

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE**  
**Council of the County of Maui**

**MINUTES**

**November 16, 2022**

**Online Via BlueJeans**

**CONVENE:** 9:00 a.m.

**PRESENT:** Councilmember Tamara Paltin, Chair  
Councilmember Kelly Takaya King, Vice-Chair  
Councilmember Gabe Johnson, Member (in 9:18 a.m.)  
Councilmember Tasha Kama, Member (in 9:05 a.m.)  
Councilmember Alice L. Lee, Member  
Councilmember Michael J. Molina, Member  
Councilmember Keani N.W. Rawlins-Fernandez, Member (in 9:20 a.m.)  
Councilmember Shane M. Sinenci, Member

**EXCUSED:** Councilmember Yuki Lei K. Sugimura, Member

**STAFF:** Wilton Leauanae, Legislative Analyst  
Paige Greco, Legislative Analyst  
Richard Mitchell, Legislative Attorney  
David Raatz, Deputy Director  
Clarita Balala, Committee Secretary  
Nalani Fujihara, Hawaiian Language Communications Specialist  
Lenora Dinneen, Council Services Assistant Clerk

Mavis Oliveira-Medeiros, Council Aide, East Maui District Office.  
Denise Fernandez, Council Aide, Lanaʻi District Office  
Jade Rojas-Letisi, Council Aide, Makawao-Haʻikū-Pāʻia District Office  
Zhantell Lindo, Council Aide, Molokaʻi District Office  
Daniel Kanahele, Council Aide, South Maui District Office

Kate Griffiths, Executive Assistant to Councilmember Johnson  
Evan Dust, Executive Assistant to Councilmember Kama  
Davideane Kama-Sickels, Executive Assistant to Councilmember Kama  
Lois Whitney, Executive Assistant to Councilmember Kama  
Axel Beers, Executive Assistant to Councilmember King  
Ellen McKinley, Executive Assistant to Councilmember King  
Sarah Sexton, Executive Assistant to Councilmember King  
Laura McDowell, Executive Assistant to Councilmember Molina

**ADMIN.:** Michael Hopper, Deputy Corporation Counsel, Department of the  
Corporation Counsel  
Jacky Takakura, Deputy Director, Department of Planning  
Sananda “Sandy” Baz, Director, Department of Management

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**OTHERS:** Matthew Murasko  
Vernon Kalanikau  
Anonymous Testifier 1  
Cara Flores  
  
Will Spence  
Rob Weltman  
(4) additional attendees

**PRESS:** Akakū: *Maui Community Television, Inc.*

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CHAIR PALTIN: . . .*(gavel)*. . . Will the Planning and Sustainable Land Use Committee meeting of November 16th come to order. The time is now 9:00 a.m. If I can ask everyone to please silence their cell phones and other noise-making devices. Members, in accordance with the Sunshine Law, if you are not in the Council Chamber, please identify by name who, if anyone, is with you today. Also, please see the last page of the agenda for information on meeting connectivity. My name is Tamara Paltin, and I'll be your Chair for today. With me I have Angela Lucero and Christian Balagso, and we have no testifiers waiting to testify at the District Office. Buena suerte la mejor de las suertes. Aloha kakahiaka, kākou, and surf is up. Next up, we have Vice-Chair Kelly Takaya King.

VICE-CHAIR KING: All right. Aloha kakahiaka, and buena suerte la mejer [sic] la mejor de las suertes. And I don't know the greeting from where I'm at, but I'm sitting in the airport lounge in Istanbul, and there are a lot of people around me, but they have these little cubbies, which are meant for meetings. So they're like little circular cubbies that you can sit in, and has a little shelf for your computer, so that's where I am. And I couldn't tell you the names of the people that are in the surrounding cubbies because I don't know them, but I don't think anyone's listening in. And I don't think we have any testifiers...let's see, Daniel...oh, we have one testifier at the South Maui District Office who wishes to testify anonymously when the agenda comes up, and after any presentation. That's from --

CHAIR PALTIN: Okay.

VICE-CHAIR KING: -- Daniel. And I think that's --

CHAIR PALTIN: *(Audio interference)*

VICE-CHAIR KING: -- all...right...for right now.

CHAIR PALTIN: Okay. Next up, we have Gabe Johnson, who is in transit on the ferry. And then we have Tasha Kama, who will be joining shortly. And then we have Chair Lee. Buena suerte, aloha kakahiaka, surf's up.

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COUNCILMEMBER LEE: Aloha kākou. Today's greeting is...is actually wishing luck to our colleague, Yuki Sugimura, who is going to undergo a knee operation shortly, and so the buena suerte is wishing her luck in Spanish. But if you are traveling where Member King is, salaam always works. I'm here alone in my --

VICE-CHAIR KING: Salaam.

COUNCILMEMBER LEE: -- workspace, and looking forward to your meeting, Chair. Thank you.

CHAIR PALTIN: Thank you. And I guess buena suerte, Councilmember Molina, and aloha kakahiaka, and surf's up.

COUNCILMEMBER MOLINA: All right. Buena suerte and aloha, to you, Madam Chair. La mejor de la suertes everybody. And I'm transmitting out here today at our Pā'ia District Office, accompanied by my District Office Specialist Jade Rojas-Letisi. There are no testifiers. And good to see Councilmember King over there in the Middle East. And, of course, all of our prayers and best of luck to our colleague Member Sugimura, who is undergoing a procedure, and we hope to see her soon, back on her feet. And looking forward to a very exciting PSLU meeting this morning, Madam Chair. Mahalo.

CHAIR PALTIN: Thank you. And I got word that Member Rawlins-Fernandez is en route. So buena suerte and aloha kakahiaka, Member Sinenci.

COUNCILMEMBER SINENCI: Aloha, and buenos dias, Chair, and la mejor de la suertes to our comrade, Yuki Lei Sugimura. For the record, happy to join this morning from our Hāna District Office. I'm here with District Staff Mavis Medeiros, and currently there are no testifiers, Chair.

CHAIR PALTIN: Okay. And from the Administration, we have Deputy Planning Director Jacky Takakura, and Deputy Corporation Counsel Michael Hopper. For PSLU-72, we'll have Will Spence, Land Use Planning Consultant. We had also asked for Lucienne de Naie and Dr. Janet Six. For PSLU-65, we'll have Rob Weltman. Our Committee Staff, today we have Clarita Balala, Committee Secretary; Wilton Leauanae, Legislative Analyst; Paige Greco, Legislative Analyst as well; and Remi Mitchell, Legislative Attorney; and Assistant Clerk Lei Dinneen. Oh, buena suerte, Member Kama.

COUNCILMEMBER KAMA: Buena suerte, Chair, and aloha kakahiaka to everyone else. I am sorry I am late. I was...I was in the GREAT meeting, waiting, but there wasn't anybody there, and I realized when I read, I said oh, no wonder, oh --

CHAIR PALTIN: . . .*(laughing)*. . .

COUNCILMEMBER KAMA: -- son of a gun. So, sorry. That was a great meeting, by the way, yesterday, Chair. But I am --

CHAIR PALTIN: Wrong...

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COUNCILMEMBER KAMA: -- in my home, I am alone in my workspace. So thank you.

CHAIR PALTIN: Awesome. Okay. So on today's agenda, we have two items. PSLU-72, Resolution 22-253, Relating to Change in Zoning for Real Property in Mā'alaëa, Maui Ocean Center, as well as PSLU-65, Resolution 22-223, Relating to Facilitating the Use of Electric Vehicles. All right. Let's begin with public testimony. Information on providing testimony can be found on today's agenda. We will receive oral testimony as the item is called up on the agenda. A link to the list of testifiers is posted in the chat. You may indicate in the chat that you do not wish to testify, but please be mindful that chat should not be used to provide testimony or commentary. If you have joined this online meeting, Staff will assume you wish to provide testimony, and will add you to the list of testifiers. Testifiers wanting to provide audio testimony should call 408-915-6290, and enter meeting code 149341846, also noted on today's agenda. Written testimony is encouraged, and can be sent via eComment. Search for the meeting date on mauicounty.us/agendas, click on the eComment link, then select the agenda item to submit comments on. Oral testimony is limited to three minutes per agenda item. When your name is called, please unmute yourself by clicking the video and microphone icons, or if calling in, press star-4 to unmute yourself. Please be courteous to others by muting your video and audio while waiting for your turn. Once you are done testifying, or if you're not providing testimony, you may also view the meeting on *Akakū* Channel 53, Facebook Live, or mauicounty.us. Members, I would like to proceed with testimony, and our first testifier on the list is Matthew Murasko, to be followed by Tony Rojas, and then James. Matthew Murasko, it's your turn to testify.

MR. MURASKO: Am I...am I on?

CHAIR PALTIN: Yes, you are.

MR. MURASKO: Aloha. Hi, Tamara, you know me from OluKai, probably, from years and years ago.

CHAIR PALTIN: Oh yeah. I just --

MR. MURASKO: Probably just --

CHAIR PALTIN: -- *(audio interference)*.

MR. MURASKO: Yeah. Yeah. Yeah, and so, I'll keep it quick. Thank you for setting this meeting up, but I wanted to testify as an individual, and I also wanted to disclose that I serve on the board...I'm on the board of directors of the nonprofit. So this is a nonpaid position. I've been volunteering with the Marine Institute at Maui Ocean Center, and the work that they are doing is...is pretty tremendous in rescuing turtles, not only on Maui, but from all over Hawai'i. And also, as we know, we all are very aware of global warming and what's happening with the reefs in our world. And the other aspect is a coral repository to regrow coral so we can, you know, not only replant these on Maui, but hopefully around Hawai'i. So, I'm in support of, you know, what has been proposed

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here, so, that is the end of my testimony. I thank everybody for their time, and...and the service you all, as Councilmembers, provide to Maui County, and all the hard work you do. I don't know how you guys do it. You guys have a long list every day of what you do, so, thank you for your time.

CHAIR PALTIN: Thank you. Members, questions for the testifier? Member King.

VICE-CHAIR KING: Thank you, Chair. Thank you for being here, Matthew, and for volunteering. I just wanted to clarify, with your volunteer work, can you just briefly explain what you do there?

MR. MURASKO: Yeah. So, I...I serve on...so, we have a board of directors. Our board of directors, nobody is paid, it's all volunteer, and basically, our job, as a board member, is to raise money for the nonprofit and steer this nonprofit into the future, not only for let's call it the present day but for the future of our keiki in Hawai'i, really, it's the...I mean, you look at the work that's being done there, that's really our job, is...you know, it's fundraising. It's kind of just being...as a businessman and an entrepreneur my whole life, this is something...the ocean has been a big part of my life since I've been born, and living in...you know, on a...you know, we live on liquid planet Earth, and we're surrounded by ocean, so this is...you know, this is very dear to my heart. And the work that the staff is doing every day, if you've not been over to the facility, it's pretty amazing, the work that they're doing in the tiny, little space they have.

VICE-CHAIR KING: All right. Thank you so much, and thank you for being such a great volunteer.

MR. MURASKO: You're welcome.

CHAIR PALTIN: Member Kama.

COUNCILMEMBER KAMA: Thank you, Chair. Thank you, Mr. Murasko, for being here, and for your volunteerism on...of the board. So, I may have missed it, but what is the name of the nonprofit?

MR. MURASKO: It's the Marine Institute at Maui Ocean Center. So it is the nonprofit in the back of the Maui Ocean Center.

COUNCILMEMBER KAMA: Thank you so very much. Thank you, Chair.

CHAIR PALTIN: Thank you. I just had a quick question. Are you interested in raising funds for other nonprofits too? I got a list. . . .*(laughing)*. . .

MR. MURASKO: Well, you should...well, you should see the list of donations I'm making this month with my Maui Life brand and other brands I'm involved with. But please, yeah, any...yeah, just...I'm open to anything, you know. So --

CHAIR PALTIN: Awesome.

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MR. MURASKO: -- you can...I have your number still, so I can give you a call if you want to...you know, I'm open to anything. I have a giving heart.

CHAIR PALTIN: Right on. Thank you. Okay, and next up, we have Vernon Kalanikau, we're ready for your testimony. You can go ahead and unmute your video and microphone. How's it going?

MR. KALANIKAU: Hey. Hey, how's it going? Good morning, everyone. So, I...I submitted to the eComment already. Maybe some of you have it, but since I'm home today, I...yeah, I thought I'd chime in. So the only concern I get, and...and I not ma'a to all the zone changing kind of stuff. So, my concern would be, you know, if the zone changes would...would attract other opportunities to the zone change, like with private owners, or commercial owners, or development kind of stuff. So, that's only my concern, is...is with these...if the zone change would...would entertain other entities with other agendas or entitlements, so, I don't know, yeah. So...but I do support the expansion to mālama our...our resources, which would be the honu, and the...the coral, and the nursery. So, yeah, the Ocean Center has always done great...you know, greatness for our community, and...and also for our...our ocean. So, it makes sense if, you know, this expansion of the Maui Ocean Institute could be next door to the Ocean Center, because yeah, we...we need more help with...to mālama our resources. So, I just concerned about the zone change. That's all I have.

CHAIR PALTIN: Okay, Member King. Oh, you're muted.

VICE-CHAIR KING: Sorry, I hope...you can't hear that stuff in the background, can you? Somebody's drilling or something. Thanks for being here, Vernon. And are you going to be able to stay on for the meeting? Because I think you'll get your questions answered. But the --

MR. KALANIKAU: Oh, yeah.

VICE-CHAIR KING: -- property in question is all owned by the Ocean Center, so, no one else would be developing. But...and it's in our...it's in our current community plan. But hopefully, they'll...you'll get to hear a little bit more of the explanation if you stay on.

MR. KALANIKAU: Okay.

VICE-CHAIR KING: Okay, thanks. Thank you, Chair.

CHAIR PALTIN: Sure thing. Member Sinenci.

COUNCILMEMBER SINENCI: Mahalo, Chair. And aloha, Mr. Kalanikau, mahalo for your testimony this morning. I understand you being part of the lineal descendancy for South Maui, and I remember you being involved in some of the marine...for the marine animals that were beached there, and you guys had a cultural protocol when dealing with...with specifically, beached whales. Do you think this type of, I guess, expertise should be

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part of...you know, if...if they're dealing with the health and...and possibly the expiration of marine animals, is some kind of cultural expertise that should be included in this?

MR. KALANIKAU: Yeah, definitely. And I...I...I think I...because currently, Tapani at the Maui Ocean Center reaches out for consultation on certain things, along...along with other cultural people. So, I'm kind of in the loop already, but --

COUNCILMEMBER SINENCI: Okay.

MR. KALANIKAU: -- but when we talking about the honus and our...our coral, they...they...yeah, we need help, you know, so...and...and yeah, there's...there's too much detrimental impact to both the honu and...and...and the corals too, so...and our reefs, right? So, yeah, this...this, I support. Yeah.

COUNCILMEMBER SINENCI: Okay, all right.

MR. KALANIKAU: We *(audio interference)* --

COUNCILMEMBER SINENCI: Well, good to hear --

MR. KALANIKAU: Yeah.

COUNCILMEMBER SINENCI: Good to hear that you...you're already in...connected in that capacity. Thank you.

