

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

MINUTES

August 30, 2021

Online Only Via BlueJeans

CONVENE: 1:31 p.m.

PRESENT: Councilmember Tamara Paltin, Chair
Councilmember Kelly Takaya King, Vice-Chair
Councilmember Gabe Johnson, Member
Councilmember Alice L. Lee, Member
Councilmember Michael J. Molina, Member
Councilmember Keani N.W. Rawlins-Fernandez, Member
Councilmember Shane M. Sinenci, Member
Councilmember Yuki Lei K. Sugimura, Member

EXCUSED: Councilmember Tasha Kama, Member

STAFF: Alison Stewart, Legislative Analyst
Kasie Apo Takayama, Legislative Analyst
Richard Mitchell, Legislative Attorney
David Raatz, Deputy Director
Clarita Balala, Committee Secretary
Kristeena Locke, Council Services Assistant Clerk

Kate Griffiths, Executive Assistant to Councilmember Gabe Johnson
Stacey Moniz, Executive Assistant to Councilmember Gabe Johnson
Evan Dust, Executive Assistant to Councilmember Tasha Kama
Davideane Kama-Sickels, Executive Assistant to Councilmember Tasha Kama
Lois Whitney, Executive Assistant to Councilmember Tasha Kama
Ellen McKinley, Executive Assistant to Councilmember Kelly Takaya King
Sarah Pajimola, Executive Assistant to Councilmember Keani N.W. Rawlins-Fernandez
Jordan Helle, Executive Assistant to Councilmember Yuki Lei K. Sugimura

ADMIN.: Jennifer Oana, Deputy Corporation Counsel, Department of the Corporation Counsel
Stephanie Chen, Deputy Corporation Counsel, Department of the Corporation Counsel
Jordan Hart, Deputy Director, Department of Planning
Jacky Takakura, Administrative Planning Officer, Department of Planning
Sybil Lopez, Planner, Department of Planning
Paul Critchlow, Planner, Department of Planning
Annalise Kehler, Planner, Department of Planning
Johann Lall, Geographic Information System Analyst, Department of

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Planning
Karla Peters, Director, Department of Parks and Recreation

OTHERS: Mahina Poepoe
Amy Bond Ramos
Thomas Croly
Mike Moran

David Tamanaha, University of Hawai'i Maui College
Tom Schnell, Principal, PBR Hawai'i & Associates, Inc.
Denise Yoshimori-Yamamoto, University of Hawai'i Community Colleges
Kahele Dukelow, University of Hawai'i Maui College
Shawn Kodani, University of Hawai'i Maui College
Glenn Yokotake, Architect, GD Design
Ashley Kuwahara, Designer, GD Design
Susan Nartatez, Molokai Education Center
Lawrence Kauhaahaa, Clean and Safe Program
(3) additional attendees

PRESS: Akakū: Maui Community Television, Inc.

CHAIR PALTIN: . . .*(gavel)*. . . Will the Planning and Sustainable Land Use Committee meeting of August 30th please come to order. The time is now 1:31, and if everyone can please silence their cell phones or other noisemaking devices. Just to let folks know, this meeting is being broadcast on TV on Akakū Channel 54 today instead of 53. And this online meeting is being conducted in accordance with the Governor's most recent emergency proclamation on COVID-19. Please see the last page of the agenda for information on meeting connectivity. As required by the Governor's most recent emergency proclamation, Members at non-public locations should state who, if anyone, is present with them. So my name is Tamara Paltin, and I'll be your Chair today. And I am at the Lāhainā District Office with Angela, my aide. With us today we have Committee Vice-Chair Kelly King. Bonjour, contente de te voir.

VICE-CHAIR KING: Aloha, Chair. Bonjour. Let's see, contente de...looks like contente de te voir; is that correct? Okay.

CHAIR PALTIN: Bien.

VICE-CHAIR KING: Trying to keep up my...my junior high school French here, so...

CHAIR PALTIN: And next we have from Lāna'i, Councilmember...

VICE-CHAIR KING: Oh.

CHAIR PALTIN: Oh.

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VICE-CHAIR KING: Do I need to say...do I need to say what room I'm in and who I'm with?

CHAIR PALTIN: Yeah, sorry.

VICE-CHAIR KING: So I'm in my...my same room at my house, there's nobody else in the room with me.

CHAIR PALTIN: Perfect. Okay. And next we have Councilmember Gabe Johnson. Bonjour, contente de te voir.

COUNCILMEMBER JOHNSON: That's wonderful, Chair. Whatever you said was great, so we'll leave it at that. Good morning...or good afternoon, Councilmembers. Good afternoon, Chair. Looking forward to a fun-filled meeting today and a lot of stuff on the agenda. I am at my house on Lānaʻi with my daughter Momoe and my little dog.

CHAIR PALTIN: Nice. And I believe Member Kama is still excused. We have Chair Lee. Bonjour, contente de te voir.

COUNCILMEMBER LEE: Mademoiselle, bonjour, contente de te voir. And that means good to see you today and every day.

CHAIR PALTIN: Awesome. Next up we have Councilmember Mike Molina. Bonjour, contente de te voir.

COUNCILMEMBER MOLINA: Bonjour, contente de te voir, Mademoiselle Chair, and my colleagues, and everyone else viewing in. I'm broadcasting from South France under the bridge, but it's just virtual. In reality I'm here in Makawao in a room by myself, and in the other room is my wife and my pets. Aloha.

CHAIR PALTIN: Aloha. And next up we have...

COUNCILMEMBER LEE: Oh, Madam Chair? Madam Chair?

CHAIR PALTIN: Yes?

COUNCILMEMBER LEE: I forgot to say...I forgot to say, for the record, I am alone in this room. Thank you.

CHAIR PALTIN: Okay. Try not to cause too much trouble there.

