's
41 not lining up with what we're...

42
43 Ms. Takakura: The proposal would be that they cannot drink in those park parcels.

44
45 Ms. Pali: That map you showed that's under the jurisdiction of Parks and Rec, this would say,
46 then no longer can drink in those areas?

47

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1 Ms. Takakura: That is correct, and I can share screen if anybody needs to see it again.

2
3 Ms. Pali: Because right now, as it stands, they can, but this would say, no can.

4
5 Ms. Takakura: Correct.

6
7 Ms. Pali: Okay, thank you for that clarification. I have no further questions.

8
9 Ms. La Costa: Commissioner Thompson.

10
11 Mr. Thompson: Thank you. Yes, Jacky, hey is that here like 505 Front Street that's all in that so
12 do they lose their permit? That's...they're under the commercial part I imagine.

13
14 Ms. Takakura: That is correct. This would only affect those nine park parcels. None of the
15 commercial properties or any of those with liquor license is not affected at all.

16
17 Mr. Thompson: Did Keeaumoku weigh in on this 'cause his kuleana is right there too, criss across
18 the street on...this anybody talk to him. Did he have anything to say about that, no?

19
20 Ms. Takakura: According to November 20th County Council minutes, did check with the
21 Aha Moku. As Planning Department, we didn't because we received this resolution and they were
22 asking for, you know, the commission's comments, but my understanding is that the
23 Councilmember did reach out to some of these groups, yes.

24
25 Mr. Thompson: Thanks very much.

26
27 Ms. Takakura: I remember specifically the Restoration Foundation and the Town Action
28 Committee I think, and then, yeah, she had mentioned Aha Mokus in her...(inaudible)...

29
30 Ms. La Costa: Commissioners, other questions? Yes, sir, yes, ma'am, sorry Jacky.

31
32 Ms. Takakura: Regarding Commission Member Pali's comments about the amusement center
33 and assembly area, those are taken directly out of the Maui County Code definitions, but, you
34 know, for clarity purposes, we can certainly include things, you know, 'cause like right now under
35 assembly area, churches is in there, but if the commission wants to recommend that you just keep
36 church as its own use in this, that that's certainly fine. But what we do as planners, when we're
37 reviewing things, we try to match things up, like if an application says church, we're going to look,
38 okay, what does the Code say? And if it has that same word then, you know, it's really clear and
39 that's what we were doing here, we saw the words, and then if there's an existing place in our
40 definitions, we use the term that's in the definitions. But we can certainly change things for clarity,
41 that's that's not a problem at all.

42
43 Ms. La Costa: Anybody else have a question? Ms. Takakura, I do have a question for you please.
44 When you are looking at historical tours, which is Number 53 on Page 4, it doesn't mention
45 anything about walking tours, it only talks about vehicles, and you have to park in certain places,
46 yada, yada, but it says nothing about walking tours, and I think that would be great to encourage

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1 those formally like they have in so many other cities across America. So, it doesn't, I'm concerned
2 that there is...it's silent on that. Thank you.

3
4 Ms. Takakura: Regarding that one, I think we were trying to find a balance between making too
5 many changes and going down, I hate to use the term, rabbit holes versus trying to stick with, you
6 know, not, not being too drastic in the changes. That's a fine line, but I do agree about
7 encouraging more types of tours than vehicles.

8
9 Ms. La Costa: Because it's says...

10
11 Ms. McLean: If I could echo Jacky's response. The initial bill was just relating to intoxicating
12 liquor, and then we took the opportunity to just update it and modernized it, but not to change the
13 substance of the Code. So, I'm not disagreeing with your suggestion, Chair, but that's why we
14 didn't include that or any other substantive changes.

15
16 Ms. La Costa: Thank you, Director. Appreciate that. Okay, any other comments? Seeing none,
17 may I please have a motion from the floor...oh, sorry Director go ahead.

18
19 Ms. McLean: Chair, Commissioner Freitas had his hand up.

20
21 Ms. La Costa: Commissioner Freitas.

22
23 Mr. Freitas: Thank you, Chair.

24
25 Ms. La Costa: Sorry, I didn't see you.

26
27 Mr. Freitas: On the map, it showed the Zone 1, Zone 2, and then it also listed a historic buildings
28 and historic sites. I've attended a couple of events at the prison, Old Lahaina Prison, and there
29 was alcohol. So, will this mean events such as that are not going to be allowed in that or is that
30 considered private property?