MR. KALANIKAU: Yeah.

COUNCILMEMBER SINENCI: Thank you, Chair.

CHAIR PALTIN: Any further questions for the testifier? Seeing none, I did have one clarifying question. So, it's a change in zoning, and it sounded like you would prefer it to be a conditional change in zoning for the purposes of this turtle hospital, and not for another type of purpose or, you know, for this --

MR. KALANIKAU: Yeah.

CHAIR PALTIN: -- situation, and not for some other --

MR. KALANIKAU: So...

CHAIR PALTIN: -- type of purpose?

MR. KALANIKAU: Yeah. So, in my eComment, I put...and I included Councilmember Kelly King in there, so...so, if some of us remember, the...the Kihei Vet Center, or Vet Clinic back in the day, you know, the Council back then made exemptions that, you know, we going...we going help this guy out in the wetland area, and then we not going to do it again. And then fast forward, we...we...we know of the Sujata parcel next door. So, I

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just using that as an example that, you know, I support the...the plan, what's going to happen near...at the Ocean Center, and whatever they do, I just not...I don't understand the...the zone change, that we don't like open one door for other guys. Hey, we did it at the Ocean Center, maybe let's see if we can...so, that...that's why I put that in the eComment, just not repeat what we did before. And the zones were different back...I mean, I think the designation was, like, commercial and resident is different, so...and again, I not...I...I don't understand all the...the zoning designations too, so, that's why I put...I commented that way, yeah.

CHAIR PALTIN: Okay. Okay, we'll look into it and...and see what we can come up with. Thank you so much for your testimony, and --

MR. KALANIKAU: Yep.

CHAIR PALTIN: -- for making the time. Is there anyone else that would like to testify prior to the presentation? Okay. Seeing no one. I thought I saw Member Johnson join the call...oh, there he is. Buena suerte, Member Johnson.

COUNCILMEMBER JOHNSON: Buenos suertos [sic], Members, Councilmembers, Committee Members. I am alone in my car, driving...on the side of the road. And I'm...there's no testifiers at the Lānaʻi District. My...I apologize, I'm a little bit late, and I'm going to turn off my camera.

CHAIR PALTIN: Right on. Sounds good. Okay, now...let's see. If there's...is there anyone else wanting to testify before the presentation? Please let us know at this time. Okay, not hearing anybody.

**PSLU-72                      RESOLUTION 22-253, RELATING TO CHANGE IN ZONING FOR  
REAL PROPERTY IN MĀ'ALAEA (MAUI OCEAN CENTER)**

CHAIR PALTIN: We'll have PSLU-72, Resolution 22-253, relating to change in zoning for real property in Mā'alaea, Maui Ocean Center. The Committee is in receipt of Resolution 22-253, entitled "REFERRING TO THE MAUI PLANNING COMMISSION A PROPOSED BILL TO CHANGE THE ZONING FROM M-1 LIGHT INDUSTRIAL DISTRICT AND OPEN ZONE DISTRICT, TO B-2 BUSINESS DISTRICT FOR REAL PROPERTY SITUATED AT MĀ'ALAEA, MAUI, HAWAII, IDENTIFIED AS TAX MAP KEYS (2) 3-6-008:002 AND (2) 3-6-008:003 (MAUI OCEAN CENTER)." Resolution 22-253's purpose is to refer to the Maui Planning Commission a proposed bill, entitled "A BILL FOR AN ORDINANCE TO CHANGE THE ZONING FROM M-1 LIGHT INDUSTRIAL AND OPEN ZONE DISTRICT TO B-2 BUSINESS DISTRICT FOR REAL PROPERTY SITUATED AT MĀ'ALAEA, MAUI." And we're also in receipt of proposed CD1 version of Resolution 22-253 from Councilmember Kelly King dated November 10th, 2022, proposing amendments, including a change in zoning for certain real property identified as tax map key (2) 3-6-008:003 to B-3 Business District. The Committee may consider whether to recommend adoption of resolution 22-253 with or without revisions, and the Committee may also consider the filing of Resolution 22-...it says 213, but I think they mean



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253...and other related action. Okay, so when the time comes --

VICE-CHAIR KING: Chair?

CHAIR PALTIN: -- after the presentation, we'll swap out --

VICE-CHAIR KING: Chair?

CHAIR PALTIN: -- the bill. Yes?

VICE-CHAIR KING: I just wanted to mention that Member Rawlins-Fernandez has joined us now.

CHAIR PALTIN: Oh, okay. Buena suerte, Member Rawlins-Fernandez. We're just about to start the presentation, so, perfect timing.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha kakahiaka, Chair, mai Moloka'i nui Ahina. I'm at the Moloka'i District Office, alone in the office, and there are no testifiers here. Mahalo, Member King.

CHAIR PALTIN: And I scheduled this item because Member King so graciously gave me her meeting slot so we could just go through the...all the formalities, and ask all the questions in a full Committee. Some of the Members saw some of the presentation in the CARE Committee, but we can do a deeper dive. So, for the presentation, any opening comments from Deputy Director Jacky Takakura?

MS. TAKAKURA: Good morning --

CHAIR PALTIN: Aloha.

MS. TAKAKURA: -- PSLU Committee. So, I just do have a few comments and concerns from the Planning Department, thank you for asking. Normally, with changes of zonings, the County administers them usually to recognize an existing use, like a church, or for nonprofits that don't have, you know, development related to it, or unless it's an implementing action in a plan, it...like, you know, for transit-oriented development. For this one, I guess we need more information. I mean, I read about it in *The Maui News*, which was good, but we just need some justification, and what is the compelling public interest. And then also, who would advocate for this, you know, in the next term? And I just want to point out also that, you know, depending on how specific their plan is, like where they are in their planning, you know, they're going to need a special management area permit, an SMA major. Sometimes developers do everything all at once, so that you don't have to do it twice. So, that might be something that they want to consider is, you know, kind of putting together a package of everything they need, and then carrying it through, so that it's not duplication. Because, you know, this would be managed by our current Planning Division. And I was just looking at our org chart, and 24 percent of the positions are vacant. So, if...if we can kind of make things more efficient, so we don't have to do duplicate work, that would really be helpful for both the

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applicant and for us. That...that's my comments from the Department. Thank you very much for asking.

CHAIR PALTIN: Thank you, Ms. Takakura. And I did have some questions when the presentation from Mr. Spence came up, and I'm not sure if he would be able to answer them, or you would be able to answer them, but I'll stop on that slide, and if...if he cannot, then maybe you can. Okay. Next up, we have Mister...did anyone have clarifying questions for Ms. Takakura, or did they want to hold them until the discussion? Because sometimes the clarifying questions become discussion, and you can always ask questions later. But next up, we have Will Spence, Land Use Planning Consultant, and we're ready for the presentation.

MR. SPENCE: Okay. Good morning, Members. Buena suerte, and I thank you, Chair Paltin, for bringing this forward, and --

CHAIR PALTIN: Sure thing, but I just forgot to designate you as a resource.

MR. SPENCE: Oh.

CHAIR PALTIN: If there are no objections, I would like to designate Will Spence, Lucienne de Naie, if she shows up, and Dr. Janet Six, if she shows up, as a resource personnel in accordance with Rule 18(A) of the Rules of the Council. Okay, go ahead. Sorry about that.

**COUNCILMEMBERS VOICED NO OBJECTIONS.**

MR. SPENCE: Oh, no worry. I'm...I'm just really appreciative to be here and advocate for this project. And thank you, Chair Paltin, for bringing this forward. And thank you for...Councilmember King, for advocating for this. It's going to be a very important project for Maui as a whole. And with that, I can share my screen, and restart this. So, the Chair asked me to hold it to ten minutes, so some of the Members may have already seen the presentation in the CARES Committee, so, this will be a little bit abbreviated, but...but still cover the bases on this. So, as been said, this is a project for the...mostly for the Maui...Marine Institute for the Maui Ocean Center. This is a nonprofit that's associated with the Center, as Mr. Murasko said, they...you know, it's an all-volunteer board, and their interest is in preserving marine life. They want to inspire lifelong environmental stewardship, and ensure survival of coral reefs. And if you saw the...the front page *Maui News* yesterday, the Olowalu reef was front and center, and how important that is. And I would extend that to the other reefs around in Maui County, and actually, in the State. The survival of coral reefs, the sea turtles in Hawai'i, through science-based conservation efforts, education, and outreach. So, this project would be for the...for the coral reefs, but also, as said, for the...rescuing injured sea turtles, and there's education and then public outreach as an important aspect of this project. The...we had covered that with the sea turtles, and I should note...I should note the efforts that they've done. Between 2019 and 2021, they've done...oops...they've rescued 648 turtles, and they are under contract with the National Oceanographic and Atmospheric Administration to do this work. And there isn't anybody else that I know

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of in Hawai'i that is conducting this kind of work for our State. For the coral, I touched on that, this is...this would be only one of four land-based coral nurseries in the United States. So, this is a unique opportunity for Maui, both certainly environmentally necessary, but also for diversifying our economy, and just the preservation of...of our environment. And then, of course, the...the Marine Institute does public outreach. They've instituted a number of programs, including cleaning up fishing gear that gets tangled in the...in the reefs, and this is important for just living in our island community, this kind of facility. I think this facility is important. I think we're going to need more of these in the future as we approach global warming and climate change. You know, as...when I was a planning director, we talked a lot about the...the sea level...not the sea level, but the temperature, and how it's led to bleaching events, and the damage to our corals and the reefs, in which, you know, the coral is the very foundation of the food chain within our near shore waters. So, this is...this is going to be important for all of us, not just the...the species itself, but our way of living, subsistence fishing, just the preservation of our environment. This is a conceptual design. It's four floors, the first floor with the marine animal hospital, coral nursery on the second floor, and as well as the laboratory. The third floor will have classrooms and research laboratories, so that the educational component of this is also very important to the nonprofit. And then on the fourth floor, we've...you know, we discussed in the CARES Committee, I believe, in... regarding the dormitories. This would be lodging for visiting scientists, not...and it's certainly not vacation rentals, but we want people to be able to come here and be able to do the research that's necessary, and it would include classrooms. And then...then on the rooftop, you would have some recreational areas. You know, you have this big, open space, you might as well use it. So, the Maui Ocean Center owns three properties in Mā'alaea. The one up at the top here, is...is not involved with this, it's just a parking lot. The larger property is where the Maui Ocean Center currently sits, and, you know, then...then the parking area here. Where the Marine Institute Facility is proposed to go is on this little property on the right. The...it's only a quarter of an acre, so it's not very big. The community plan...you know, Deputy Director Takakura said, so what's...what's the implementing action? This is implementing the community plan. The community plan map on the left shows the entire triangle property as business commercial. But when you look over to the right at what the underlying zoning is, you have...you know, you can see on this slide that it's pretty mixed up. The next slide will show it a little bit better. On the left is the current zoning. So, on this, where you have this red hatching here, that's B-2 Business. When you have this purple hatching, that's Light Industrial. The green in this that you see, that's called Open Zone, and it is on the zoning maps, and the courts have said that that's a legitimate zoning, but we don't have anything in Title 19 that describes what you can do with it. The...this big red dot here is Future Roadway. Well, one, it's...there's never going to be a future roadway there; but two, there's...this is also something that has no description in Title 19. And then this white stripe that you see going through the low property and into the big one, that's no zoning at all. So the zoning -

CHAIR PALTIN: Mister --

MR. SPENCE: -- on this property is really messed up, and quite honestly, I was a little bit surprised once I saw this map, that there's...you know, how much has been built under

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this. And then, you know, to get an SMA permit, which Deputy Director Takakura mentioned, your zoning and your community plan have to line up. Right now, they don't --

CHAIR PALTIN: Mister --

MR. SPENCE: -- line up at all. The coral --

CHAIR PALTIN: Mr. Spence --

MR. SPENCE: -- facility...pardon? The coral --

CHAIR PALTIN: Mister --

MR. SPENCE: -- facility that they want to build would not be possible with the zoning as it is right now. So, on the left...excuse me, on the right side of the screen is what the zoning should look like. It should be B-2 on the larger property, and then B-3 on the smaller.

CHAIR PALTIN: Mr. Spence?

MR. SPENCE: Yes?

CHAIR PALTIN: Can you...can you go back to the previous slide?

MR. SPENCE: Sure.

CHAIR PALTIN: I just had a clarifying question. I'm not sure if it would be for you, or for Ms. Takakura. But the reso says changing M-1 Light Industrial and Open Zone to B-2. And I'm just wondering, it looks as though we're also changing Open Zone and Future Roadway--or that's what you're asking for, that Open Zone and Future Roadway also be changed to B-2. And then it looks like there's a tiny little square parcel in the Open Zone. And I was wondering if you could clarify on those issues.

MR. SPENCE: I've...okay, you are correct. We're requesting that the Open Zone and the completely nonzoned area, as well as the Future Roadway and Light Industrial, all be changed so it's all consistent, the way that the right screen depicts it. So, all that mishmash of green, and purples, and everything, would all go to the...to the red hatching on the right, as well as the...the B-3 on the little property.

CHAIR PALTIN: So...and then there's that one small square parcel in the Open Zone, and that's not part of the request here, but then in the what it should be slide, it looks like that goes away. So, I'm just wondering how that happens. Like, I mean, if we're cleaning it up, it doesn't feel like we're...we're doing a good job of cleaning it up if we're not being specific with the action that we're taking.

MR. SPENCE: Okay. I did a little bit of research on it, on that little, tiny square. There...there's a TMK number for it, but beyond that, it's like 100 square feet. So it's not...I'm not

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entirely clear that that property exists anymore. But we can do some more research as we go through this process. And --

CHAIR PALTIN: So was it a kuleana parcel, or...what...what...

MR. SPENCE: No.

CHAIR PALTIN: You don't...you don't know?

MR. SPENCE: The...the property, if...if it...if this property still exists, it belongs to the original developer of the...of this whole triangle. It's not...it's not a kuleana, it's not...what do I want to say? There's --

CHAIR PALTIN: Okay, I guess we can go through that --

MR. SPENCE: -- it's just really strange to me.

CHAIR PALTIN: -- during the discussion phase.

MR. SPENCE: Sure.

CHAIR PALTIN: Go...go ahead. I just was --

MR. SPENCE: Okay.

CHAIR PALTIN: -- seeing if you could clarify.

MR. SPENCE: Okay. I know the big question, you know, as...I mean, we're talking about sea level rise, and we're talking about global warming, is, how far away is this property from...from the sea level rise exposure area. I measured, and the question came to me about the little property to the...to the sea level rise area, it's just over 100 feet, and then you also have Mā'alaea Road that's completely outside of it. From...from the larger property to the exposure area, probably...it's probably pretty close to 100 feet as well. So, this is going to be well outside of the...the exposure area for, you know, a very long time. And then as the...the Members are aware, we have a Community Plan Advisory Committee reviewing the draft community plan, and the Planning Department is very involved with that. The proposed designation for this property at this time is Transit-Oriented Corridor. And if you read the description of that, it...it's to include a lot of different types of transit. It's going to be a hub, you know, between Central Maui, South Maui, and West Maui. But it's also a hub of commerce, and the description describes...puts forth a lot of very intense commercial uses. And I added this one just to really simplify what the request is. The larger property here, to completely go to B-2, the smaller property, B-3, and then the...the other parking lot up at the top of the screen is no change at all. And that...maybe I would just add a couple of comments. I know the Deputy Director asked, what's the compelling public purpose? I think sea level rise...I mean the very reason Councilmember King, you know, was going to Egypt, sea level rise and climate change, we're at the forefront of our planning processes right now.