COUNCILMEMBER LEE: Okay. I'll try stay within my time limits.

CHAIR PALTIN: Next up we have Councilmember Keani Rawlins-Fernandez. Bonjour, contente de te voir.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha 'auinalā, Chair, mai Molokaʻi nui a Hina. Bon après-midi . . .*(spoke in French)*. . . and bonjour kākou.

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CHAIR PALTIN: Aloha. Okay. And next we have Council...oh, are you...did you say you were by yourself in French?

COUNCILMEMBER RAWLINS-FERNANDEZ: I am by myself at the Moloka'i District Office.

CHAIR PALTIN: Oh, okay. And next up we have Member Shane Sinenci. Bonjour, contente de te voir.

COUNCILMEMBER SINENCI: Bonjour, Madam Chair, contente de te voir, quoi de neuf mai Maui Hikina. I am here at the Hāna Cultural Center with my EA Dawn Lono and Auntie Mavis Medeiros. Aloha nui.

CHAIR PALTIN: Aloha. And last but not least, we have Councilmember Yuki Lei Sugimura. Bonjour, contente de te voir.

COUNCILMEMBER SUGIMURA: Bonjour, contente de te voir. And good afternoon, everybody. I'm here at my home in Kula. No jacaranda trees are really in bloom at this time. But...and my husband is downstairs, but not in the same room. Thank you.

CHAIR PALTIN: Okay. Awesome. And with us today from the Administration we have Deputy Corporation Counsels I believe Jennifer Oana, as well as Stephanie Chen. It looks like maybe Deputy Director Jordan Hart and a host of Planning Staff. And soon enough I think we'll have someone from Parks and the Police. I don't have a name for those folks yet. And for PSLU-27 we'll have David Tamanaha, Tom Schnell, and some other folks. And PSLU-25 we hope to have Lawrence Kauhaahaa. Our Committee Staff today, we have Clarita Balala, Committee Secretary; we have Kristeena Locke, Assistant Clerk; Legislative Analysts Alison Stewart and Kasie Apo Takayama; as well as Legislative Attorney Richard Mitchell. For our agenda today we have three items to take legislative action on, and it looks like we also have three testifiers. The first item is PSLU-27, District Boundary Amendment and Change in Zoning for the Moloka'i Education Center (Kaunakakai); PSLU-69, Amending Chapters 19.35, 19.64, and 19.65, Maui County Code, Relating to Accessory Dwelling, Bed and Breakfast Home, and Short-Term Rental Home Permits; and PSLU-25, Unlawful Consumption of Intoxicating Liquor and Minor Updates for Historic Districts Number One and Two (Lāhainā). So let's begin with public testimony. Testifiers wanting to provide video testimony should have joined the online meeting via the BlueJeans link as noted on today's agenda. Testifiers wanting to provide audio testimony should call 408-915-6290 and enter meeting code 149 341 846, also noted on today's agenda. Written testimony is encouraged, and can be sent via the eComment link at mauicounty.us/agendas. And 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, muting video and audio while waiting for your turn. When testifying, please state your name, please also state if you are testifying on behalf of an organization or are a paid lobbyist. If you have joined this online meeting, Staff will assume you wish to provide testimony and will add you to the list of testifiers. Once you are done testifying, or if you wish to view the meeting without providing testimony,

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please disconnect from the BlueJeans meeting. You may continue viewing on *Akakū* Channel 54, Facebook Live, or mauicounty.us. Once oral testimony concludes, only Councilmembers, Staff, and designated resources will remain online, and all others will be dropped from BlueJeans connection. A link to the list of the testifiers is posted in the chat. Please be mindful that chat should not be used to provide testimony or to chat with others during the meeting. Members, I would like to proceed with oral testimony. First up we have to testify is a testifier by the name of Ashley. Ashley, if you're there, can you unmute yourself and begin your three-minute testimony? And let us know your last name please.

. . . BEGIN PUBLIC TESTIMONY . . .

MS. KUWAHARA: Hi, Chairperson. I am actually here with the Moloka'i...for the Moloka'i Education Center.

CHAIR PALTIN: Oh, perfect. Thank you so much --

MS. KUWAHARA: *(audio interference)*

CHAIR PALTIN: -- for responding. Next up --

MS. KUWAHARA: Thank you.

CHAIR PALTIN: -- we have Mahina Poepoe. Are you testifying, or are you just monitoring as an EA?

MS. POEPOE: I'm testifying.

CHAIR PALTIN: Okay. Go ahead, we're ready for your three minutes.

MS. POEPOE: I'm testifying on behalf of myself on my own time on...actually on PSLU-69 about the short-term bed and breakfast.

CHAIR PALTIN: Go ahead.

MS. POEPOE: So I read that one of the conditions proposed is to limit STRs to one per applicant per property, and I think that this Council should also consider limiting to one dwelling only per property. And I'm not sure how it is on Maui, so...but on Moloka'i, when we had STRs permitted, there were multiple instances where a single permit would split between numerous dwellings. A specific example was there was one permittee owner who had two houses. One was two bedrooms and one was three bedrooms. They got a permit for the three bedroom capacity...well, three bedroom, six capacity limit, and they put two bedrooms in the three-bedroom house, and one bedroom in the two-bedroom house with the condition that the extra bedrooms would be locked. And you know, the occupancy is still technically remains the same, but we all know that that's...the occupancy limit is disregarded a lot of the time. And so this allows the single property

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to be rented out to multiple groups or parties at the same time, which increase the impacts and we had more traffic because of that, more people to scold, and it's just less likely that one of...at least one of those could be long term. And I actually happened to stop by this property once when a friend of a friend was staying there, and they were staying in the one bedroom, and I went inside. And both bedrooms were wide open, and they had about four people in their group, which is over capacity. And...and at the same time, the other house was being rented to a party of six people. So...so I think that that is another way to help reduce the impacts of short-term rentals in our neighborhoods. And I just wanted to bring that up to you today. And also, you know, that two-bedroom house is now rented out long term to a guy named Kimo. So...so it is happening, our long...our short terms are turning into long term. Thank you.