31
32 Ms. Takakura: Would that be considered, Hale Paahao, I don't know the Hawaiian for the prison
33 site.

34
35 Mr. Freitas: Yes.

36
37 Ms. Takakura: Okay, so that is one of the Park parcels that is proposed to be excluded, but I
38 don't know if you saw the Parks...Department of Parks and++ Recreation response? I think I had
39 it included in the report, but they were proposing to say that alcohol could be allowed by permit.
40 And however, that's not the resolution that we received that we were asked to, you know, seek
41 your comments on, but you know, that may be something where as this goes through the process
42 that the County Council might, you know, incorporate that decision, but yeah right now the bill is
43 to simply prohibit as you see, but yeah, Parks had mentioned that also, that you know, by permit
44 it might be allowed.

45
46 Mr. Freitas: Thank you, Ms. Takakura. I think Ms. Theo was signed up to testify and maybe she
47 can answer being the Executive Director of Lahaina Restoration.

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1
2 Ms. McLean: Yes, we haven't opened for testimony yet, and I...she did sign up earlier but I don't
3 see her on the call any longer unfortunately.

4
5 Mr. Freitas: Okay, thank you.

6
7 Ms. McLean: Chair, you're muted.

8
9 Ms. La Costa: Thank you. I have one other question for you. There was a letter from Parks and
10 Recreation, it was referring to 19.52.090, it was suggested that a highlighted area that you showed
11 on your slide previously was omitted yet when this regulation was submitted, that comment was
12 ignored and it was modified according to, third page from the end of our packet. It starts off with,
13 regulation and then drinking in public Number F, underlined, and where you have redlined and
14 underlined, that is different from what the Parks and Recreation suggested. So, I'm just wondering
15 why that was changed from what they submitted.

16
17 Ms. Takakura: So, the comments we received from Parks, if you look at your packet, starts on
18 Page 26 of 32, and it's...the attachments, Page 27, 28, and 29 are...oh, and 30, are from Parks.
19 So, the page that you see the black and red is from Parks, and I believe that's their...that's what
20 they proposed that it would be prohibited unless authorized by permit, license, lease or
21 concession, so that's it from September to the County Council, but for whatever reason the
22 resolution that we received from the County Council doesn't have that suggestion from Parks. It
23 simply has the brackets to remove that and that's all.

24
25 Ms. La Costa: Well, if I understand it correctly, they are not doing any proviso for exclusions, but
26 instead they're including the recreation areas under the jurisdiction of Parks and Recreation. Are
27 those in line with what map you had pulled up on your share screen?

28
29 Ms. Takakura: Yes, it would be just those nine or so parcels in the Historic Districts Numbers 1
30 and 2.

31
32 Ms. La Costa: Thank you for your clarification. Sorry, I was muted. If there are no other
33 comments, we will open the floor for public testimony. Director, you have anyone signed up to
34 testify.

35
36 Ms. McLean: Yes, Chair, Theo Morrison had signed up to testify but I don't see that she's on the
37 call, and she was the only one. So, Theo if you're on the call, please jump in or if there is anyone
38 else who wishes to testify on this item, please unmute your audio.

39
40 Ms. La Costa: Going once, going twice, anyone interested in doing public testimony this is your
41 last chance. Okay, public testimony is now closed. Director.

42
43 Ms. McLean: I would ask Jacky to again, will review the recommendation. The Department
44 recommends approval of the proposed bill and the Commission does have other options to
45 recommend denial or to defer or to recommend approval with modifications.

46

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1 Ms. La Costa: Do we need to have her restate what we already have seen, Director? Do we
2 need Ms. Takakura to restate Number 3 shown in our agenda, recommendations?

3
4 Ms. McLean: The Department's recommendation is to approve the bill as presented to the
5 Commission.

6
7 Ms. La Costa: May I have a motion please from the Commission?

8
9 Ms. Pali: I'll make a motion to approve as is.

10
11 Ms. La Costa: Thank you, Commissioner Pali. Do I have a second? Commissioner Castro, the
12 second. Any discussion?