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If we don't have a way to restore our reefs and rescue turtles, you know, they...they do it right now, but they don't have the impact that they could have, okay? Like I said at the beginning of this presentation, they do...they do good work. The...there's going to be a need for more of this, not less of it. So, with that, Members, I'm happy to stop share...sharing the screen. Okay, thank you very much.

CHAIR PALTIN: Okay, thank you. All right. At this time, we have an anonymous testifier at PSLU-72 in the South Maui District Office, and we're ready to hear your testimony, Anonymous Testifier Number 1.

ANONYMOUS TESTIFIER 1: Buenos dias, y buena suerte, por los estados y la mejor suerte, Councilmember Yuki Lei Sugimura. Estoy testificando como en individual, tobre la Resolucion 22-253. So, I am testifying anonymously today as an individual at the South Maui District Office, where everybody knows your name, unless you're testifying anonymously. And I am testifying on Resolution 22-253, which is proposing to refer to the Maui Planning Commission a proposal to change the zoning for the Maui Ocean Center, which would allow for the construction of a honu hospital, and a pukoa lab and nursery, and accommodations for visiting scientists, and educational and research facilities. So, our...our honu and pukoa, our turtles and...and coral, live in...in the impaired waters off the coast of South Maui...impaired for high levels of nitrates, and high levels of turbidity, which...which affects their health. And sometimes, the...you know, the honu get injured by natural causes, and sometimes manmade causes. So, I...I...I think in the interest of protecting our...our...the creatures we share this area with, I think it's a good idea to...to provide this kind of care for our marine cousins. So, I support this resolution going forward, and think it'd be great to have further input from the community on it, so that it's going to be done in the right and proper way. So thank you for the opportunity to testify anonymously this morning, and buena suerte, again, to everyone. Aloha.

CHAIR PALTIN: Aloha. Members, questions for the testifier? Seeing none. Thank you for your testimony. At this time, if there is anyone else wishing to testify on this item, please unmute and identify yourself. Hearing none. I would like to close oral testimony for PSLU-72.

**COUNCILMEMBERS VOICED NO OBJECTIONS.**

CHAIR PALTIN: Okay, testimony is closed. All right. So going back to the...the question in zoning, and how it happened, I don't know...I...I think I'd like to call on Corporation Counsel or our Legislative Attorney. Just looking at the existing zoning map, does it need to be included that we are saying, not only are we changing Light Industrial and Open Zone to B-2, that we're also changing the Proposed [sic] Roadway and the not-zoned land also to B-2, or is that not necessary? And then I'm not sure how TMKs go away, but if we don't change that small TMK in the middle of the Open Zone to B-2, would it still be Open Zone in the larger TMK? Asking any attorney on the call that's employed as an attorney.

VICE-CHAIR KING: Chair?

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CHAIR PALTIN: Mr. Mitchell.

MR. MITCHELL: Chair, I was going to defer to Corporation Counsel if they're on the line. I don't see who's on the line for Corporation Counsel.

CHAIR PALTIN: Okay. Member King.

VICE-CHAIR KING: Yes, could we just clarify? I don't think it's a separate TMK, but maybe Mr. Spence could clarify. Is that...that bigger parcel, is that all one TMK?

CHAIR PALTIN: Mr. Spence.

MR. SPENCE: Thank you for the question. The...yes, the...the five-acre parcel, just over five acres, that's all one TMK. That little, tiny square, I've...while others were...were talking, I looked it up. It belong...it's 100 square feet, which makes it substandard for anything. It belongs to Mā'alaea Triangle Partnership. And I can get you the TMK, and I can do some further research on that. The TMK is 3-6-008:011.

CHAIR PALTIN: *(Audio interference)*.

VICE-CHAIR KING: So, that's a separate TMK within the big...the larger TMK?

MR. SPENCE: That's what it appears like. Again, I've...I've found some things that say it doesn't even exist anymore, but yet it's on our...our tax maps. So, I'm not sure.

CHAIR PALTIN: Mr. Hopper, are you on the line? Mr. Baz, are you on the line?

MR. BAZ: Hi. Good morning, Chair.

CHAIR PALTIN: Good morning, Mr. Baz. I was wondering, was Dr. Six available for this?

MR. BAZ: No, I apologize. She was on medical leave, and she just returned yesterday. So, she's catching up with her email, and didn't get a chance to review this yet. As other opportunities arise, she'd be happy to review the item and provide a brief report on it, but she's not available today.

CHAIR PALTIN: Okay. And you don't know where Corp. Counsel is, do you?

MR. BAZ: No, but I'll check real quick, if you don't mind, Chair? If you guys want to move on to another question, and then I'll go...I'll find them.

CHAIR PALTIN: Awesome. Thank you so much.

MR. BAZ: Okay, great.

CHAIR PALTIN: Okay. I guess my question would be for OCS because it seems that the...the

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resolution we have is only changing the Light Industrial and the Open Zone for the one TMK that's to be B-2, and would that then leave the Proposed [sic] Roadway zone, Proposed [sic] Roadway, and the not-zoned parcel zone not zoned, and then that other TMK, the small, tiny one, would remain Open Zone...would be my assumption. I don't know if that's...you can answer the question, or the Deputy Director Takakura could answer that question?

MR. MITCHELL: My recommendation, Chair Paltin, would be that the bill and resolution does reflect all the changes that are being proposed...all the changes that are being proposed. So, if that includes the Future Roadway, the Open Space, and the not-zoned area, it would be accurate to reflect that in the documents. And it looks like Staff is also trying to reach Corporation Counsel to get their input as well.

CHAIR PALTIN: Okay. And what about that separate TMK? I mean, if we're cleaning it up, I feel like we should really clean it up.

MR. MITCHELL: Chair, I don't have an answer for that question.

CHAIR PALTIN: Okay, because this B-2 portion is not a part of that turtle hospital, which is the B-3 portion. Correct, Mr. Spence?

MR. SPENCE: That would be correct.

CHAIR PALTIN: So the B-2, we're just trying to clean it up, but we're not fully cleaning it up because there's all that other stuff going on.

MR. SPENCE: I don't know. If...the Council deals with legislation, and, of course, we all appreciate that. The...it seems like if you just blanket said this property is going to be B-2, and this...or including that little, tiny thing, as well as the...the smaller property to B-3, that...seems to me, that would cover everything. I don't know if you need to say it's changing from this to...all the things need to be changed, naming them individually. But that's...you know, if that's...whatever you guys are comfortable with as a legislative body, that's what we should go with.

CHAIR PALTIN: Okay. Deputy Director Takakura, do you have any input to provide with...to provide us with?

MS. TAKAKURA: Yes, thank you, Chair. For clarity's sake, please include all the TMKs so that we know exactly what the intent is. And then it's more important, I think, for us to know the intent of what you want the entire parcel to be changed to. You know, we can see that the larger one has kind of got a...several different zonings on it, and some un zoning, but if it's clear that the entire parcel is to be changed to B-whatever, then if...if that's put in the resolution or...or the bill, then we can follow those instructions. I did want to ask though--and this might be a dumb question, but I was looking up M-1 Zoning District, and it does allow any use permitted in a B-1, B-2, or B-3 Business District. So, you know...so, I don't know what the plans are because they already have an existing structure. So, if it's just expanding of a...of a existing use, I wasn't sure



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if...if...what the purpose of the change of zoning is...especially because M-1 does allow the uses from B-1, B-2, or B-3. But I guess I'm not real familiar with this project so, sorry if that's a dumb question.

CHAIR PALTIN: Mr. Spence.

MR. SPENCE: And, of course, I don't think there's any dumb questions. The...the...the problem is the mismatch when you go to get SMA permits, and how...you know, things get interpreted one way or another, it's...you know, we get down to dissecting where, exactly, lines are and all that stuff, it makes it just untenable. The community plan designates the entire thing for business, so, you would want to...what you want to do, is rezone the entire thing to a business zoning. You can't zone it Light Industrial because the community plan forbids that, but at the same time, all those weirdnesses [sic], they don't allow...honestly, I'm surprised that...with that mishmash of zoning in place, I'm surprised the facility that's there has even been constructed.

CHAIR PALTIN: Okay. I do know that B-2 allows for 90 feet of height, being the South Maui District, and B-3 allows for 144 feet of height.

MR. SPENCE: Right.

CHAIR PALTIN: Can you tell us the...the heights that you need? Because I'm not...I mean, I'm sure that we would get a lot of kickback if residents saw a 144-foot tall building, or a 90-foot tall building. And I just was wondering if you could let us know the heights that you anticipate needing, and if...if we can do, possibly a conditional change in zoning to amend it to those heights so we don't get too much complaints?

MR. SPENCE: Right. The...I spoke with the architect specifically about this. He said it's...as proposed, it's about 48 feet. And that 48 feet will be measured from Mā'alaea Road...pardon me, going to be measured from Mā'alaea Road. It's about one and a half to two stories lower than the existing facility. So, as you're viewing from Pi'ilani Highway, it's...it...it'll be visible, but it's not going to be some big, towering project. It's...there's no way anybody wants to go, you know, 100-and whatever feet. They just --

CHAIR PALTIN: You'd be okay with the --

MR. SPENCE: -- they want to go...pardon me?

CHAIR PALTIN: -- conditional change in zoning, limiting the height to, like, 50 feet?

MR. SPENCE: I would say let's go through the process, let me get a little bit more detailed architecture, and let it go through the Urban Design Review Board and the Planning Commission first before we put a condition on it. The condition could be fine at...at the actual time of zoning, but let's go through the whole process first, and the actual height will be determined properly at that time.

CHAIR PALTIN: And for the B-2 parcel, aligning the zoning for the whole parcel, and aligning

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the...with the community plan would mean that major renovations could occur. Do you have an increase in height for that parcel...the B-2 parcel that you need?

MR. SPENCE: There are no plans to change what's existing right now. I tell you, the cleaning up the zoning, if they need to renovate, if they need to...if they have...need an emergency permit, there...there's 100 reasons why you would need an SMA permit. With the zoning as it is, it's questionable how they could get that permit approved. So...and if there was some big SMA major project going on, you know, there's a huge process to go through. It's subject to, you know, contested cases, et cetera.

CHAIR PALTIN: Okay. I saw somebody just join the call. It could be Mr. Rowe from Corp. Counsel? Anyone from Corp. Counsel? Oh, no, that was Mr. Baz.

MR. BAZ: No, yeah, Chair, Caleb Rowe from Corporation Counsel should be joining in a second here.

CHAIR PALTIN: Okay.

MR. BAZ: Yeah, for the Department. Yeah, the normal Corporation Counsel assigned to this Committee is at the State Land Use Commission meeting.

CHAIR PALTIN: Okay. All right. Well, I guess in the meantime, we'll need to swap out the...the legislation...oh, I just got a message that Hopper has a ten-minute break and will jump on to see if he can answer anything. Oh, what a relief. Happy to see Mr. Hopper today. So, until we see Mr. Hopper's picture, I'll entertain a motion, and then we can swap out with the ASF. So let's see. The Chair will entertain a motion to recommend adoption of the proposed Resolution 22-253, entitled "REFERRING TO THE MAUI PLANNING COMMISSION, A PROPOSED BILL TO CHANGE THE ZONING FROM M-1 LIGHT INDUSTRIAL DISTRICT AND OPEN ZONE DISTRICT TO B-2 BUSINESS DISTRICT FOR REAL PROPERTY SITUATED AT MĀ'ALAEA, MAUI, HAWAII, IDENTIFIED AS TAX MAP KEYS (2) 3-6-008:002 AND (2) 3-6-008:003, MAUI OCEAN CENTER."

VICE-CHAIR KING: So moved.

COUNCILMEMBER LEE: Second.

CHAIR PALTIN: Moved by Member King, seconded by Member Lee. I'll now entertain a motion on any amendment.

VICE-CHAIR KING: Chair? Can I move to swap out the ASF for the...the --

CHAIR PALTIN: Copy?

VICE-CHAIR KING: -- original?

COUNCILMEMBER LEE: Second.

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CHAIR PALTIN: Okay, been moved to swap in the ASF for the reso by Member King, and seconded by Member Lee. All those in favor of swapping in the ASF for the posted legislation, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Okay. That passes unanimously, with Member Sugimura excused.

**VOTE:        AYES:    Chair Paltin, Vice-Chair King, Councilmembers Johnson, Kama, Lee, Molina, Rawlins-Fernandez, and Sinenci.**

**NOES:       None.**

**ABSTAIN:    None.**

**ABSENT:     None.**

**EXC.:        Councilmember Sugimura.**

**MOTION CARRIED.**

**ACTION:      APPROVED AMENDMENT.**

CHAIR PALTIN: And I'd like to recognize Member Johnson at this moment. Buena suerte.

COUNCILMEMBER JOHNSON: Buena suerte, Chair. I'm in the Chambers.

CHAIR PALTIN: Okay, thank you. And I just saw Mr. Hopper on the screen. Mr. Hopper, we...we did have some issue. The way that this is entitled is that we're changing Light Industrial and Open Zone to B-2, and...but the whole entire parcel has another TMK within it that I guess they'd also like to change from Open Zone to B-2, and it also has a Proposed Road Zoning, and a No Zone. And so, the question is, do we need to list all the TMK that is to be changed, and all the different zonings that are wanting to be changed to B-2? Because that side of the parcel is kind of a cleanup parcel...or cleanup legislation.

MR. HOPPER: Yes, I...I would advise being consistent with that. Generally, to give notice in those cases, we include the TMKs that are being changed, as well as the relevant zonings that...that it's going to change to. I think that would be important, for notice purposes, to have that...that corrected. Now, if you're sending it to the Planning Commissions, there may be a way to do that because it still has to go...has to be...the resolution still has to be adopted by...by the Council. So, I'm not sure if there's a way, perhaps in discussion with OCS, to have that...have that still happen, but I...I do think that's something that needs to be corrected, if there's going to be additional TMKs. I'm not

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aware of the specific issue prior to this coming up, so we can look into that, but generally speaking, yes, you would want to have the...the...all the TMKs listed, as well as the...the zoning where you're...what you're going from, and what you're going to. I think that's an important part of...of those...of...of the change in zoning ordinances. Now, again, this is a resolution, so we may just be looking at altering the bill when...when it goes...when the resolution's passed. So, we could look at dealing with the title of the resolution because you're not passing the actual bill, until that goes through the Planning Commission and comes back to you. So, I think that...that...that we could look to resolve it in that manner.

CHAIR PALTIN: Okay. So, we can resolve it during this Committee discussion probably. Okay, Member Rawlins-Fernandez had a question.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. It's not for Mr. Hopper. So, if anyone has questions for Mr. Hopper, I'll yield to them, because we have limited time.