CHAIR PALTIN: Oh, thank you. And...and to clarify, so this couldn't even happen anymore on Moloka'i because there aren't short-term rentals, or was the property a B&B?

MS. POEPOE: It's a short-term...it was a short-term rental. It phased out. Yeah.

CHAIR PALTIN: Oh.

MS. POEPOE: It couldn't happen here. Just for something for the rest of the communities to consider.

CHAIR PALTIN: Oh, okay. Got it. Thanks. Members, questions for the testifier? Sorry, I just had that burning question. Seeing none. Thank you for your testimony, Ms. Poepoe.

MS. POEPOE: Thank you.

CHAIR PALTIN: Next up we have Amy Bond Ramos. Ms. Ramos, if you can unmute yourself, we're ready for your three minutes.

MS. RAMOS: Hi. Thank you for all your hard work, Council. Appreciate your time today. I wanted to just testify regarding the short-term rental changes that are proposed. And I am a permit holder, and I have been since 2013, so I work really hard for my business. And I'm...I'm okay with the bill as long as Section 13 remains as it stands, because I would just hope and appreciate that when this comes up, it just doesn't come up again in the future, in the near-time future. I feel like every three to four months I've been having to testify and, you know, stick our hands out there like just really wanting to just, you know, keep my business. And it's just been...it's just been really stressful with COVID and my kids staying home from school. It'd be nice to know in the future I'm going to be able to have my business instead of it being...it just seems like there's been a lot of speculation that, you know, the permits are going to disappear or they're going to phase them out. And I just feel like I've worked so hard, and I know that other people have as well. So it would be nice for us to be able to continue doing what we love to do. And that's all I have to say. Thank you for listening.

CHAIR PALTIN: Thank you, Ms. Ramos, for your testimony. Members, any questions for the testifier? Seeing none. Thank you so much. Next up we have Mr. Croly, Mr. Tom Croly.

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If you can, unmute yourself and begin your three minutes.

MR. CROLY: Aloha, Committee. Tom Croly speaking on my own behalf. I do want to point out that a lot of comments were sent into the eComment from many of the owners, and you just heard from Ms. Bond, who are primarily concerned about their own permits. And if this ordinance passes as it's proposed, I've told them they have nothing to worry about. So I hope that...that...that that would be the case. I do want to let the...the Council know that the Planning Commission had three meetings regarding this...these particular changes that were suggested by the Planning Department. And I appreciated that the Planning Department went back and made some further refinements from their original proposal to bring this around to something that seemed workable. I can't say that I love everything in what's proposed before you. I particularly don't like the 15-year ownership requirement, I don't think that there is any basis for that, but it's there and, you know, it's...it's proposed. I do like many of the changes that they have made to facilitate the bed and breakfast and the short-term rental permit processing to be parallel. It's quite confusing right now where the bed and breakfasts have to put up this 16-square-foot sign and the short-term rentals put up this 4-square-foot sign. And the notification of that sign goes up prior to submitting the application, which might not get processed for several more months on the bed and breakfast, whereas on the short-term rental that sign goes up when they actually are making notice during the notice period which helps correct some things. So I can tell you that there was a lot of work and a lot of thought that's gone into what's before you. And I would encourage you to pass it as it's proposed. And I think that people will be able to live with it, rather than digging in and starting this whole process over again of...of reevaluating these changes and so forth. I'm open to any questions that you might have. I was a party to the 13 Council meetings that resulted in the short-term rental ordinance originally, and I kind of understand the history of each of the restrictions that's contained in this ordinance and the proposed changes that...that the Planning Department has put forward today. Thank you, Chair.

CHAIR PALTIN: Thank you, Mr. Croly. I see Committee Vice-Chair King has a question for you.

VICE-CHAIR KING: Thank you, Chair. Thanks for being here, Tom, again. Appreciate your...your persistence and your expertise in this area. The one question I have for you, since you read through this and you...you said it's something you can live with. Do you understand...do you think it's understandable by the general public, the...the term natural person or persons?

MR. CROLY: Well, it may not be understandable by the general public, but let me explain where that came from, okay. The Council did not want a permit to be held by an entity so that someone could sell that entity and the permit could continue. So they wanted the permit to be held by an individual so that if that individual no longer became the owner of the property, the permit would go away. That was...that was the primary reason for that. Now it gets really complicated when properties are held in trusts and when properties are held by corporations and so forth, who do we want to be that individual? And there are some difficulties, to be honest with you, in even what's been

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proposed in trusts. For example, the...a lot of properties are held in trust, what's called a revocable trust. Person puts their property into a trust, and that person usually remains the trustee of the trust, but they have no named beneficiaries of the trust. So the way that it's proposed right now, the trustee, who must be related to all other trustees, would be the applicant for that short-term rental permit. Now, this doesn't work when it becomes a non-revocable trust. When that person dies, it becomes a non-revocable trust and then it becomes...the trustee usually becomes the family lawyer or something like that. So there are like nuances here that make it kind of difficult. But the whole point of the natural person issue was that they did not want these permits to be able to be in any way transferred or sold by saying oh, we sold the whole entity --

VICE-CHAIR KING: Okay. So...so...

MR. CROLY: -- and the permit went with that.

VICE-CHAIR KING: Okay. So you answered my question. The main thing is that you do understand what that means, and it's...the industry understands it?

MR. CROLY: Yeah, yeah. I have to explain it sometimes to people when they come forward for a permit and they don't directly own the property, but usually they can come to that understanding.

VICE-CHAIR KING: Okay. Thank you for your answer.