13
14 Ms. Pali: Yeah, I like cleaning it up and making it easier for the staff planners to match, you know,
15 modern language and also just when they're seeing applicants, I think it makes sense. And I like
16 that if people still want to have parties in those areas then then can consider just applying for a
17 liquor permit which would give us a little bit more control and notice that something's going on
18 over there so that we could manage it. So, I think it's a good thing.

19
20 Ms. La Costa: Commissioner Castro, have any further comments as the second.

21
22 Mr. Castro: I'm fine the way it is, the way it's presented.

23
24 Ms. La Costa: Thank you. Commissioners, any other discussion? Seeing none, I will call for the
25 vote. All those in favor of the submitted...now I have brain damage, of the...of this submission,
26 please raise your hand. Those opposed? Commissioner Freitas.

27
28 Ms. McLean: Commissioner Freitas had his hand raised. Oh, he froze on mine, thank you. Okay,
29 so it is unanimous. The bill passes. Thank you.

30
31 **It was moved by Ms. Pali, seconded by Mr. Castro, then**

32
33 **VOTED: To Recommend Approval of the Proposed Bill to the County Council**
34 **as Presented.**
35 **(Assenting – K. Pali, S. Castro, J. Edlao, K. Freitas,**
36 **M. Hipolito, D. Thompson, P D. La Costa)**
37 **(Excused – C. Tackett)**

38
39
40 Respectfully Submitted by,

41
42
43
44 CAROLYN TAKAYAMA-CORDEN
45 Secretary to Boards and Commissions II

Mr. Poepoe: Hold on. Let me pull up my emergency agenda here. On to item C, Public Hearing, number one:

Mr. Poepoe read the following agenda item description into the record:

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

- 1. Ms. Michele Chouteau McLean, AICP, Planning Director, transmitting County Council Resolution 20-166 referring to the Molokai Planning Commission a proposed bill to prohibit the consumption of intoxicating liquor in recreational areas under the jurisdiction of the Department of Parks and Recreation in Historic Districts 1 and 2 (Lahaina). Some minor updates are also proposed.**

The entire text of the proposed bill for ordinance is available at <https://www.mauicounty.gov/1127/Legislation---Proposed>

Mr. Poepoe: On to -- hi, Jacky. Do you have a presentation?

Mr. Pele: She went to get her shot glass. Take some shots.

Mr. Poepoe: Kala mai. We no can hear you. Nothing yet.

Mr. Hart: Jacky, no audio from you. Suzie, can you check if -- if you're able to unmute her and then, also, could you mute everyone else who is not participating. Chair, staff is having technical difficulties. She is going to reset. I'm wondering if we could take a five-minute recess and then, at the same time, I want to reiterate for everybody whose -- who doesn't have a remaining item on the agenda or is not participating in this item specifically if you could mute your video and audio, that would be great. Thank you.

Mr. Poepoe: Okay, we'll call a five-minute recess for technical issues.

Mr. Schnell: Briefly --

Ms. Takakura: Can you hear me now?

Mr. Schnell: Thank you, Commission Members. Thank you for -- for moving the DBA and the change in zoning along. We look forward to coming back to you with the SMA. Thank you.

Mr. Poepoe: Did all members get that -- the memo, five -- five-minute recess? Okay.

Ms. Takakura: Jordan, can you hear me now?

Mr. Hart: Yeah. Sound test is good.

Ms. Takakura: Okay. Thanks. I don't know what happened. Sorry about that everybody.

Mr. Hart: That's alright. Five minutes.

(A recess was called at 1:10 p.m. The meeting reconvened at 1:18 p.m.)

Mr. Poepoe: I call the meeting back to order and we have a presentation for C.1. Go ahead, Jacky.

Ms. Takakura: Good afternoon, Molokai Planning Commission, Vice-Chair Poepoe. Sorry about the technical difficulties. Thank you for your patience. This is just a short presentation. I'm going to screen share. Okay, so this is regarding Maui County Code, Chapter 19.52, and it is specific to Lahaina Historic Districts 1 and 2, but the County Council specifically asked for input from the three island Planning Commissions, and it is part of the code, so even though it doesn't specifically relate to Molokai, we do want to get your feedback on this proposal.