CHAIR PALTIN: Okay, does anybody have an additional question for Mr. Hopper? Okay. Thank you so much for dropping in, Mr. Hopper. You came in clutch, right at the right moment.

MR. HOPPER: Thank you, and I apologize. Thank you very much.

CHAIR PALTIN: Thank you. I see Mr. Mitchell, did he have a dispute with Mr. Hopper's...

MR. MITCHELL: No, I...no dispute with Mr. Hopper. Thank you, Mr. Hopper, I know you're busy in another meeting. I see that Member Rawlins-Fernandez and Council Vice-Chair had a question in the chat, and I think we all understood the use of the word swap was intended to mean substitute, so (*audio interference*).

CHAIR PALTIN: Okay. Perfect, substitute. All right. Got it. Okay, so this ASF...Member King, did you want to explain your ASF, or did you need me to do it?

VICE-CHAIR KING: Well, if you want to do it, Chair, I'll...I can do it, or you can do it.

CHAIR PALTIN: Okay. So, this...this corrects some minor things. It amends Resolution 22-253 to change the zoning of Tax Map Key (2) 3-6-008:003 to B-3 Business District. And then, it also replaces "situated in Mā'alaea, Maui, Hawai'i" with "for real property situated in Mā'alaea, Maui, Hawai'i" after "change the zoning." It replaces "keys" with "key", and then it inserts "to B-3 Business District for real property identified as Tax Map Key" before the one (2) 3-6-008:003. And it amends the first "WHEREAS" clause to replace "keys" with "key," and it inserts "to B-3 Business District for certain real property identified for real property tax purposes as Tax Map Key" before (2) 3-6-008:003. It deletes "respectively," and it amends Section 1 of Exhibit 1 to replace "keys" with "key." It deletes the word "of" after "comprising," and then again, it inserts "to B-3 Business District for certain real property identified for real property tax purposes as Tax Map Key" before (2) 3-6-008:003, and it deletes "respectively." So...so we did vote on that, and that's already been fixed. Now, it seems we would need to fix

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some other things. So, we're...we're back on the main motion as amended. It sounded as though we would need to insert in the first "WHEREAS"...and Mr. Spence, you're sure that the tax map key for that small parcel is (2) 3-6-008:001 [sic]? You're sure of that? You checked --

MR. SPENCE: Yes.

CHAIR PALTIN: -- it?

MR. SPENCE: 3-6-008-011.

CHAIR PALTIN: Oh, 011, okay, thank you.

MR. SPENCE: Thank you.

CHAIR PALTIN: Okay. So, I'll entertain a motion to amend the first "WHEREAS" to say, "WHEREAS the Council is considering a proposed bill to change the zoning from M-1 Light Industrial District, Proposed Future Roadway, No Zone, and Open Zone District to B-2 Business District for certain real property situated in Mā'alaea, Maui, Hawai'i, identified for real property tax purposes as Tax Map Keys (2)"...or sorry, scratch that, let's keep it as "Tax Map Key (2) 3-6-008:002, comprising 5.066 acres, and Tax Map Key (2) 3-6-008:011 comprising of approximately 100 square feet, and...to B-3 Business District for certain real property identified for real property tax purposes as Tax Map Key (2) 3-6-008:003, comprising 0.2413 acres."

VICE-CHAIR KING: So moved.

COUNCILMEMBER LEE: Second.

CHAIR PALTIN: Moved by Member King and seconded by Member Lee. Discussion, Member King.

VICE-CHAIR KING: That was a mouthful. Thank you for putting that all together, and I think we pretty much covered all of the differences in that parcel. If there...if we missed anything, I think Mr. Spence would let us know right now. Will, have we covered everything?

MR. SPENCE: I think that covers it.

VICE-CHAIR KING: Okay, and it...it matches the community plan as it is right now, so...but --

MR. SPENCE: Right.

VICE-CHAIR KING: -- don't need a community plan amendment.

MR. SPENCE: Correct.

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CHAIR PALTIN: And maybe we can include any nonsubstantive changes that would follow suit, like in the “Be it Resolved,” that section from the first “WHEREAS” would need to be legislative intent included in that --

VICE-CHAIR KING: Chair?

CHAIR PALTIN: -- friendly amendment. Any objection, Member --

VICE-CHAIR KING: Chair, friendly amendment.

CHAIR PALTIN: Okay.

VICE-CHAIR KING: No objection.

CHAIR PALTIN: Any further discussion on that, Members, before we take the vote? Okay, all those in favor, raise your hand and say “aye.”

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Okay. That passes unanimously, with Member Sugimura excused.

**VOTE:       AYES:   Chair Paltin, Vice-Chair King, Councilmembers Johnson, Kama, Lee, Molina, Rawlins-Fernandez, and Sinenci.**

**NOES:   None.**

**ABSTAIN:   None.**

**ABSENT:   None.**

**EXC.:   Councilmember Sugimura.**

**MOTION CARRIED.**

**ACTION:   APPROVED AMENDMENT.**

CHAIR PALTIN: Director Takakura, I had...or Deputy Takakura, I had a question, if...they're not ready to limit themselves to a height of, say, 50 feet for the B-3, or any limitations for the B-2 at this time, can you still have the Planning Commission, as it goes through the process, consider height limitations, being that we don't want it to be 90 or 144 feet, but we're not yet sure what the exact conditional change in zoning feet limitation should be?

MS. TAKAKURA: Yes, the Commission can consider that. I think it's going to really be, you

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know, what the consultant is asking for, and what they're going to be doing in their plans. I think they would want to explain why they want B-3 versus B-2. We don't have a lot of B-3. B-3 is like the County building and the State building. You know, that area is mostly B-2. So I think they're really going to have to justify. But yeah, the...the Planning Commission can consider, like, height and things like that, yes.

CHAIR PALTIN: Okay, I think it was the square floor area ratio to the property size was the reason. But we don't need to include that in this resolution, they can...we can include that for them to consider?

MR. SPENCE: Right.

MS. TAKAKURA: Yes.

VICE-CHAIR KING: Chair?

CHAIR PALTIN: Okay. Member King.

VICE-CHAIR KING: Thank you. So, this also has to go through the South Maui Advisory Committee. So, we can ask the South Maui Advisory Committee to take a look at that as well.

CHAIR PALTIN: Okay. All right.

MS. TAKAKURA: Chair Paltin?

CHAIR PALTIN: So then...yes, Ms. Takakura?

MS. TAKAKURA: I just wanted to make sure. So that...I guess that special management area permit application is...is not ready at this time. So, we would be going through this twice, once for the change in zoning, and then once for the special management area permit?

CHAIR PALTIN: Mr. Spence?

MS. TAKAKURA: Yeah, instead of as one package?

CHAIR PALTIN: Mr. Spence, any answer to Ms. Takakura's question?

MR. SPENCE: Yeah, we can...we can prepare a document that would include all of it, and if it...and if I can say, Madam Chair, yeah, we will raise height as an issue. Neither the Institute, nor the Maui Ocean Center, nor I, want to see an eyesore.

CHAIR PALTIN: Okay.

MR. SPENCE: And we will --

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CHAIR PALTIN: And so, was the plan, then, we refer this to the Planning Commission, and they hang onto it until you have your SMA major permit ready to go?

MR. SPENCE: I believe...well, that's what the discussion is for the...between the Members here, and that sounds like the desire of the Planning Department. So, we...we have a lot of information --

CHAIR PALTIN: This should --

MR. SPENCE: -- this is very preliminary. We have a lot of information to gather.

CHAIR PALTIN: Okay, all right. So, then Ms. Takakura, you're just going to wait for them to get that SMA major permit together, and then there's no time...time limit, or...oh, I guess there is that Charter time limit.

MS. TAKAKURA: So, Chair Paltin, I guess if...if the plan is more like preliminary, as Mr. Spence stated, and they're not ready, and they don't have the specifics of...for the SMA permit application, you know, they...they could do this twice. But if...if they already have, you know, kind of specific plans, then it would make sense to do everything at once. So, I guess it depends on where they are with the project, and...and what they're ready to present. Like I said --

MR. SPENCE: Chair Paltin?

MS. TAKAKURA: -- you know, things are delayed because of...you know, for many reasons.

MR. SPENCE: Yeah, Madam Chair --

VICE-CHAIR KING: Chair, question?

MR. SPENCE: -- if I could?

CHAIR PALTIN: Member King.

VICE-CHAIR KING: Thank you, Chair. So, Jacky, could we go ahead and send this on to the...send the change in zoning on to the South Maui Advisory Committee, or is that...or would you prefer to wait on the SMA for that as well?

MS. TAKAKURA: Ideally, we would want to wait and send together a package, just would be --

VICE-CHAIR KING: Okay, well then I'll let you --

MS. TAKAKURA: -- take...it could take less time.

VICE-CHAIR KING: -- folks work that out, but...okay.

CHAIR PALTIN: Okay, I mean, it looks like it does have Committee support. So, when you



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have your whole package together, I guess, you know, somebody else can do a Council-initiated change in zoning.

MR. SPENCE: Right.

CHAIR PALTIN: Mr. Spence.

MR. SPENCE: And Chair, if...if I could comment? With this kind of project, where you're involving Council-initiated zoning, and SMA, and all that, you want to make sure first that the zoning is going to be in place before you go...I mean, at least the ball is rolling before you go expend a couple hundred thousand dollars on other consultants, and traffic, and archaeology, and cultural, and all the other things that go into this. You know, you don't want to expend that money first unless you know you have some kind of, at least, initial support with the Council. So, that's why we're coming to you first. And we will be gathering all the rest of that information.

CHAIR PALTIN: Okay. In that case, Ms. Takakura, would it be possible, if...if it looks like the desire is to move forward with this, the change in zoning without the SMA major permit, that you would ask the Advisory Committee and the Planning Commission to consider a conditional change in zoning specifically for a turtle hospital, and no other purposes? The...the change in zoning would be conditional, that it...that it be for a turtle hospital, and no changes to the...no substantive changes to the Ocean Center. And if they don't raise the money for their turtle hospital, they couldn't go and do the other uses...that...that's all that the change in zoning would be for, and...and like how Mr. Kalanikau was concerned, maybe somebody else buys the Ocean Center, and then they decide to put up, like, a skyscraper or office building. Would that be a possibility?

MS. TAKAKURA: Yes, I think so. I guess if they could also clarify the need for...just explain...because like I mentioned, you know, M-1 does allow the uses of B-1, B-2, B-3. So, they could clarify the reason why they want it specifically for that one, you know, B-2 or B-3 or whatever it's going to be, just to clarify the reason. And, you know, I hope you understand, we're not against the change in zoning at all, just want to make sure we...we clearly understand the purpose, and the intent, and the end result, so...

CHAIR PALTIN: Mr. Spence, if you can clarify the need for B-3 for Ms. Takakura?

MR. SPENCE: For B-3? The...the purpose is for the floor area ratio. Because the parcel's small, it's a quarter of an acre, and the proposed...and the floor area ratio is 200 percent. So, in other words, you can only have double the amount of floor area that you have for the size of the parcel. So, you can only get, you know, I don't know, roughly 20,000 square feet. The proposed facility is 34,000 square feet, to include all the floors and all the uses that would be necessary. So, B-3 would allow 400 percent floor area ratio. And, you know, like all the Members are talking about, we have no desire to build that much. Nobody is intending to take advantage of that, nor take advantage of the height. Nobody wants to see that. They...what they're really interested in is this facility that will benefit Maui's offshore environment.

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CHAIR PALTIN: And...and if this facility that we're describing doesn't get built, then the zoning can revert to what it is.

MR. SPENCE: To what it is? With...with strictly my planner's hat on, and not as a consultant for a client, the zoning in Mā'alaea is a mess. I mean, it is...it's...it goes against every planning standard. It goes against what your community plan says. You really want to straighten out the zoning on these properties, so...the mismatch of things creates all kinds of problems.

CHAIR PALTIN: Okay. Member Molina.

COUNCILMEMBER MOLINA: Yeah, thank you very much Madam Chair. Just staying on the B-3 zoning. If I may ask Mr. Spence, you know...and thank you, Mr. Spence. I think with your prior experience as a Planning Director and being the consultant for this project, I think, will certainly help the property owner going through this process. You know, with the B-3, they...you know, assuming the property owner gets it, they can do vacation rentals, which is something I wouldn't...I'd be concerned with. You don't have to give us an answer today, but would the property owner, in your mind, be opposed to a time limit on the change in zoning, reverting back to its current designation if the facility is not built? Because we've seen over the years, property owners get their...or their properties up-zoned, yeah? It adds more value to the property for whatever proposal they're going to do...a housing project, what have you. And then due to an economic downturn, the project doesn't get built, and then the landowner later on turns around and sells the property off to somebody else, and they make a killing because that property has added value to it. And I don't think that Maui Ocean Center or the property owners from overseas would ever do something like that, and change their minds about the intended purpose for this property because...I mean, I support having this marine animal medical facility, but my only concern is if there is a change in plans, and they decide to do something else with this property, now that they got...they would have B-3, they could maybe, for example...this is the Maui Ocean Center. Come visit the facility, and if you want to stay on site, there's an added experience, a vacation rental, so to speak, yeah? So, just food for thought to share...to ask the property owner if they would be...maybe the future Council can consider putting in a condition where there would be a time limit on the change in zoning. So, if they don't build it by a certain time, this medical facility, the zoning reverts back to the original zoning designation. So, I just want to throw that out there for consideration, because I think everybody wants to make sure that we do have this marine animal medical facility, and not, if they do change their plans, that this doesn't turn into a potential site for vacation rentals, or you know, as part of the Maui Ocean Center experience, so to speak, yeah.

MR. SPENCE: And that's...I...I appreciate those sentiments. I...I think they would be very open to saying no vacation rental. You know, that...that's part of how this all appeared before the Council, is with the whole discussion on the definition of transients. The...they don't want vacation rentals, so, there could definitely be a condition for that. But with just my planner's hat on, you don't want to go back to the original zoning that's there right now, with just...you know, with open zoned and all the rest of the...the quagmire that's there. It'd be better if...I mean, just planning-wise, if it all...if it's all,

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you know, very consistent with what the community plan says it should be. That's my opinion, but we will definitely take that under advisement as we move forward.

COUNCILMEMBER MOLINA: Okay, great. Thank you very much, Mr. Spence. Thank you, Madam Chair.

CHAIR PALTIN: Just on Member Molina's concern, I mean, I would revert it to Open Space because that's what it is right now. I see Member King, followed by Member Rawlins-Fernandez, followed by Member Kama. Member King.

VICE-CHAIR KING: Thank you, Chair. And I think, you know, because we're talking about conditional for this exact facility, that if the facility doesn't get built, then nothing will be there anyway. Rather than revert back to the original zoning, I'd rather have that condition be put on it, you know, and...you know, I mean, say, the crazy (*audio interference*) happens, and these folks go broke, and they can't do it, someone else wants to come in and build that same facility, that...you know, that maybe that could happen. But if we put that condition on it, that it's just for the turtle hospital, or the coral lab, then we don't have to really worry about reverting back...reverting the zoning.