CHAIR PALTIN: Okay. Thank you. Any further questions for the testifier? Seeing none. It looks like Mike Moran joined the call. Mr. Moran, did you want to give testimony?

MR. MORAN: No, Chair. Excuse me, I was just trying to send it on the chat. I'm just trying to view it because there's no sound on Akakū. There's picture, but there's no sound.

CHAIR PALTIN: Oh, okay. And you're on Channel 54?

MR. MORAN: Oh, 53.

CHAIR PALTIN: Oh, try Channel 54.

VICE-CHAIR KING: I think they had to switch over, Mike, because 53 was...

CHAIR PALTIN: There was an issue with Spectrum. But we'll leave...we'll leave the meeting unlocked if, you know, there's any confusion. Is there anyone else that...

MR. MORAN: You know what? I'm sorry, you're correct, Chair. There is volume on 54. I didn't look there. Thank you for your help. I'll get out of here now.

CHAIR PALTIN: No problem. Glad we could help. Any further testifiers wanting to testify today, please unmute yourself and let me know. Seeing no further testifiers. Without objection, I will now close oral testimony and accept written testimony into the record.

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We got quite a bit of written testimony.

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR PALTIN: Great.

. . . END OF PUBLIC TESTIMONY . . .

CHAIR PALTIN: Members wishing to speak during today's meeting should say my name and raise their hand so I may recognize you.

**PSLU-27: DISTRICT BOUNDARY AMENDMENT AND CHANGE IN ZONING FOR
THE MOLOKAI EDUCATION CENTER (KAUNAKAKAI) (CC 21-286)**

CHAIR PALTIN: First up on the agenda we have, District Boundary Amendment and Change in Zoning for the Moloka'i Education Center (Kaunakakai), PS LU-27. Committee is in receipt of the County Communication 21-286, from the Planning Director, transmitting the following: A proposed bill entitled "A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT CLASSIFICATION FROM AGRICULTURAL DISTRICT TO URBAN DISTRICT FOR PROPERTY SITUATED AT KAUNAKAKAI, MOLOKA'I, HAWAII." The purpose of the proposed bill is to grant a District Boundary Amendment to allow the University of Hawai'i, Maui College...University of Hawai'i Community Colleges to expand its campus on Moloka'i. The Committee may consider whether to recommend passage of the proposed bills on first reading with or without revisions. Committee may also consider filing of County Communication 21-286 and other related actions. And just to clarify, all the items on the agenda are items with a Charter deadline, so my intent is to take legislative action on all of them. Designate...I'd like to also designate resource person under Council Rules 18(A), David Tamanaha, Vice-Chancellor for Administrative Services UHMC; Tom Schnell, PBR Hawai'i & Associates; and their team, whoever else they brought with them. Mr. Schnell, we're ready for your five-minute presentation. Max five minute.

MR. SCHNELL: All right. Thank you, Committee Chair and Committee Members. Can you hear and see me?

CHAIR PALTIN: We can hear you. You could talk a little bit louder maybe, but we can hear you.

MR. SCHNELL: Let me get closer to the mic. Can you hear me better now?

CHAIR PALTIN: Yes.

MR. SCHNELL: All right. Great. I'm going to share my screen and start our presentation. And actually --

CHAIR PALTIN: Awesome.

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MR. SCHNELL: -- David Tamanaha will be doing the introductions. So let me share my screen. Hopefully you can see the screen now.

CHAIR PALTIN: Not yet.

MR. SCHNELL: Try one more time.

CHAIR PALTIN: Oh, now we can.

MR. SCHNELL: Now you can? Okay, great. Okay. So thank you again. And also, I wanted to thank you for placing us on the agenda today. And I'll hand it off to David to do our team introductions.

MR. TAMANAHA: Okay. Aloha, Chair Paltin, Vice-Chair King, Committee Members. I'm David Tamanaha, I'm Vice-Chancellor for Administrative Services here at UH Maui College. I also want to thank the Committee for allowing us to present our long awaited and really much needed project to expand our facilities at our Moloka'i Education Center in Kaunakakai. First I'd like to convey regrets and apologies from our Chancellor, Lui Hokoana. He had really wanted to be here this afternoon, but he's out of state. He's in Washington on business. But we do have our project team and our college administrators that I'd like to introduce at this time. So we had a...we have our Dean of Arts and Science, Kahele Dukelow. We have our Acting Moloka'i Ed Center Coordinator, Susan Nartatez. From the University of Hawai'i Community College System Office, Facilities Planning Office, we have Director Denise Yoshimori-Yamamoto. Also from the same office, the Facilities Planning Office, we have our Project Manager, Shawn Kodani. We have our Architect Designer from GD Design, Ashley Kuwahara. And our Lead Planning from PBR Hawai'i, Tom Schnell. Tom is going to lead us through the presentation, but all of us will be present throughout the presentation and after to assist with any questions the Committee might...might have. So I'll turn it over to Tom at this time.

MR. SCHNELL: Yeah, thank you, David. So quickly, to try to keep in the five-minute time frame. This is just an overview of the project, and the applicant is University of Hawai'i. The TMKs are listed here. There are two parcels that are owned by University of Hawai'i. Two parcels total about five acres. What's being proposed is a new classroom building connected to the existing classroom building, a new storage building, a new detention basin, improving the grass parking lot that's existing as part of a current UH multi-education center, and improve landscaping and irrigation. The new classroom is about 3,000 square...3,300 square feet. The value is approximately \$3.7 million. And we're here today to seek a State Land Use District Boundary Amendment for the total of 5 acres, so less than 15 acres. It's under the authority of the Council to be able to approve that. A Change in Zoning. And later we'll go back to the Moloka'i Planning Commission for a Special Management Area use permit. We've been to the Moloka'i Planning Commission one time already to make...for them to make recommendations on the District Boundary Amendment and the Change in Zoning. Also, we will seek to consolidate both of the parcels into one parcel. And a flood hazard development permit