So, at the end of last year, the Planning Department received from the County Council Resolution 20-166, which proposes to prohibit drinking alcohol in the County parks in Historic Districts 1 and 2, in Lahaina. The bill also proposes to revise the definition of "intoxicating liquor" so that it is the same as in Hawaii Revised Statutes Section 281-1. I'll show you a map later, and there was also a map in the packet of exactly where this area is. You're probably familiar with the area near the harbor, but that's the specific area that this affects.

Since we got this Resolution, we took this as an opportunity to propose some other updates to this very old part of the code. Some terms are obsolete, some are redundant, and some fit in with terms that we already have in our Chapter 19.04, which is the section on zoning code definitions. We're proposing to consolidate the list and reorder the list because, for some reason, it's not in alphabetical order, so we're going to consolidate them, and modernize them, and then put them in alphabetical order. In addition, we're proposing to make the height limit for single-family dwellings and duplexes consistent with the height limit in other chapters of the County Code, and I'm going to just go over it, each one in more detail as we go through.

So, the first part of the change is to part B, 19.52.090.B, and, right now, there's 53 uses, and some of them are redundant, like dry goods versus apparel stores versus, you know, department stores. They're all basically stores. So we're taking those uses and

consolidating them down to 19 with no loss or change of use. And some of them, if you had a chance to look, are old terms like haberdasheries, so we don't use those words anymore, so terms that we already find in the Maui County Code, Title 19, which is the zoning code. We're also proposing an additional use, and that is subordinate uses and structures which are determined by the Director of Planning to be clearly incidental and customary to the permitted uses and structures listed herein, and this language is wording that's already in eight other chapters, so it's just adding this to this one consistently with how we have it in eight other chapters.

I have these photos in here in this presentation just because this is reminiscent of the time when these use regulations were in existence and that is back in the days of haberdasheries and servants quarters and dry goods and meat markets. Just interesting to see, you know, what the times were like that -- at that time.

Okay, the next part that we're proposing to revise is part C, 19.52.090.C, and that's regarding height limit. Right now, the height limit is 35 feet for all buildings and structures. In most other zoning districts where we have single-family dwellings, the height limit is 30 feet, and so we're proposing to make, for Historic Districts 1 and 2, the height limit for family -- single-family dwellings and duplexes to be 30 feet, just like how it is in residential, service business residential, B-1, rural, and ag that new single-family dwellings and duplexes would be limited to 30 feet in height, and this would not affect any existing structures, and any new buildings that are like commercial or not single-family dwellings would still be allowed to be up to 35 feet in height.

This next part, part D, is just simply changing the words "yard" and "yard spacing" to "setback," and we're proposing that to be consistent with the general direction of the Department on the use of those words, and you'll probably see that more when we get more into the Title 19 rewrite and other updates. We're not proposing any changes in the setback areas. No changes to the numbers, just the words ...(inaudible)... consistent.

Okay, and then this part is part F, of 19.52.090, and this is where the County Council Resolution comes in. Right now, the prohibition on drinking in parks excludes County parks, and so the proposal is to remove the part that you see the brackets around the yellow and so that all the parks in this Historic Districts 1 and 2, regardless of if they're private or run by Parks and Rec, they're all going to be the same across the board that it would be unlawful to consume intoxicating liquor. This recommendation came from the Clean and Safe Lahaina program. Drinking in public parks has become an issue over the years, and some of these parks are historically significant, and I'll show you on a map on the next slide. Additionally, prohibiting drinking at County parks in the Lahaina Historic Districts would be consistent with the alcohol prohibition at other County parks in other areas. I took a look at the minutes of the County Council meeting when they discussed this on November 20th of last year, and there's broad community support for this bill,

including from the Lahaina Town Action Committee and the Lahaina Restoration Foundation.

Just so you know that the Planning Commissions, we review -- they review changes to Title 19, but there would be one other provision that would also need to be amended in relation to this and that's in Maui County Code, Chapter 13, 13.04.A, in order for this to take effect, so there would be a Chapter 13 change and Chapter 19 change. Corporation Council would work with the County Council's office and Department of Parks and Rec to be sure that once the change is updated in Title 19 that that additional section would be included for committee, but, today, we're just looking at 19.52.

So this is a map. You can see the Historic Districts 1 and 2 in light blue and pink, and then the green outlines are the park parcels, and you can see along the harbor there's the courthouse, the banyan tree area, Mokuula, those other places that are managed by Parks and Rec, and so that's where this proposal would take effect.