CHAIR PALTIN: Yeah, I...I like that. I agree. Okay, Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. So, we just passed the caps bill, and the caps bill doesn't allow for B-3 to have TVR use, so that...that's one. Two, I...I wanted to get clarification on reverting to...having that condition. Like, I...I...there was an item that we took up earlier in the term at some point, where we were going to put a condition on the zoning, and I thought we couldn't have, like, an automatic trigger. So I...I wanted someone to just --

CHAIR PALTIN: Understanding --

COUNCILMEMBER RAWLINS-FERNANDEZ: -- I wanted to confirm that we could --

CHAIR PALTIN: -- there's a...there's a provision in the Code where if nothing is...if it's a conditional change in zoning, if nothing has been started within five years, a process could be started to revert it back. But I see Ms. Takakura. Did you have other additional information?

MS. TAKAKURA: Thank you, Chair Paltin. As far as I know, we don't...once the zoning is changed, that's pretty much what it is, and maybe Will might have some more information on that, as...from his time as Director here. But I know that, like, with the State, the Land Use Commission, they can revert their designations, but we don't do that. Once the zoning is changed, we...that...that's the zoning. And the other thing I would like to ask is, you know, for conditions, it's easier to have them on the special management area permit because that's what we look at when we look at compliance, is to put all the conditions in one place, and usually that's on the SMA permit. Want to put that out there.

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CHAIR PALTIN: We don't have control over the SMA permit.

MS. TAKAKURA: That would go before the Planning Commission, that is correct.

CHAIR PALTIN: Yeah.

MS. TAKAKURA: But you can put the recommendations, I think, in the...the resolution, or can try to find some other way to get that in there. But I think you and the community are going to be consistent about those heights, so --

MR. SPENCE: Right.

MS. TAKAKURA: -- that should be pretty...so, I don't think that'll be a problem at all. But yeah, as far as I know, once we change the zoning, that's going to be the zoning, unless it gets changed for something else. We don't typically revert back to previous zoning, as far as I know.

CHAIR PALTIN: Okay, I...I'd like to call on Mr. Mitchell. Was...was there not a section of the Code in Chapter 19 for a conditional change in zoning? If they don't initiate the actions within five years, the Council could take action to revert?

MR. MITCHELL: Ah --

COUNCILMEMBER RAWLINS-FERNANDEZ: And then, Chair, if Mr. Mitchell could also add what that process would look like?

MR. MITCHELL: Thank you, Chair Paltin. Yes, you're correct. I don't have the citation at hand right now, and in response to Council Vice-Chair's question, I'll need to get back to you on what that process is.

CHAIR PALTIN: Okay, we'll skip ahead to Member Kama then in the meantime.

COUNCILMEMBER KAMA: Thank you, Chair.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, Chair? I had one more question.

CHAIR PALTIN: Oh, shoot. Go ahead.

COUNCILMEMBER KAMA: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: Sorry. I wasn't in the CARE meeting, and I didn't watch the recording. I know that there was discussion on fractional ownership related to this. Is...does that have anything to do with this project here? Because Mr. Spence testified about science adding scientific purposes to the fractional ownership bill that we just passed out of Committee.

MR. SPENCE: Madam Chair, may I respond? I...this...our discussion was not about fractional

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ownership, it was about the Council was going to add changes to the definition of what a transient is. And there's a...a huge need, as you know, for the medical community, for healthcare workers. We wanted to have scientists included as a part of the exemption from the definition of transient, that's...you know, and that could be scientists for...for many different things, different kinds of research that would benefit the community. So, there's no...I mean, as it pertains to this project, and the change of zoning, there's no intent for fractional ownership, and that's...I'm putting that on the record. There's no intent for vacation rentals. That's also...I'm stating that. This organization has no intent for that at all.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, mahalo for that clarification. And when we did pass it out of Committee, we did put marine science. So it's limited to marine-related scientific purposes.

MR. SPENCE: Okay, thank you. That...I recall that.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Spence. Mahalo, Chair.

CHAIR PALTIN: Thank you. Member Kama.

COUNCILMEMBER KAMA: Thank you, Chair. And thank you for the previous Councilmembers that asked a lot of the questions that was going on in my head, so, thank you. So, I just have a real simple question. You know that conceptual design, did you say that the building that was on that page is going to be...that's part of the B-3, and that was going to be put onto that quarter-acre parcel?

MR. SPENCE: That's correct. It's somewhat larger than what...the overall floor area is somewhat larger than what B-2 would allow. So, we're just...we're...all we're looking for is that additional floor space for B-3. Not...not super heights or anything.

COUNCILMEMBER KAMA: So, the way you lined it up on the...on the page, four floors, one floor...well, you...I don't know if it's one floor, if you just went; number one, marine animal hospital; number two, coral nursery and laboratory; number three, classrooms and research labs; number four, meeting rooms, dormitories for visiting scientists, kitchen, and office; and number five, rooftop. So, is the way you laid it out, the way you conceive...or conceptual, looked at how that building is going to actually be designed by floor?

MR. SPENCE: Yes.

COUNCILMEMBER KAMA: Or was it just conceptual?

MR. SPENCE: It's...it's conceptual right now, but I'll say with details to be worked out.

COUNCILMEMBER KAMA: Okay. Okay, I just wanted to be clear about that. Thank you. Thank you, Chair.

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CHAIR PALTIN: I see Mr. Mitchell back. He may have some answers.

MR. MITCHELL: Thank you, Chair Paltin. So, the correct citation is 19.510.050, subsection C, and subsection F. The relevant sentence in subsection C says, the condition shall be fulfilled within the time limit set by the Council, or if no time limitation is set, then a maximum of five years from the date the ordinance is in effect. And then subsection F says, failure to fulfill any conditions on a zone change within the specified time limitations may be grounds for enactment of ordinances to restore the zoning to the previous zoning district, or initiate a claim on the bond. I think that addresses Council Vice-Chair's question and Chair Paltin, your question?

CHAIR PALTIN: Yes, thank you.

MR. MITCHELL: Okay.

CHAIR PALTIN: So, that's only in cases of conditional change in zoning, when the conditions are not met. So, the condition could be that the change in zoning is for a turtle hospital and coral lab.

MR. MITCHELL: Right. For conditional zoning, that's correct.

CHAIR PALTIN: Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair, and mahalo, Mr. Mitchell. So, if I understand this correctly, subsection F requires Council then to take action in restoring the zoning to what it was, if that condition of a turtle hospital is not met. So, if Council doesn't take that action, then it'll remain. It will never be restored.

CHAIR PALTIN: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mr. Mitchell? Yeah, I...or, yeah. So, the Chair and I agree, I just wanted to get confirmation from Mr. Mitchell.

MR. MITCHELL: That's correct, Council Vice-Chair.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Mitchell. Mahalo, Chair.

CHAIR PALTIN: Okay. So, it looks like we're going to move forward, and we have a lot of things for the South Maui Advisory Committee and the Planning Commission to consider, per this discussion, which I'm sure Ms. Takakura has fully encapsulated in her notes to present to those two bodies. Before we take the vote, I just wanted to check in with Staff that this will...in the affirmative, the Chair will also ask Committee Staff to incorporate nonsubstantive revisions to ensure consistency with the drafting guide for Maui County Legislation. So, what we're voting on, it could be amended for nonsubstantive revisions to ensure consistency. So, just putting that in the front end, to let folks know. Member Rawlins-Fernandez, did you have your hand up?

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COUNCILMEMBER RAWLINS-FERNANDEZ: I did, mahalo, Chair. I...I looked at the transcript again of what Mr. Hopper explained regarding not amending the bill itself, and just having the resolution amended to include the area that was not zoned, and the TMK of the 100 square foot lot. But I...I guess I...I...I still don't understand why we wouldn't make the changes to the bill --

CHAIR PALTIN: We --

COUNCILMEMBER RAWLINS-FERNANDEZ: -- before sending it to the Planning Commissions.

CHAIR PALTIN: I thought I did.

COUNCILMEMBER RAWLINS-FERNANDEZ: Or one Planning Commission.

CHAIR PALTIN: Or did I only change the resolution?

COUNCILMEMBER RAWLINS-FERNANDEZ: We...oh, did I...did I not hear your motion correctly? I...I...I thought we only amended the first WHEREAS clause to include the other TMK, the No Zone, and the Road...Future Road?

CHAIR PALTIN: Oh, okay. So, the Chair will entertain a motion to amend Exhibit 1 to the attached bill...to the resolution, the...I will entertain a motion to amend the title first, to say "A BILL FOR AN ORDINANCE TO CHANGE THE ZONING FOR REAL PROPERTY SITUATED AT...IN MĀ'ALAEA, MAUI, HAWAII, FROM M-1 LIGHT INDUSTRIAL DISTRICT, OPEN ZONE DISTRICT, NOT ZONED DISTRICT, AND FUTURE ROADWAY DISTRICT TO B-2 BUSINESS DISTRICT IS GRANTED FOR CERTAIN REAL PROPERTY SITUATED AT MĀ'ALAEA, MAUI, HAWAII, AND IDENTIFIED FOR REAL PROPERTY TAX PURPOSES AS TAX MAP KEY (2) 3-6-008:002, COMPRISING 5.066 ACRES AS IDENTIFIED IN EXHIBIT A, AND CHANGE IN ZONING FROM OPEN ZONE DISTRICT TO B-2 DISTRICT FOR CERTAIN REAL PROPERTY SITUATED IN MĀ'ALAEA, MAUI, HAWAII, AND IDENTIFIED FOR REAL PROPERTY TAX PURPOSES AS TAX MAP KEY (2) 3-6-008:011, COMPRISING APPROXIMATELY 100 SQUARE FEET AS IDENTIFIED IN EXHIBIT A, AND A CHANGE IN ZONING FROM M-1 LIGHT INDUSTRIAL DISTRICT, OPEN ZONE DISTRICT, AND NOT ZONED DISTRICT IS GRANTED FOR CERTAIN REAL PROPERTY SITUATED AT MĀ'ALAEA, MAUI, HAWAII, AND IDENTIFIED FOR REAL PROPERTY TAX PURPOSES AS TAX MAP KEY (2) 3-6-008:003, COMPRISING 0.2413 ACRES AS IDENTIFIED IN EXHIBIT B." And that's it.

COUNCILMEMBER RAWLINS-FERNANDEZ: So moved.

CHAIR PALTIN: Okay. Moved by Member Rawlins-Fernandez.

VICE-CHAIR KING: Second.

CHAIR PALTIN: And seconded by Member King, to amend the amended main motion. Discussion, Member Rawlins-Fernandez.

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COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Mahalo for the consistency in the resolution and the bill. And then I guess I would add for...so, that we amended the title and the body in Section 1, and that for the Not Zoned, Future Road, and Open Zone, I guess it would...it would be reflected also in Exhibit A in the body, where it says "as identified in Exhibit A." Those two other Not Zoned and Future Roadway are in Exhibit A as well. Just for in the body, not the title. Mahalo, Chair.

CHAIR PALTIN: Any further discussion on the amendment?

VICE-CHAIR KING: Nope, nothing to add. That was pretty complete.

CHAIR PALTIN: Okay. Seeing none. All those in favor of the motion to amend, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Okay. That passes unanimously, with Member Sugimura excused.

**VOTE:       AYES:   Chair Paltin, Vice-Chair King, Councilmembers  
                          Johnson, Kama, Lee, Molina, Rawlins-Fernandez, and  
                          Sinenci.**

**NOES:       None.**

**ABSTAIN:   None.**

**ABSENT:    None.**

**EXC.:       Councilmember Sugimura.**

**MOTION CARRIED.**

**ACTION:     APPROVED AMENDMENT.**

CHAIR PALTIN: Back to the main motion as amended a few times, and incorporating nonsubstantive revisions to ensure consistency with the drafting guide for Maui County Legislation. Any discussion before the vote? Seeing none. All those in favor, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: And the motion passes...motion as amended passes unanimously, with Member Sugimura excused.



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**VOTE:**        **AYES:**    **Chair Paltin, Vice-Chair King, Councilmembers Johnson, Kama, Lee, Molina, Rawlins-Fernandez, and Sinenci.**

**NOES:**    **None.**

**ABSTAIN:**   **None.**

**ABSENT:**    **None.**

**EXC.:**    **Councilmember Sugimura.**

**MOTION CARRIED.**

**ACTION:**    **ADOPTION of Resolution 22-253, CD1.**

CHAIR PALTIN: It's now time for our morning break. I know I need it.

VICE-CHAIR KING: Thank you, Members.

MR. SPENCE: Thank you, Members.

VICE-CHAIR KING: Chair?

MR. SPENCE: Thank you, Madam Chair.

CHAIR PALTIN: Okay. Yes?

VICE-CHAIR KING: Thank you, Will. I...I have...I'm running very low on my batteries, and I can't...I don't have the right apparatus to charge here in the Middle East. So, I might not make it back on to the meeting after the break.

CHAIR PALTIN: Oh, shoot.

VICE-CHAIR KING: I'll see where I'm at --

CHAIR PALTIN: We're hearing your resolution.

VICE-CHAIR KING: I'm going to try.

CHAIR PALTIN: Okay.

VICE-CHAIR KING: I know. I'm going to try, but I...if I...I'm hoping if I turn...I'm out...I'm about halfway through my battery for my computer, but I'm working off my hotspot, and I'm a little bit under halfway. So, I'll come back for as much as I can.

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CHAIR PALTIN: Okay. Well, we'll come back at 10:50...10-5-0.

VICE-CHAIR KING: Right.

CHAIR PALTIN: See you guys in ten minutes. Recess. . . .(gavel). . .

**RECESS: 10:40 a.m.**

**RECONVENE: 10:54 a.m.**

CHAIR PALTIN: . . .(gavel). . . Will the Planning and Sustainable Land Use Committee meeting of November 16th return to order.

**PSLU-65                    RESOLUTION 22-223, RELATING TO FACILITATING THE USE OF  
ELECTRIC VEHICLES**

CHAIR PALTIN: And we're on to our next agenda item, PSLU-65, Resolution 22-223, Relating to Facilitating the Use of Electric Vehicles. The Committee is in receipt of Resolution 22-223, entitled "REFERRING TO THE PLANNING COMMISSIONS AND ADVISORY COMMITTEES TO THE MAUI PLANNING COMMISSION, A PROPOSED BILL TO FACILITATE THE USE OF ELECTRIC VEHICLES." Resolution 22-223's purpose is to refer to the Planning Commissions...or the Maui Planning Commissions and the Advisory Committees a proposed bill, entitled "A BILL FOR AN ORDINANCE ESTABLISHING CHAPTER 10.78, AND AMENDING CHAPTER 19.36B, MAUI COUNTY CODE, RELATING TO PARKING SPACES AND CHARGING STATIONS FOR ELECTRIC VEHICLES." The Committee may consider whether to recommend adoption of Resolution 22-223 with or without revisions. The Committee may also consider the filing of Resolution 22-223 and other related action. Okay, so, this...I don't see Member King, but this resolution was drafted by her, and I thought it was the theme since she gave me her meeting date to hear it on this meeting...CARE meeting date. So, we have Deputy Planning Director Jacky Takakura, and Rob Weltman, Club Leader for Maui Nui Electric Vehicle Association. If there's no objections, I would like to designate Mr. Weltman our resource personnel, in accordance with Rule 18(A) of the Rules of the Council.