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will be necessary, and grading and building permits. So if you're not familiar with the project...the existing UH Moloka'i Education Center is this building right here on this parcel, and the additional parcel where the new classroom building will be built is on an adjacent parcel slightly out of Kaunakakai Town. And total area is about five acres. Exactly what's being proposed, this is a site plan. I hope you can see it clearly, but I have a different version too. But this is the existing center that's just outlined in lines. This is the new expansion, and it's connected to the existing building with a covered walkway, and a landscaped courtyard in the center. And this education building, or the new classroom building, will be a multipurpose building with movable partitions, so it could either be three classrooms, or the partitions could be opened up so it's one large building for community events, graduation ceremonies, guest lecturers...you know, a larger facility for larger events. There's also a new storage building proposed right here. And improvement of the grass parking lot area is up here. This is currently an unpaved parking lot, and this would be improved with better grass and better drainage and better landscaping. Going on to the next. So the college has been offering classes on Moloka'i since 1970. The current facility opened in about 1999. Current enrollment is about 250 students. And the expansion is needed to meet the needs of increasing student population, offer additional programs and degrees, expand non-credit programs, and provide learning spaces to fit current instructional needs. And as I said, provide space for larger events such as graduations, exhibitions, lecturers, first-year welcome, and community events. And I'll just briefly go over the plans. But this is the floorplan of the expansion area. This is the main classroom building. This is...this is all one building. But the key factor here is that it's three classrooms, but these partitions are movable and openable so that this facility could be one larger classroom for large events. There is restrooms here, a total of three restrooms, and there's a storage area inside the building here. And just to show you what it would look like, this is a rendering of the expansion building. It's orientated mauka to take advantage of natural daylight, and also face the interior of the campus to match the long-range development plan when the campus does eventually expand further. This is the covered walkway connecting to the existing building. And this is just the opposite view that shows the storage building in the background. This is the existing building here. And this is an overall site plan. So this is the new building on this side. This is the existing building here. And this building was designed specifically to complement this building, but not mimic this building. These peaks on the building were specifically designed to represent peaks. My understanding was that Hawaiians would go to high summits to seek knowledge, so these represent areas of learning. This is the administration wing of the building, and this is the resource or library section of the building. So we didn't want to continue this same pattern here, we wanted to complement the existing colors, but we didn't want to take away from the significance of...of the architecture of...of the existing building. An Environmental Assessment was done. It was completed in 2020. It was given a finding of no significant impact. And briefly, what we're here today for is a State Land Use District Boundary Amendment from Agriculture to Urban so this current project area is in that State Agriculture District. And the reason...well, one of the reasons we're here is that in 2014 when the Moloka'i Education Center applied for an extension of their existing State Land Use special permit that permits the existing center, a condition was put into the extension that they should have a ten-year extension from 2014, but in the future, if they should ever expand further, prior to any future expansion of the facility,

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the applicant shall acquire a State Land Use District Boundary Amendment for the property. So we're coming up on 2024, the expansion's coming forward, and so before the expansion can move forward we need the State Land Use District Boundary Amendment. The Moloka'i Island Plan designates the parcel as Public/Quasi-Public. This is the blue area here, the fire station is up here, this is meant, I guess, for other public facilities. A Change in Zoning is necessary because the parcel is currently designated in the Interim zoning district. So to conform to the Moloka'i Island Plan, we're requesting a Change in Zoning from Interim to Public/Quasi-Public. The project will also require a Special Management Area use permit. The existing facility is not in the SMA, the red area is showing the SMA. Because the new building will be in the SMA, we will need the SMA use permit, and we hope to go back to the Moloka'i Planning Commission for approval of that soon after the Council takes action on the District Boundary Amendment and the Change in Zoning, hopefully in December. And I don't have a slide for it, but what we'll do is we'll consolidate these two lots so it'll be one lot so that we can span across the property line. So just in summary, District Boundary Amendment for both parcels, five acres total, Change in Zoning from Interim to Public/Quasi-Public, an SMA use permit that will come later from the Moloka'i Planning Commission, and the lot consolidation. And we have much more information, but I wanted to keep it short, and we're available for questions. Thank you very much.

CHAIR PALTIN: Thank you, Mr. Schnell. If you can stop sharing at this time.

MR. SCHNELL: Sure.

CHAIR PALTIN: Thank you. So I just wanted to add on that I think the Moloka'i Planning Commission put on a condition...or wanted to put on a condition that if UHMC pulls out that it reverts back, but that was not included because land use...or land use zoning can only be changed by ordinance. So it wasn't a legal condition to put on the project. That...and also, the time sensitivity of this item is that, you know, we're all competing for UH funds, and the sooner the UH system knows if they have the proper zoning and whatnot, the sooner they can secure the funds for Moloka'i. So that being said, I wanted to give Member Rawlins-Fernandez opportunity, knowing that Moloka'i Planning Commission's condition cannot be fulfilled, if she had any limitations on the PQP zoning that she wanted to recommend to the Committee.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. And mahalo, Mr. Schnell, for the presentation. I...I fully support this project, and wanted to try to also support the Moloka'i Planning Commission by putting in a condition. And so the guidance we received was in the event that the University of Hawai'i vacates the parcel, the property may continue to be used only for educational purposes. And in the event that the parcel is vacated by its last tenant due to sea level rise and...and flood inundation, the University of Hawai'i must pay for the removal and disposal of all buildings and structures from...from that parcel.

CHAIR PALTIN: Okay. Any comment from the applicant on the condition proposed by Member Rawlins-Fernandez?

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MR. SCHNELL: Hi, I'm back. I'm turning on my camera again. I did want to address the sea level rise issue because it was a large issue with the Moloka'i Planning Commission. And I'll share my screen again. We did come up with some mitigation measures to address sea level rise. And let me get to the screen. When you can see it, let me know.