So that's it. In summary, it's just modernizing, consolidating, alphabetizing the list of use regulations, taking it from 53 to 20, or 19 actually and then adding this one to make it 20 subordinate uses and structures, revising the height limit for single-family dwellings and duplexes, new ones only, existing wouldn't, and then prohibiting the drinking alcohol in County parks in this area. So, the Commission can recommend approval, and then we would take it back to County Council. You can have -- propose amendments, denial, or defer action. So, that's the presentation. I'm going to stop screen sharing. If you have any questions, I'll be available for them.

Mr. Poepoe: Thank you, Jacky. Any members with questions? Seeing none. Department, is there something you'll read the recommendation for, Planning Department?

Ms. Takakura: So, we are recommending approval of revisions to Chapter 19.52.090, Historic Districts 1 and 2 in Lahaina, so that it may be transmitted to County Council for their consideration.

Mr. Poepoe: Okay, thank you. Anybody want to submit a motion? Go ahead, Commissioner Sprinzel.

Mr. Sprinzel: Propose as she has described.

Mr. Poepoe: Corp Counsel?

Ms. Chen: Sorry, Chair, did -- did you take public testimony?

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Mr. Poepoe: Oh, okay. I'm sorry.

Ms. Chen: Yeah, no problem. It's just a public hearing item so -- and I know -- I think there is somebody here.

Mr. Poepoe: Okay, I'm going to open up public testimony. Anybody wants to testify on this item, state your name. And is this a item that testifiers are sworn in for?

Ms. Chen: Thank you, Vice-Chair. No, not for this item.

Mr. Poepoe: Okay, even easier.

Ms. Chen: Thank you for checking.

Ms. Esmeralda: Hi, this is Susie. I don't have anyone signed up, not for C.1.

Ms. Chen: Okay, yes, I see it's for -- for the following item. Okay, so perhaps Vice-Chair, if you want to take a last call prior to closing.

Mr. Poepoe: Okay, yeah, nobody wants to go ahead and testify on item C.1., then we can go ahead and close public hearing, and have Commissioner Sprinzel state his motion.

Mr. Sprinzel: Propose we accept the terms as discussed.

Mr. Poepoe: Okay. Motion --

Ms. Mowat: Was there a second? I'll second if nobody seconded it.

Mr. Poepoe: Motion to accept by Commissioner Sprinzel, seconded by Commissioner Mowat. Any discussion on the item C.1.? Okay, seeing none, we can call for the vote. Commissioner Sprinzel?

Mr. Sprinzel: Aye.

Mr. Poepoe: Commissioner Pele?

Mr. Pele: Aye.

Mr. Poepoe: Commissioner Mowat?

Ms. Mowat: Aye.

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Mr. Poepoe: Commissioner Moore?

Mr. Moore: Aye.

Mr. Poepoe: Commissioner Espaniola?

Ms. Espaniola: Aye.

Mr. Poepoe: And the Vice-Chair, Commissioner Poepoe, votes aye. Motion passes.

It has been move by Commissioner John Sprinzel, seconded by Commissioner Bridget Mowat, then unanimously

VOTED: to accept the revisions to Chapter 19.52.090 as proposed.

(Assenting: L. Espaniola; W. Moore; B. Mowat; J. Pele; L. Poepoe; J. Sprinzel)
(Absent: J. Bicoy; J. Perez, III)
(Excused: L. Buchanan)

Mr. Poepoe: And item --

Ms. Takakura: Thank you.

Mr. Poepoe: C.2.:

Mr. Poepoe read the following agenda item description into the record:

- 2. In accordance with Section 2.80B.060, Maui County Code, Ms. Michele Chouteau McLean, AICP, Planning Director, transmitting County Council Resolution 20-170 referring to the Molokai Planning Commission a proposed bill to add a new goal and related objectives, policies and implementing actions to the Countywide Policy Plan of the Maui County General Plan 2030.**

**The entire text of the proposed bill for ordinance is available at
<https://www.mauicounty.gov/1127/Legislation---Proposed>**

Mr. Poepoe: Item C.2., Planning Department.

Mr. Hart: Chair, this is a Council-initiated item the Department is transmitting to Commission for Commission's comment, so it's not an issue that comes with a