**COUNCILMEMBERS VOICED NO OBJECTIONS.**

CHAIR PALTIN: Okay, so noted. Ms. Takakura, do you have any opening comments before the presentation? I know we...we do have one testifier for after the presentation, but any opening comments from the Planning Department?

MS. TAKAKURA: Yes. Thank you very much, Chair Paltin, we have comments. Okay, so, you hear me often saying Title 19, Title 19, Title 19. That's our swim lane. We don't know anything about Title 10. So, I would like to ask that you do not send anything about Title 10 to the Planning Commissions or the Department because we...we will not be able to give you good answers or good, you know, feedback on that one, just because

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that's not our area of expertise. Our...our area is Title 19. Regarding Title 19, it's already there in the 19.36B, so, we have the reference to the HRS already there. We have that compliance is required...compliance with ADA and with State requirements for electric vehicle parking is also required. So, what that means is we go directly to HRS and read it word for word because it's already in 19.36B.020. So, to put the wording from HRS into 19.36B, it...it's not necessary, and what that means, is anytime HRS changes, we're going to have to come and fix the Title 19. It would be just a lot easier to leave it as is because we already make reference to the State requirements for EV parking. I mean, it's exactly word for word, and it would be more efficient because if the State does change it, we still go to the State requirements and look at it, we don't have to update the Code every time the HRS changes. So, I don't really think that you need to change Title 19 at all because, like I said, it's already got there, that we have to comply with State requirements. Those are my two comments. Thank you very much for asking.

CHAIR PALTIN: Shucks, Ms. Takakura, we have the bill's introducer just joined. Do you mind repeating that? Because I don't think I could.

MS. TAKAKURA: Chair Paltin, you want me to just repeat what I said? Is that what you mean? Okay, okay. So Vice-Committee Chair [sic] King, what I was saying, was that Title 10 is not the Planning Department or the Planning Commission's area of expertise. We don't enforce Title 10, so, it wouldn't...if...if you refer to Title 10, anything from Title 10 to the Commissions or the Department, you probably wouldn't get meaningful feedback, just because that's not...we don't enforce it, we don't know anything about Title 10. And then the other thing I was saying, that 19.36B already requires compliance with State requirements for electric vehicle parking, and so, it's already in there, so, we don't need to be redundant and add the wording from HRS into Title 19. That would actually be more work because any time HRS changes, then we have to update the Title 19. So, just making a reference to it in there is...is adequate, and it's already there. Thank you very much.

CHAIR PALTIN: Okay. I just had a clarifying question, if you know the answer, Ms. Takakura? Who oversees Title 10?

MS. TAKAKURA: That was a good...I had to look that up myself because I didn't know. And I think it's police, but there's also stuff about parking, so, it could be...and...and some other stuff about vehicles, so...and licenses, so, it might be DMV too. But yeah, it's...it's definitely not us, we're...we're clueless on that one.

CHAIR PALTIN: So it could be for GREAT, or BFED, or possibly IT--or what is Member Sugimura's one--Infrastructure and Transportation. Okay. Well, I guess let's continue on with the presentation, and we can discuss it after we take testimony. Mr. Weltman, are you there?

MR. WELTMAN: Yes.

CHAIR PALTIN: Okay, we're ready for your presentation.

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MR. WELTMAN: Aloha mai kākou e nā lālā o ke kōmike 'o PSLU o ke kalana o Maui. 'O Lopaka Weltman ko'u inoa. Ua 'ike wau i kēia lā i kekahi ho'olale no ke kāko'o i ka ho'oikehu 'ana i nā ka'a'ike uila a nā wahi kūkulu ka'a hāmama 'ia i ka lehulehu o Maui nei. Good morning, Committee Members, my name is Rob Weltman. I'm presenting a proposal for expanding EV charging infrastructure on our parking...of the parking lots. The proposal was adopted on Hawai'i Island this fall, and I want to preface the presentation that there are many reasons to get off of fossil fuel cars. The main one for me is that 40 percent of greenhouse gas emissions in Hawai'i are from ground transportation, and we can't come to grips with climate change if we don't make the switch. I...I have a couple of comments on the...on the Planning Department's comments as well, but I'll...I'll get back to that later, if there's discussion. So, I'm going to share the presentation now. Okay. So, most of this presentation is about why it's a good idea to...to support and switch to EVs. The actual details of the proposal are...are pretty much at the end. But this basically shows that there are a growing number of EVs in Hawai'i, and it increases almost exponential, and that's true for Maui too. So, why do people switch to EVs, and what affects their decision of whether or not to switch? Well, one is the cost savings because even if they're more expensive to buy, it costs much less in fuel, about half the cost, and much less in...in maintenance. There's fewer parts, and they break...they just break less often. Newer EVs are coming down in price, and as there's a market for used EVs, it also brings the price to a point where more people can buy them. And there are a lot more brands and models available, including SUVs, and trucks, and even large cargo trucks that are EVs nowadays. There are tax incentives, and there's other new ones coming that make it more affordable for people to buy an EV. Even if we did not think it was a good idea to switch away from fossil fuel cars to EVs, it's going to be necessary because more and more countries, and states, and cities are...are banning them starting...banning the sale of them, not...not banning their existence, but banning the sale of new...new nonEV cars, non...zero-emission cars. And you can see that the days are coming very soon in many countries. And Biden has a new Executive Order that 50 percent of new cars sold, only 30 must be zero emission. And then if that's not far enough either, even the manufacturers are saying they're going to stop producing non...nonEVs as of...as of some date. So, people will need to buy EVs, even if it was not such a good idea to begin with. But these cars need to be powered up, we need to charge them. And just quickly, there are three types of charging. Level 1 is what you get if you just plug it right into your 110-volt outlet, and that'll give you about five miles of charge for one hour of charging. It is...it's good if you absolutely have nothing in the car, or maybe if you're charging overnight, but not if you go to a public parking lot, like at a...at the mall, and you want to charge up to get to the next...get home again, that won't get you there. Level 2 is by far the most common, that's what people put in their garages or driveways, and that's what most parking lots at malls put in, and that will get you about 25 miles of...of distance on...on one hour of charging. And then the third one is called Level 3, or DC fast charging, and that'll get you anywhere from 150...50 miles of range, to say 300 miles, depending on the charger, in one hour of charging, but they are much more expensive to put in, so there are fewer of those. Most people do, and will continue to, charge at home. If you have a garage, if you have a single-family home, you can probably put in one of these Level 2 chargers for under...under \$1,000 altogether, both in equipment costs and installation costs, and

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you're all set then. But if you live in a multi-user dwelling, you may be stuck because the owner of the apartment building may say, we don't want to put in chargers because we have to tear up the floor to do that, and...and that would be very expensive. Or in a condo building association may feel that they don't want to put...take on the expense, if there's only a couple to being with EV drivers, so, no way to charge up there. And we already have many people like that. As the...on the board of the Maui Nui EV Association, I get lots of email from the people who say that they...they can't charge at home because the condo association won't put in a charger, and even some of them have told me that they're selling their cars, or ending their lease because they can't charge it anymore. When they go to charge at public parking lots, they find that the ones that are there are broken, or they can't find one. And the DOT, in their report on how to implement the...the Inflation Reduction Act, the Federal one that gives funding to States for...for EVs...for EV charging infrastructure, they said that they expect almost a threefold increase in the number of registered electric vehicles, and...and that the number of public charging ports to meet...to meet that requirement is almost triple of what we already have. That's actually based on information from Hawaiian Electric Company. And I think people noticing this in the community too, are in the planning process, and I just noticed that the very new West Maui Community Plan says that all new commercial and residential developments should...should include charging stations to support the use of...of electric vehicles. And then there's just...out...the new...the new issue of Consumer Reports references a new study that was done in...in entire U.S., and it says...about reasons why, well, if people are planning to buy an EV, and if they are not, what are the reasons why they're not? And by far, the main reason why they're not considering buying an EV is because they're worried about being able to charge it. The second...the second biggest one is the cost. Now, putting in EVs on...on public lots, like retail shopping lots, is...is not just a benefit for the community, it's actually a benefit for the lot owner too, because...because people are likely to come to that lot more often, and they're likely to stay longer while they charge and shop in the meantime. And, of course, they...more EVs means...means less...less emissions, less pollution, reduces our...our greenhouse gas emissions. And there are ways for people who own public parking lots to offset the costs. Hawaiian Electric just announced their Charge Up Commercial plan, where they'll pay for the entire cost of pulling electricity to the point of charging, and putting the...an outlet there. So, the only thing left for the up...lot owner to do, is to...is to put in the charger itself, which will cost probably about \$4,000 for a commercial-grade charger, Level 2. And there are many other benefits, which the Hawai'i Energy outlines, and I'm not going to go into those in detail. So, this resolution, this...intends to make it...make EV charging available to people who don't have a lot of money, or don't necessarily own a single-family home where they can put in a charger. It will also bring us closer and faster to our goals of getting people off of fossil fuel vehicles and into zero-emission vehicles. What it says is...is that...the first part is...is kind of what...what...what Deputy Takakura was saying, that...that only EVs are allowed to park in designated spots, and if that is covered by the HRS, and if we're already committed to the HRS, then maybe that part is not needed. But the first part, which is much bigger, is requiring that there are more stalls with EV chargers on public parking lots. The HRS, the State law, says that any lot with 100 or more parking stalls should have at least one charger. But if it's 500 stalls, there's still just one charger. Our proposal, which is based on the Hawai'i County bill--I'm sorry--says...says that

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if...if there's at least 50 stalls on a lot, then it should have two EV...EV charging ports. And then that number increases over time, and...to...to...to accommodate the fact that there are more and more EVs being used on Maui. That's basically it, and I can answer questions about the details, and I can also discuss the resolutions with Deputy Takakura. Thank you.

VICE-CHAIR KING: Chair, you're muted.

CHAIR PALTIN: Thank you. At this time, I'd like to move forward with our public testimony, if there's no objection.

**COUNCILMEMBERS VOICED NO OBJECTIONS.**

CHAIR PALTIN: Okay. Oh, shoot, I just see that it...they wanted to testify before the presentation. Sorry, I just saw that. Cara Flores, your turn to testify. Sorry, I...I didn't see that.

MS. FLORES: No worries, I was just worried I was going to run out of lunch break. So, I support this. I think that it will help, PSLU-65, regarding our youth, and their future, and we have to address climate change, and we know that vehicle emissions is our number one issue, or pollutant. And I, too, have heard a lot of different people complain about the lack of infrastructure around EV, and so in talking to the community, that was something that frequently came up. And I do own an EV, and I do try to get home, and had we not had our own home, if we were still in a condo, we definitely would not have bought an EV because it wouldn't have been practical to keep it charged. EVs are getting more affordable. We're actually seeing in other places, our rental car companies are starting to switch to electric vehicles. They're easier to maintain, and they can take a lot more of a beating. And so, if our rental cars start switching to EV, which I think would be excellent, then we'll also have a secondary market of used vehicles for people to buy their EV, and they will need charging infrastructure to be able to do that. I do think it is an equity issue because people who are in multifamily units do not have access to charging, and therefore, don't have access to EV right now. A lot of people will charge when they're away from home, if they don't have charging at home, if it's available. And so, if they can charge while they're at work, or shopping, or running errands, they're more likely to get an EV. So, I think, as a County, we need to put our money where our mouth is, and really up our game, as far as EV charging, in consideration of our future and our...our youth, especially. *(Audio interference)* to do that. So, that's all. Thank you.

CHAIR PALTIN: Thank you. Members, questions for the testifier? Seeing none. Thank you for your testimony. Okay. Is there anyone else wishing to testify on PSLU-65? Please unmute and identify yourself. Members, seeing there are no more individuals wishing to testify, without objection, I will now close oral testimony for PSLU-65.

**COUNCILMEMBERS VOICED NO OBJECTIONS.**

CHAIR PALTIN: And receive written testimony into the record. Okay, deliberation. Questions,

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Members? Or comments, or...okay, Member Kama, followed by Member Molina.

COUNCILMEMBER KAMA: Thank you. This question is for Mr. Weltman. So...yeah. So, thank you for your presentation, it was so educational, and I learned a lot about that. So, thank you, I really do appreciate that. You think about what it is that we don't know, and we can think that we need to know to be able to help facilitate the conversation, so, thank you. So, as...as I was listening to your presentation, I realized that as we'd like to move in this direction, without the infrastructure, we're not going to go, right? I mean, I'm not going to go anywhere unless I know that I can charge. So, I guess that's something that...that you will be moving, or initiating, or encouraging the Council...the Council or the County to be able to move forward with, in terms of that infrastructure?

MR. WELTMAN: Chair Paltin?

CHAIR PALTIN: Go ahead.

MR. WELTMAN: Yes, may I answer?

CHAIR PALTIN: Yes.

MR. WELTMAN: Yes. Yes, definitely. The...I...I do that, both as an EV driver, as a...as the President of the Maui Nui EV Association, and also as a...as a...someone who's very concerned about the climate crisis and its effects on Maui. So anything we can do to get us off of fossil fuels think is a...we need to find ways.

COUNCILMEMBER KAMA: So...and so, my next question is, what does it cost to purchase an EV vehicle now, what is it...the insurance on an EV vehicle, and how much does it usually cost to maintain an EV vehicle?

MR. WELTMAN: I don't have...I don't have details. In general, like the big picture, I can give you my personal experience. Currently, the industry seems to consider that there are two...only two models which are affordable, like, within the regular range of...of other cars that people would buy. One is the Nissan Leaf, and the other one is the Chevy Volt. I...I have the Chevy Volt. I didn't buy a Nissan Leaf, and I waited a long time to buy a car...an EV because I was worried about the range. The Chevy Volt was the first one I thought was...still expense...it's still more expensive than any car I've ever owned before, I always buy cheap cars.

COUNCILMEMBER KAMA: . . .*(laughing)* . . .

MR. WELTMAN: But...but I felt I could afford it at that time, and...and there was a rebate, and it can...it can get...currently, it can get about 300 miles, which is fine for Maui, get me where I need to go and back, and...and charge at home again. So, it cost...at that time, it actually cost \$37,000, and there was a \$7,000...\$7,500 rebate. The rebates on...on those cars have...on some of the cars have gone away because the number of...of units sold by each manufacturer has reached a threshold, and then the rebate has gone away.

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On the other hand, Chevy has reduced the cost of the car to 27,000. They brought it back down into the affordable range. I think...I think Nissan is still in the...the high 20s, so pretty much the same range. The...the next set of cars is probably in the \$40, \$44,000 range, and then you have cars which start in the \$70, \$75,000 range, and, of course, you have luxury cars as well. But there is a big...a big range, and I do expect them pretty much all to come down in price because they're all going to be competing. Right now, they...they don't have as much competition for electric cars. When...when all they have is electric, they're...they're going to have to compete with each other. And then you have these rebates, which, like I said, the...the rebate based on number of vehicles sold by a particular...a particular manufacturer, it almost...they're mostly expiring now, because they...they've reached the limits. But the infra...infrastructure...sorry, the Inflation Reduction Act includes rebates which are about the same amount, about \$7,500, if you are in a lower income area, and if your...if the batteries are produced in the United States, and the...and the minerals used in the battery are produced in the United States. Those are both good things too. They encourage production in the United States --

COUNCILMEMBER KAMA: Right.