CHAIR PALTIN: We can see it. Thanks.

MR. SCHNELL: Okay. So this is the current flood zone map for the property. And we are in Zone AE with a base flood elevation of eight feet, meaning that we have to build the foundation of the building up eight feet from sea level, which it...the building has been designed to do. This is a map showing the sea level rise exposure area if sea level rise were to reach 3.2 feet. So this area would be flooded, and there would be a small section of the property that would be flooded by sea level rise if that 3.2 level was...was achieved. Recently there's been additional data provided regarding sea level rise from PacIOOS and it has to do with not just the water level rising, but also the storm surge that could happen and the potential flood zones that would occur if...if FEMA were to revise their map. So first I'll show this, and this is coastal protections, flood zone hazards with a 3.2 foot sea level rise. So this doesn't mean the water would rise to this level, but if there were a coastal storm and storm hazards, then waves could inundate this area and there could be additional flooding. So just to compare the two, what we did was we translated that data on this map. So this map is the existing flood map, and this is what the flood map could potentially look like with a 3.2 foot sea level rise. So the...the...the pink would...would be, you know, it would be...it would be a flood area with potential hazards from wave heights that are greater than three feet. So we looked at that data, and I remembered that I had worked on a previous project on O'ahu for the Kupu organization, which is a nonprofit organization, they're in Kakaako. And so we...we...we had a similar situation with them. So if you can just bear with me for a moment. This is the Kakaako makai area in Honolulu. This is harbor...Honolulu Harbor on this side, Ala Moana Boulevard comes down here, and this is Kewalo Basin. So the Kupu Center, the Ho'okupu Center is located right here at this point in Kewalo Basin. And this was their existing flood zone map, and they were in Zone A, so they had to get a flood hazard permit also. But in the event that sea level rose similar to on Moloka'i, you can see that the...the sea level potential flood zone would...would basically inundate much of Kakaako. So what happened was they installed these special flood barriers that would seal off the building in the event of a catastrophic storm or...or surge action or waves. So the architect and I, we went to the Ho'okupu Center and we visited that center. And you can see that it's a pretty wide open facility that has open doorways, similar to the way Moloka'i Education Center might be with all the doors opened and the...and the building expanded. And key to that is these...these rails right here, and they were installed with this flood barrier system, and I'll explain how that works. So the...in the event of a flood here or...or a hurricane or storm surge, there are barriers that can be put into these rails that would seal off the building from flooding. So as an example of that, this is a manufacturer that makes these...these kind of barriers. So these barriers would be installed in the...in the doorways to prevent flooding. And the manufacturer can make these barriers at...at different sizes to spec.

CHAIR PALTIN: Thank you.

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MR. SCHNELL: And the way the barriers work is once the barrier is in, you twist this handle, and the ends expand to form a tight seal so that flooding cannot, you know, get through the doorways. So...

CHAIR PALTIN: Thank you, Mr. Schnell. I just...we have a lot of items on the agenda, and I just was wondering if you were okay with Member Rawlins-Fernandez's condition or no?

MR. SCHNELL: I would like further clarification on if sea level rise were to occur, that the buildings would have to be vacated and demoed?

CHAIR PALTIN: Okay. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Mr. Schnell, you can stop sharing now. Mahalo. So in the event that it becomes covered by ocean water which is, you know, expected to happen in the next couple of generations. So when it's obvious that it's no longer salvageable, that all the materials of the building is removed so that it doesn't end up becoming debris or just fish structures.

MR. SCHNELL: Would that apply to the...the existing building that's already built?

COUNCILMEMBER RAWLINS-FERNANDEZ: Would you want to leave it under the ocean?

MR. SCHNELL: Likely not.

COUNCILMEMBER RAWLINS-FERNANDEZ: I don't think our community would want that.

MR. SCHNELL: Right. I'm...I'm just wondering how the condition will work, and I...I think we should let David Tamanaha speak to, you know, the condition. I don't see a problem with it, I'm just wondering how...how it...when it is triggered, I guess, at what point would it be triggered.

MR. TAMANAHA: Aloha.

CHAIR PALTIN: Mr. Tamanaha, go ahead.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha, Mr. Tamanaha. So I'm sure UH has a policy of some sort when...I mean...well actually, I'm not sure because I don't know what other colleges and properties you folks have that is within or near the SLR-XA. So when the ocean is...when that property becomes oceanfront and it's obvious that it's going to be going underwater, that you wouldn't just leave everything there, would you? Yeah. Okay.

MR. TAMANAHA: Aloha, Councilmember Rawlins-Fernandez. Again, I'm David Tamanaha, Vice-Chancellor here. Well, I think some of the questions and the conditions you are posing might probably require folks at a little higher grade level than me to make the actual approval or commitment. I...I can speak on behalf of the college that on behalf

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of the college, we absolutely would want to be a good player within our community. And should something like that were to occur, absolutely we would want to be sure that if we needed to vacate the property, we would vacate it as safely for the entire community as...as possible. That we remove any debris, anything that could harm the community. And that I can say on behalf of the college.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Tamanaha. Mahalo, Chair. So those are my two conditions. I don't know if you want to hear Mr. Tamanaha's feedback on the first condition, which is if ever UH vacates it, the property would remain for educational uses only.

CHAIR PALTIN: Mr. Tamanaha, did you have a comment on the first condition?

MR. TAMANAHA: I don't really have a comment on the first condition. I don't really foresee the university ever releasing the property. It's...it's there that the university is going to want to use it for the duration. But if it should happen, I don't...I don't believe the university would have...have a concern with the...the condition.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Tamanaha. Mahalo, Chair. And that first condition is, as you explained, the Moloka'i Planning Commission wanted it to revert back to Ag if ever UH were to vacate it. But since that is not legally allowable, then this restricting the use is the closest to having it revert back to Ag zoning. Mahalo, Chair.

CHAIR PALTIN: And I guess I had a other question based on those conditions. PQP P-1 allows for a number of other things, like wastewater treatment facilities, crematoriums and like that. Did you want to restrict that usage to just government buildings for education, daycare centers, or anything like that?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah, education.

CHAIR PALTIN: Just education?

COUNCILMEMBER RAWLINS-FERNANDEZ: Just education. Yeah.

CHAIR PALTIN: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: I don't think we want to build a crematorium or have a wastewater facility there. Mahalo, Chair.

CHAIR PALTIN: Okay. And just to let the Members know, if a condition is added to PSLU-27 bill, the bill will need a revised title to mention conditional zoning. And the bill will also need to attach a unilateral agreement signed by the landowner agreeing to the condition. So that's just an FYI. At this time I'd like to open it up to the other Members and give you guys a two-minute clock. Starting with Committee Vice-Chair King, do you have any questions, clarifying, or comments?

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VICE-CHAIR KING: No, I think this has come up before when we were rezoning or something, so I think I asked my questions there. I'm glad that there's an anticipation of sea level rise happening because it is in the zone. And I think we talked about the life...the anticipated life of the structure being within the time before we think that sea level rise is going to happen. So unless something has changed with that, I don't really have any extra questions. Thank you.

CHAIR PALTIN: Okay. Any...I'll just say if anybody has any further questions, if they can raise their hand. Member Johnson, followed by Member Sinenci.

COUNCILMEMBER JOHNSON: Thank you, Chair. Just a quick question in regards to the discussion we were just having. This is for the developer. He mentioned flood hazard permits. Does...moving forward, do you guys have a flood hazard permit for this project? And then does that...on a follow up, does that affect your flood insurance?

CHAIR PALTIN: Mr. Schnell, you're muted.

MR. SCHNELL: Sorry. We have applied for a flood hazard permit, but the flood hazard development permit cannot be approved until the SMA is approved. But we...we understand that it...it would be approved if the SMA was approved. Regarding insurance, I can't speak to that, but perhaps David could.

CHAIR PALTIN: Mr. Tamanaha?

MR. TAMANAHA: I don't have...I don't have that information. I don't believe the...the universe...well, maybe I should defer this to our Facilities Director, Denise Yoshimori. She may know more than I do in terms of the flood insurance that the university might...might be holding.

CHAIR PALTIN: Ms. Yoshimori-Yamamoto.

MS. YOSHIMORI-YAMAMOTO: Yeah. Hi. Sorry. Yeah, so right now, as it was mentioned, you know, we don't have...we didn't have any properties within this type of...with this condition. And so knowing that, you know, we do...if we're moving forward with this project as it progresses and if this project is going to move ahead, then our legal will take...will take the lead on that, and we will work with our state insurance requirements and be sure to add it. We...we cannot...we won't proceed without it if it is required.

COUNCILMEMBER JOHNSON: And that's...you said you won't proceed without the flood insurance, is that what you were saying? I'm sorry, just for clarifying.

MS. YOSHIMORI-YAMAMOTO: We won't...we won't proceed without making sure every regulation and requirement is obtained and secured before we move forward with this project. We make no assumptions.

COUNCILMEMBER JOHNSON: Okay. All right. Thank you so much. Thank you, Chair. I have no further questions at this time.

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CHAIR PALTIN: Thank you, Member Johnson. Member Sinenci, followed by Member Molina.

COUNCILMEMBER SINENCI: Yeah, thank you, Chair. Real quick. You mentioned a unilateral agreement with the owners, is...that would be...is that the State?

CHAIR PALTIN: Mr. Tamanaha or Mr. Schnell, do you know if the owner is the State?

MR. TAMANAHA: The property owner is the University of Hawai'i.

COUNCILMEMBER SINENCI: Thank you.

CHAIR PALTIN: Thank you, Member Sinenci. Member Molina?

COUNCILMEMBER MOLINA: Yeah, thank you, Madam Chair. A question for the Department, just on the definitions of PQP. I know Member Rawlins-Fernandez's proposal is to limit it to education and not include maybe, say, general and specialized. What are the definitions of general and specialized? I mean, what kind of other uses under...if...if those two were allowed to occur in this proposal? Just for my own curiosity.

MR. HART: Chair, it's going to take a moment to pull that up. One second please. Chair, general...education general...general education means a facility offering general education curriculum such as, but not limited to, kindergarten, elementary and intermediate and high schools and colleges and universities. Education specialized. Specialized education means a facility that offers specialized education curriculum such as, but not limited to, trade and vocational, language, research and learning, music, dance, art, yoga, and martial arts.

COUNCILMEMBER MOLINA: Okay. Thank you. So...so with the proposed condition from Member Rawlins-Fernandez then, we're limiting what types of education activities that can occur?

CHAIR PALTIN: Oh, is that a question for Member Rawlins-Fernandez?

COUNCILMEMBER MOLINA: Yeah. Yeah. Whom...whomever wants to answer that.

CHAIR PALTIN: Okay. Member Rawlins-Fernandez, did you want general and specialized education only?

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, I see Deputy Director with his...his hand up. I can yield to him.

CHAIR PALTIN: Oh, okay. Mr. Hart?

MR. HART: Chair, I would say on behalf of the Planning Department that general education includes colleges and universities. So you know, our interpretation would be whatever the college or university was doing as their curriculum is under their umbrella of

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curriculum. There wouldn't be a limitation on the curriculum they could choose to teach.

CHAIR PALTIN: Oh, okay. So you're suggesting just general education?

MR. HART: No, I just want to point out that per Councilmember Molina's question, whether or not...saying only general, which includes colleges and universities, would limit the...the types of courses that the university or college could put on. I was saying that we would not say that.