MR. WELTMAN: -- and...and self-sufficiency. So that...that is coming back, and I think it'll probably take a little bit of time to interpret exactly which cars that that applies to. We had a...a State discount as well for several years, and unfortunate...unfortunately, it was not renewed in the last legislature, but I expect it will be renewed in the new one. I'm certainly going to push for that. So, I think...was that the question about the costs?

COUNCILMEMBER KAMA: Yes. Yes, yes, it was. Thank you. I just have one more, Chair, if you could allow me? You know, so the issue of the people who are living in apartments, or condos, or those kinds of dwellings, or...or new housing units that don't...landlords don't allow charging stations, how...are you looking at how to be able to make that happen? Because as we start to build, I mean, density is something that's going to happen because we don't have the land mass to go out, so it makes sense to just build vertical, right? So, all of these things are going to have to be considered in terms of when we...so, have you thought about what to do in those situations, where people in high rise...not...well, we don't have high rises, but in apartment buildings like that, and how...as we move towards getting people off, you know, gas and onto EV, how to resolve that?

MR. WELTMAN: Absolutely. Absolutely. And the...the bill that was adopted...or no, the bill's coming up for second reading on Friday, is there are some changes to the Energy Code, which will require EV readiness in new multi-user dwellings.

COUNCILMEMBER KAMA: Oh, okay. Okay.

MR. WELTMAN: And so that...that will help. Part of the problem, of course, is that we can't make changes which affect existing buildings, we can't make changes which affect existing parking lots, requiring them to make the change. We hope that many of them will do it anyway, but we can't require that.



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COUNCILMEMBER KAMA: Yep. Yeah, that's true. Well, thank you. Thank you so very much for being here. And thank you, Chair, for allowing me the time. Appreciate it.

MR. WELTMAN: Thank you.

CHAIR PALTIN: Thank you. Member Molina next, followed by --

COUNCILMEMBER MOLINA: Yeah, thank you, Madam Chair. Aloha, Mr. Weltman, and thank you for your presentation, and I appreciate your knowledge about EV. So, I'm just continuing along the line of questions from Member Kama. Typically, how long does it take to charge an electronic...yeah, or electric...electric vehicle?

MR. WELTMAN: My car has...currently has a 66 kilowatt battery, which is good for about 320 miles. We never let it discharge to zero, we...we usually let it run down to, say, 115, 120 miles, and then charge it back up. And we used to fill it...we used to charge it to full again, but then I've been reading that batteries last longer if you don't do that. You never let them discharge completely, and you don't charge them up to completely full. We started just charging it up to 250, 275, something like that, so...that means I'm adding about, say, 150 miles when I...when I recharge, and 150 miles takes...with a Level 2 charger, it takes six hours. So, I can do that during the day. Since I have solar panels on my roof, I...I charge during the day, and I'm retired, so I'm able to do that. Like, I...I retired...I charge it during the day in six hours, and then...then the rest of the week, I have the charges for using power for the rest of the house.

COUNCILMEMBER MOLINA: Okay. Yeah, that's a lot longer than I thought it would take to recharge a vehicle. But...and as far as with the public stalls, the parking spaces, and the electronic chargers...so, I guess maybe would you recommend some type of signage be put out there that tells people, okay, you can only leave your car there for, you know, up to two hours, so others can charge their vehicles? Is that something you would also suggest?

MR. WELTMAN: That is one option, but another option is that the bill clearly says that...that lot owners can charge for the charging, and you could have--like Target right now, they allow you to charge free for, I think it's the first hour, and then after that, they charge you for any additional. So, that's one way that the...they could shape...shape things, so that people are not encouraged to stay forever, and...and they could also make up for the cost of putting in the charger to begin with.

COUNCILMEMBER MOLINA: Um-hum. Good point, yeah. And last question. As far as the disposal of the batteries...now, typically, to replace a battery, how much do they cost? And then...well, let's...you know, using your vehicle, for example, the replacement cost of a battery?

MR. WELTMAN: I'm...I'm worried to even think about that because the battery is the biggest cost in the whole car. It costs less to...to build...to make a electric EV than to make an internal combustion engine car, except for the battery. I'm...I'm worried that if the

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battery becomes totally inoperable, and it's not covered by warranty--by the way, I have an eight...eight...eight-year, 150,000 mile warranty, which I think is pretty good. But if it should fail entirely after the warranty, then it would probably be pretty expensive. But on the other hand, so far, I think the news is good. Experience from batteries that are out there are that they--except for the Leaf, the Leaf was very early, the Nissan Leaf, and so, I think their batteries use another technology, which has not held up well over time. It...they started out at 150 miles, and many of them are down to only 50 miles in range. But others, which are...I mean, that's like ten-year-old technology, but I think that newer technology is expected to last longer. I forgot to answer one other question from Councilmember Kama, that was about the cost of maintenance. So, I've had my Volt for almost five years, and there's no oil change, nothing like that. I have to fill the tires every now and then. I had to replace the 12-volt battery very recently, and I have to keep an eye on the tires, but that's about it.

COUNCILMEMBER MOLINA: Okay, well, that...that's good to hear. And thank you for the education on this. Because I...I still drive around a 20-year-old Toyota pickup, which is reaching Maui Cruiser status sometime soon, so I got to start looking at a newer vehicle sometime down the road, and I'm looking at maybe a potential hybrid or something when that day comes. But thank you very much, Mr. Weltman, appreciate the presentation. Thank you, Chair.

MR. WELTMAN: Thank you.

CHAIR PALTIN: Thank you. Member King.

VICE-CHAIR KING: Thank you, Chair, and thanks for hearing this resolution. This was put together with...by the CAAC, the Climate Action Advisory Committee, working with the bill that came out of the Big Island. So, I didn't have a lot of direct involvement in this bill. So, the two questions I have for you, Rob, are one, did you fully consider, rather than two chargers per 50...you know, 50 spots and that that would increase, did you consider, you know, a charger per every so many parking spaces? Like, one for every 50 parking spaces would equal two for 100, you know, another 50 spaces would be three, versus, you know, the comment that the State law requires two for every 100 parking spaces, but you could have 500 parking spaces, and still only have two. So, did you talk about that possibility?

MR. WELTMAN: Yes, the...the bill, as written, requires two...two for every 50. So, in other words, if there's 100 spots, then it would be four...four --

VICE-CHAIR KING: Okay, so you require four. And then the...oh. So, my other question is, I saw somebody who's connected with Ka'ahumanu Center on the call earlier, so, I think this was a concern of theirs, the requirement for commercial lots to put these in. But did you consider tying the requirement to the Inflation Reduction Act monies, so that the...the...there would be some assistance for commercial...commercial lots to put these chargers in?

MR. WELTMAN: The...from what I understand, the...the Inflation Reduction Act money is

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geared towards...towards low-income EV purchases, and...and highway...highway system charging. And the DOT has been looking at that, but I don't think it is geared towards...I have not found anything which is geared towards small-scale retail malls, for example. But again, this only applies to new...new lots. It would not apply to the...the Ka'ahumanu lot would need to comply with the HRS, the State law, but they would not need to put in anything additional based on this bill.

VICE-CHAIR KING: Okay. So, maybe that's new, we should look into it. Because I was pretty sure, from my discussions with the EPA, that there were monies in the IRA for EV infrastructure...but I'll...I could work with you on that offline. That...that...that may be through a separate pot of money that the EPA is getting directly from the IRA.

MR. WELTMAN: Could be. Let me just add one more thing I forgot to mention to Councilmember Molina, that the...the numbers I gave for how long it took to charge, those are for my Level 2 charger at home, but if it was a DC fast charger, like...like the Tesla super chargers or, like, the...the...I think it's six that Hawaiian Electric has installed at various places, those can charge...they would charge at...at most, one hour for...for 150 miles, and...and possibly less.

VICE-CHAIR KING: And...and then, Rob, do you know if...if they're getting any closer to recycling those batteries? Because the last I checked, there was no recycling of the batteries for EVs. Do you know if that's on the...on the horizon sometime?

MR. WELTMAN: There is recycling in...in the U.S., none that I know of in Hawai'i. I...I expect it to --

VICE-CHAIR KING: Okay, what...recycling back into reusing them, and you know, fixing them up to reuse them in EVs?

MR. WELTMAN: Yeah, the *(audio interference)*.

VICE-CHAIR KING: Okay, I would love to see...yeah, I would love to see that if you have that. Because I...you know, I have these visions of EV batteries piling up in China somewhere, and, you know, up until recently, there was...there was no reports of any recycling going on. So, if you happen to see those reports.

MR. WELTMAN: Yes.

VICE-CHAIR KING: Okay, great. Thanks. Thank you, Chair.

CHAIR PALTIN: Okay, Member Johnson.

COUNCILMEMBER JOHNSON: Thank you, Chair. Good...good morning, Mr. Weltman. I...I just have a clarifying question in regards to something you just mentioned. So, in your presentation, you said that there is, like, three types of chargers, you know, slow, medium, fast, I guess. But the fast one you mentioned, you said it's...the Tesla one can charge up to...could take about an hour. Does it have to be Tesla? Is...are there other

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brands on the...on the...on the market, or is it only Tesla? Because over on Lānaʻi, we've got Hōkūao project, and it has all these Tesla batteries, and I...I'm just kind of curious if that's the only type that is out there for that.

MR. WELTMAN: No, there...there are many others. And...and the...all the ones that were installed by...we don't have any such chargers on Maui. All the ones...all the DC fast chargers on Maui are...they work with Tesla, and...and any...yeah, you have two connector types, and so, they work with...with any EV that I've ever heard of.

COUNCILMEMBER JOHNSON: What was that term you used for...for...you used to call it DC...what was that term?

MR. WELTMAN: They're most commonly called DC Fast Chargers. Stands for direct current...direct current fast charging.

COUNCILMEMBER JOHNSON: Okay.

MR. WELTMAN: I...I believe --

COUNCILMEMBER JOHNSON: So, not on...you said there's none on Maui presently?

MR. WELTMAN: There's no...there are none...oh, there are, yes, but they're not...not Tesla ones. The ones on Maui are...are owned and managed by Hawaiian Electric, although the County is waiting for a...a docket in the PUC to pass, which will allow them to put in some...some DC fast chargers as well. There used to be one --

COUNCILMEMBER JOHNSON: So --

MR. WELTMAN: -- there used to be, at...at the County building...in front of the County building, and that's the first place, as a test, to put one in as soon as we get approval.

COUNCILMEMBER JOHNSON: And that was the fast one? The DC fast one? Okay, and it's not operable now, I...I saw that. Okay. All right. Thank you, Mr. Weltman. Thank you, Chair.

CHAIR PALTIN: Okay, thank you. I'm going to jump in here and just ask a logistics question to our sole attorney on the call that I can see, which is Mr. Mitchell. I saw Mr. Rowe dropped off the call. I did put in a call to Moana and see if we can get another one, but if this doesn't need to go to the Planning Commission, and we eliminate the Chapter 19 section, can we pass this out of Committee today and we could move it on to the Council?

MR. MITCHELL: Thank you for the question, Chair Paltin. I...our recommendation...OCS's recommendation is to leave it in Chapter 10, with the revision to Chapter 19. Violations of Chapter...or Title 10 are handled by the Police Department, under Sections 10.72.010, and 10.72.020, and it makes violations that are in Chapter 10 violations of the Zoning Code. So, our recommendation is to leave it as is, and see what the Planning

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Commission says.

CHAIR PALTIN: Okay. Ms. Takakura, you guys do seem to deal with parking...no?

MS. TAKAKURA: Thank you, Chair Paltin. So, I guess I wasn't clear on that. Yes, the Planning Department does administer the parking, Chapter 19.36B. I wasn't...is the recommendation to keep the...the...the changes to this Title 10 part, and then we administer that? I wasn't clear, sorry.

CHAIR PALTIN: Oh, Mr. Mitchell, can you clarify for Ms. Takakura?

MR. MITCHELL: Yes, I...I understood the question to be, who...who would enforce the Chapter 10 section, and that would be the Police Department's, if that was the question.

CHAIR PALTIN: I guess my question is, why does it need to go through the Planning Commission? Can we pass it today? But we should probably let the Police Department know that we're tasking them with additional enforcement activities?

MR. MITCHELL: Okay. I...I'm not sure what the question is, Chair Paltin?

CHAIR PALTIN: I guess the question is, why does it need to go through the Planning Commission?

MR. MITCHELL: Because we've included the Chapter 19 provisions.

CHAIR PALTIN: Okay. And then just checking in with you that what Ms. Takakura shared in the opening comments was, it's easier to just refer to HRS rather than to quote HRS because then if HRS changes, then we have to be sure to go back and change this section of Chapter 19. So, that was my concern with that.

MR. MITCHELL: I think that's a good concern, to the extent we've actually quoted the language in HRS, as opposed to referring to the HRS sections. That can be challenging if the HRS is then subsequently changed. So...but I do think we should continue to refer to the HRS section in the Code. That way, to the extent it's revised by the legislature, it's automatically revised in the Code.

CHAIR PALTIN: Okay. So, then the action that we would be doing is...is kind of a little bit...we're going to force the Planning Commission and Advisory Committees to look this over, and they don't want to, is what I'm understanding? Because it's a policy decision, and we can?

MS. TAKAKURA: -- . . . *(inaudible)* . . .

MR. MITCHELL: Our recommendation would be to send it to the Planning Commission nonetheless, and get their recommendation.

CHAIR PALTIN: Okay.

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MR. MITCHELL: Is my mic coming through cleanly? I see that folks are leaning forward to hear me.

CHAIR PALTIN: Yeah, we can hear you. I guess...okay, I did see Member Rawlins-Fernandez's hand up.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I would like to brainstorm along with you folks on how we can resolve this issue. So, it...it's talking about all zoning districts with public accommodation. And what if we were to look in the Public Works section instead of the Planning section for...for construction...building...building code stuff. Would that make sense? I don't have an idea about a section, I'm just...I'm looking at how it was put into Title 19, and maybe something similar could be crafted for the Public Works section instead of the Planning section.

CHAIR PALTIN: Well, the --

COUNCILMEMBER RAWLINS-FERNANDEZ: As infrastructure.

CHAIR PALTIN: The question I had was, that Planning does oversee parking stalls, like for certificate of occupancy, and so, it a little bit feels like parking is in their lane, but Chapter 10 is not in their lane. So, what if...can we put the Chapter 10 stuff under the parking section of Chapter 19? No? Chair Lee said no. Okay. So, Members, what are you thinking in that case? Oh, we got something from Ms. Takakura. 19.36B.020 states "compliance with the State requirements for electric vehicle parking is also required." So, we're required to comply with State requirements, which I'm thinking that she prefers to quoting a specific HRS, in case it ends or changes, that we just say that we have to comply with State requirements. This is like something for a lawyer, or someone? Member Sinenci.

COUNCILMEMBER SINENCI: Not a lawyer, but I...I was just...so, if we did go ahead and...and follow Mr. Mitchell's advice, we would be sending this to the Planning Commission for...for input, and then they might...they might also say that it's not needed in this bill?

CHAIR PALTIN: And then when we pass it as a bill, we should probably invite the Police Department, since we're putting it in their section?

COUNCILMEMBER SINENCI: Okay. Thank you.

CHAIR PALTIN: Or maybe they'd send the agency thing to...so, is there an appetite to pass this resolution as written, to refer it to the Planning Commission [sic] over their objection?

VICE-CHAIR KING: Chair?

CHAIR PALTIN: *(Audio interference)*...somebody's talking.

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VICE-CHAIR KING: Chair?

CHAIR PALTIN: Oh, Member King.

VICE-CHAIR KING: Yeah, it was...did somebody else ask the question? I didn't hear anybody else. Can you hear me?

CHAIR PALTIN: Yes.

VICE-CHAIR KING: Okay, yeah. So, I...I think the good idea, what Mr. Sinenci suggested, was to pass it on to Planning Commission, and let them discuss whether we need to keep that Chapter 19 portion in there. But I wanted to ask you, you said there were objections from the Planning Commission. Did you talk to the Planning Commission? They...they objected to hearing this proposal?

CHAIR PALTIN: Objections from the Planning Department. I'm sorry if I misspoke. The Planning --

VICE-CHAIR KING: Oh.

CHAIR PALTIN: -- Department asked us not to the Planning --

VICE-CHAIR KING: Not to send it to the Planning --

CHAIR PALTIN: -- Commission because they don't have jurisdiction over Chapter 10. And they don't agree with the changes for Chapter 19 because they said it would make it more difficult to --

VICE-CHAIR KING: Right. Okay, right. I understand that, and, you know, if we...if we wanted to take that part out, Mr. Weltman said he would be okay with that too. But I kind of...kind of agree with you, that the Planning Department does oversee parking, and this is a requirement for parking lots. And the parking code, I thought, was in Chapter 19.

CHAIR PALTIN: Well, I think if we take out that Chapter 19 section that's in there, then there's no nexus for us to send it to the Planning Commission as written because they...the Planning Commission reviews Chapter 19 stuff.

VICE-CHAIR KING: But you...you made a good point that...that in order for a new development to get a certificate of occupancy, they...that parking lot requirement would have to be signed off on...signed off on by the Planning Department.

CHAIR PALTIN: Yeah, I'm not sure where...what section of the Code that is, I'm just aware of that --

VICE-CHAIR KING: Because I...the Police aren't going to sign off on that. They might enforce it, once...once the development is going, and doesn't...if they don't have it, but Planning Department has to sign off on those...those...the parking requirement having been met.

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Maybe...Ms. Takakura, do you have a...do you have a thought on that? Like, who would sign off...wouldn't it be the Planning Department that would sign off before you give a certificate of occupancy, to make sure that that part of the Code was being met?

CHAIR PALTIN: Ms. Takakura?

MS. TAKAKURA: Thank you, Chair Paltin. That is correct. Planning Department does sign off on certificates of occupancy, and we do make sure that the State requirements for EV parking is required, especially for new construction, and these lots over 100. Sometimes what we're seeing is that a tenant...like say it's a shopping center or something, a tenant will come in for a certificate of occupancy, and what we've been doing is trying to work with them. Because, you know, it's really the landowner that has to put in the EV. So, what we'll do is issue a temporary CO, with the understanding that they're going to go to the landlord and say, hey, this needs to be put in, in order for me to get my permanent CO. So, we've been trying to work with them without, you know, shutting down businesses, especially if it's, like, a small store owner, and it's not really their kuleana to take care of the entire parking lot of a...of a property with multiple tenants, and they're not the landlord. So, we are trying to work with them --

VICE-CHAIR KING: Right.

MS. TAKAKURA: -- so that...that it can happen, but in a way that, you know, it doesn't place the full burden on the tenant.

VICE-CHAIR KING: Right.

MS. TAKAKURA: If...if...it...they...it's kind of out of their control. So we do --

VICE-CHAIR KING: Right, so is this --

MS. TAKAKURA: -- enforce those already.

VICE-CHAIR KING: Okay. So, is this...is this proposal in the wrong part of the...should it not be in Title 10? Should it be in the parking code?

MS. TAKAKURA: I...I guess you could put it in the...in Title 19 --

CHAIR PALTIN: I think she was --

VICE-CHAIR KING: *(Audio interference)*.

CHAIR PALTIN: -- saying that we don't want to deny a certificate of occupancy for a store owner that doesn't have jurisdiction over the parking lot, if they're just renting a space, is the issue that they have --

VICE-CHAIR KING: So I do...I understand that, but I'm just saying, since they're the ones dealing with that issue, maybe this should be in...in the parking code, this proposal.



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CHAIR PALTIN: I did see Member Lee's hand up as well, followed by Member Rawlins-Fernandez.

COUNCILMEMBER LEE: So, Jacky...Ms. Takakura, what would you suggest? You...you...you feel uncomfortable with reference to Title 10 in the proposed legislation. So, what suggestions do you have?

MS. TAKAKURA: Thank you, Chair Lee. So, if...if you want something to be enforced by the Planning Department, it should be in Title 19, and I...I guess it would be in...in 19.36B, which is off-street parking and loading. We...we don't look at Title 10, so, I can't say anything about that one. Just, at first glance at this one, it does look like it contradicts...or it's...it's...requires more than what the HRS requires, so, this would be a big change, and I want to make sure, you know, property owners are prepared to implement this. But yeah, I guess it would be in the parking chapter, if that's what the goal is, is to update parking requirements.

COUNCILMEMBER LEE: Okay. Thank you for that clarification. Thank you, Chair.

CHAIR PALTIN: Okay. Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. So for this section...the new section proposed under Title 19, how does it differ from HRS 291-71? It requires more stalls? It looks like it repeats it, that's why.

CHAIR PALTIN: Yeah, the issue was, if we repeat what's State law, and then State law changes, then it's more work for us to go in. It's...the...the preference is to say that compliance with State requirements for electric vehicle parking is also required. So, whatever the State requirements are, when they change, we'd just have to be in compliance. If we state what the State law is, and then it changes, then we have to go in and change our code as well. So, that's the humbug, I guess.

COUNCILMEMBER RAWLINS-FERNANDEZ: So, what are we...what does this bill try to accomplish that it...it wants two charging stations for every 50, instead of one for every 100? Is that what we're trying to accomplish here?

CHAIR PALTIN: Mr. Weltman?

MR. WELTMAN: Yeah, the State law only requires one charging...one charging station for lots if it's 100 or more, even if it's 500. So, it's just like one, and that's it. Whereas, this one, like the Hawai'i County law, requires two for every 50. But then again, this is only for new construction, so it's...the Zoning and Enforcement Division does enforce the requirement of State law right now, in other words, one for every 100. And that...I...I still don't understand why it would not enforce it with two for 50. Seems like it's just a numerical change, and not a total change in jurisdiction, and...and --

COUNCILMEMBER RAWLINS-FERNANDEZ: Well, so...Mahalo, Mr. Weltman. I...I don't have

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a concern with two for every 50. I...I'm supportive of it. I'm...I just don't understand why we would need to repeat it. If...if State law is saying that there must be at least one for every 100, and our County is saying that we would like there to be more, then we would still be in compliance with State law if we have two for every 50. So I don't understand why it...it's not a conflict, we're just requiring more. Maybe an attorney can answer.

CHAIR PALTIN: Mr. Mitchell, I think you're the only attorney on the call.

MR. MITCHELL: . . .*(laughing)*. . . Thank you, Chair Paltin. I...I agree, I don't see a conflict. It's just a...a more stringent requirement. You're meeting the State's requirement, and you're adding an additional requirement by adding more.

COUNCILMEMBER RAWLINS-FERNANDEZ: Right. So, why do we have to repeat what HRS 291-7...71 says, if it's not in conflict?

MR. MITCHELL: I think the portion that Mr. Weltman was referring to was just the number of EV parking spaces. I believe there are other components of the State law that, off the top of my head, I cannot repeat, or don't have off the top of my head, that we need to make sure we're covering.

COUNCILMEMBER RAWLINS-FERNANDEZ: That's not HRS 291-71 that we're covering? Is that what you're asking...or is that what you're stating?

MR. MITCHELL: That is part of it.

COUNCILMEMBER RAWLINS-FERNANDEZ: I'm trying...I'm trying to...I'm trying to understand why that section is even necessary...because that seems to be the problem. And if what...if the State law is the minimum, and our County law is then requiring more, so, we're...we're...we're meeting...we're satisfying the criteria of State law by having the minimum amount, and we're asking for more, so, it doesn't conflict with the State law...okay, Mr. Weltman is raising his hand. Okay. So, what is the necessity of this section in the bill?

CHAIR PALTIN: Mr. Weltman.

MR. WELTMAN: Chair Paltin, may I answer?

CHAIR PALTIN: Yes.

MR. WELTMAN: Yeah, okay. So, there...there are two parts to this bill. I...I didn't write the actual bill, I proposed the ideas and the numbers, and then they were formulated to correspond to our building code. But there...there are two sections. The first section talks about the two for every 50, the second one is...is a small addition to Title 19, and I believe that the purpose was to say, is these things which it calls out. In other words, you can't park in a spot which...which is an electric vehicle charging spot, unless you're charging. You should...the spots for charging should be designated. I think that's it for

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the...and then there's --

COUNCILMEMBER RAWLINS-FERNANDEZ: So --

MR. WELTMAN: -- a...it --

COUNCILMEMBER RAWLINS-FERNANDEZ: Mr. Weltman, HRS 291-71 does state that.

MR. WELTMAN: Yes. So, to my...my feeling is to the extent that we're just repeating State law, it's redundant, and we can remove it. The meat...the meat of the proposal is in the first half, which is the part which is currently Chapter 10, which...which...which probably should be Chapter 19.

COUNCILMEMBER RAWLINS-FERNANDEZ: So, this...this isn't adding anything new that isn't already in State law. State law says provided further that no vehicle shall be permitted to park in a parking space equipped with electrical vehicle chargers and while not actively charging. So, that's not new, it's already...it already exists in the State statute, so, I...I still don't understand the necessity of the section under Title 19.

CHAIR PALTIN: If we don't --

COUNCILMEMBER RAWLINS-FERNANDEZ: And no one's answering my question.

CHAIR PALTIN: -- state under Title 19, then we don't have any reason to go to the Planning Commission. I think that we should probably file this and start over because we only have ten minutes until lunch, and we're just going around in circles. I mean, we all agree that we want this to happen, but it's not in the right section of the Code, apparently, and we haven't even invited the Police, and we're putting it in the Police's Code. And I don't think we're going to be able to redraft it in ten minutes.

COUNCILMEMBER RAWLINS-FERNANDEZ: But...mahalo, Chair. I'm just...it just...my question was the necessity of that section under Title 19, and if it's not necessary, because it just repeats what the State law is, and I understand that if State law changes, then we would have to follow State law. So, I...I...I don't understand why we can't just strike it, like you had asked earlier. I mean, do we want to send it to the Planning Commission? Is...is that why we want to keep it in Title 19? Because I would be happy with striking that section and then just passing it out of Committee today.

CHAIR PALTIN: Because the Police aren't prepared to enforce this. We haven't gotten...we haven't gotten any input from the Police. They're short staffed, and I don't think it would be a priority. So, we'd just be passing a piece of paper that wouldn't...I mean, when someone's building a new parking lot, they're not going to ask the Police if they did what they're supposed to do. The Police don't have anything to do with building parking lots. And I guess we can't pass the bill because it's also not on the agenda to pass it as a bill, it's only on the agenda to refer it to the Planning Commission. So, if we take out the Chapter 19 portion, we can't refer it to the Planning Commission, and that's all we were agendized to do. Mr. Weltman.

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COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, understood. Mahalo, Chair.

MR. WELTMAN: I had proposed weeks ago to remove that section, exactly because it's redundant, and it doesn't...it's redundant, it's not necessary, and it just adds another burden. However, I do feel that with the discussion we've had today, the section that's currently proposed for...for Title 10 should be moved into Title 19. Because it needs to be part of Planning, instead of requiring one stall per 100, or for 100, it should be requiring two for 50. So, it should go wherever...wherever that would be referenced in the Title 19 Code.

CHAIR PALTIN: Thank you. And Director McLean also did bring it up to me earlier, I brought it up to our attorneys, and they didn't see a problem at that time. But once we talk it all out, it seems there is a problem. So...Member King.

VICE-CHAIR KING: Thank you, Chair. I would be in favor of rewriting this bill for the...you know, putting it in the parking code, so...and working with the Planning Department on that because they are going to be the ones enforcing it. I think they're going to...you know, they seem to agree that that's where it should be because...especially for new...since this is for new construction, this would be a requirement of any new constructions with parking lots that large. So, if you want to...you want to defer it, we could do that, or we could just scrap it and start all over again.

CHAIR PALTIN: Yeah, I think it may be easier to start again.

VICE-CHAIR KING: Okay. Are you okay with that, Rob? We...we...we take the rest of the bill and put it into the parking code, instead of that Title 10?

MR. WELTMAN: I think that's the right place to put it. And it think that should *(audio interference)* Council Services would be the right approach, I agree.

CHAIR PALTIN: Okay. Well --

VICE-CHAIR KING: I move to file.

CHAIR PALTIN: My...my Staff is asking if we can please defer it, and let it --

VICE-CHAIR KING: Oh.

CHAIR PALTIN: -- auto file at the end of the term, then they won't be tasked with the additional work of writing a Committee report.

VICE-CHAIR KING: Okay. We can do that, and...and then we can work --

CHAIR PALTIN: *(Audio interference)* from me.

VICE-CHAIR KING: Okay. *(Audio interference)* just defer --

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CHAIR PALTIN: So if there are no objections to defer this item?

**COUNCILMEMBERS VOICED NO OBJECTIONS.** (Excused: YLS)

**ACTION: DEFER PENDING FURTHER DISCUSSION.**

CHAIR PALTIN: We'll start again with something else in the new year. Okay. Thank you, Members, for all of your hard work, without any...much Corp. Counsel too much, and --

VICE-CHAIR KING: Thank you. Thank you, Chair, for taking up these two issues --

CHAIR PALTIN: Today's --

VICE-CHAIR KING: -- and for utilizing my time wisely. That would have been my Committee. Appreciate it.

CHAIR PALTIN: This concludes today's Planning and Sustainable Land Use Committee meeting. Thank you, everyone. The time is now 11:55. This meeting is adjourned. . . .(gavel). . .

**ADJOURN:** 11:56 a.m.

APPROVED:



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TAMARA PALTIN, Chair  
Planning and Sustainable Land Use Committee

pslu:min:221116:kr

Transcribed by: Kaliko Reed

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CERTIFICATION

I, Kaliko Reed, hereby certify that pages 1 through 55 of the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 14th day of December 2022, in Wailuku, Hawai'i



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Kaliko Reed