CHAIR PALTIN: Okay. Go ahead, Member Molina.

COUNCILMEMBER MOLINA: Yeah. So . . . *(timer sounds)*. . . I'm not sure if we...if we just leave it as education, we're limiting the types of courses that the university could do or whomever comes into the...uses the property in the future. So I don't know if we should add additional language to allow for further expansion of other educational opportunities or courses. So I don't know, I just kind of throw that out there, Madam Chair.

CHAIR PALTIN: So you're saying you...you want general and special education?

COUNCILMEMBER MOLINA: Yeah. I mean, if that's what the community is open to. Because I...I'd hate to just kind of limit educational opportunities for people, but of course, that's something the community would certainly have to consider.

CHAIR PALTIN: Okay. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. This condition would not be triggered until or unless UH vacates. So this condition doesn't apply while UH is there. And you heard Mr. Tamanaha say that they don't see ever leaving that property. So really, this condition would...would never be triggered. But if for whatever reason they...they do leave, then it would have to remain in education. And the intention is for it to be broad so that any...any types of education would be possible there.

COUNCILMEMBER MOLINA: Okay. So we wouldn't necessarily have to add any specific additional language to the education designation...or use, I should say?

COUNCILMEMBER RAWLINS-FERNANDEZ: I have Corporation Counsel looking at my proposed language and will provide feedback.

COUNCILMEMBER MOLINA: Okay.

CHAIR PALTIN: And to clarify, this wasn't the condition language, this was the elements of PQP P-1 that we were allowing, so that's, I think, what we're discussing. Is that correct, Mr. Hart? Because P-1 allows for wastewater treatment facilities, crematoriums, all those things, and we were going to limit from P-1 just to general education, government building, or something? Is that your understanding?

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MR. HART: Let me say a few things. First of all, there was a discussion about how to...how to specify, within all the range of uses in Public/Quasi-Public to narrow it, and...and I did have that conversation with Corporation Counsel. And basically you could propose to strike all of the other uses and only leave the remaining use that would capture this proposed action. So...and that's, I believe, what you were discussing. Separately I was replying to a question from Councilmember Molina asking to explain what is the difference between education general and education specialized. And then I would add onto that that if the Council were to say just education and not differentiate between general and specialized, that the Planning Department would interpret that as broadly as...as the language was.

CHAIR PALTIN: Okay. Thank you. And Member Rawlins-Fernandez, did you want to restrict it to just education in the PQP P-1 uses?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yes.

CHAIR PALTIN: Okay. So...and...any...Mr. Molina, does that answer your question for your turn?

COUNCILMEMBER MOLINA: Yeah, that does. My...yeah, like I said, you know, the condition would get triggered only if UH vacates. But just...I just want to make sure that there's no limitations on types of education, you know, opportunities that UH or whomever takes over that property in the future. So just...just would hate to see the community limit them...limit themselves based on a condition. But if the Department interprets this as...I guess it's...looks at it broadly, and I guess there is flexibility then, you know, I'm okay with that.

CHAIR PALTIN: Okay. Cool. Any further questions from the Members? Shall we check in with Corp. Counsel as to the legalities of Member Rawlins' condition, proposed conditions one and two? I'm not sure if we're checking in with Ms. Oana, Ms. Chen, or Mr. Mitchell. I guess anybody that wants to reply on the proposed condition. Any of our lawyers that are paid to be lawyers.

MS. OANA: Hi, Chair. Excuse me.

CHAIR PALTIN: Hi.

MS. OANA: Okay. I am looking at Councilmember Rawlins-Fernandez's conditions. The first one...oh, something's happening on my...in the event that the University of Hawai'i vacates the parcel, the property may continue to be used only for educational purposes. So just I have questions with regard to that. So does that mean while UH is using the parcel, they may do any of the listed uses in 19.31.020? And only if they vacate, then their leasee or the buyer of the property can only do educational purposes?

CHAIR PALTIN: I guess for that condition, it may be easier just to limit PQP P-1 uses to education, Member Rawlins-Fernandez? That way not only UH, but anybody is limited

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to education uses. Okay. So we'll change that first condition to limit PQP P-1 uses strictly to education.

MS. OANA: Okay. So the...should the condition then be the property may only be used for educational purposes?

CHAIR PALTIN: Of the P-1 uses...

MS. OANA: *(audio interference)*

CHAIR PALTIN: Yeah.

MS. OANA: So the property may only be used for educational purposes. Okay. Member Rawlins, is that...was that your intent?

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So you're saying to amend condition one to say that the...the property may only be used for educational purposes, that's it?

MS. OANA: Yeah. I'm just trying to figure out what your folks' intent is.

COUNCILMEMBER RAWLINS-FERNANDEZ: So the beginning part where, in the event that UH vacates the parcel, we would remove that, you're saying?

MS. OANA: Yeah. So you know, the zoning sticks with the land and not...and not really the...the applicant or the owner, right? And so what would be an easy condition to write, and I'm not sure if this is your intent though, is just a condition one, the property may only be used for educational purposes. Is that...is that what you would...what you wanted or what you folks wanted?

COUNCILMEMBER RAWLINS-FERNANDEZ: As long as it doesn't...Chair, as long as it doesn't restrict UH from using the property as it would normally use its property.

CHAIR PALTIN: So I guess that would be a question for Mr. Tamanaha or Mr. Schnell. Would that restrict you from how you would normally use the property?

MR. TAMANAHA: I...I think from the university's standpoint, generally the...the property is purely for educational purposes, but there are occasions...like here in the Kahului campus, we have a childcare center. It's meant for our students who are childbearing to have their students *[sic]* cared for while they're in school. But what I don't understand is this condition and how it would impact those...those kinds of activities, should the university try and implement that kind of activities that supports the students at the ed center.

CHAIR PALTIN: Thank you. So at this time I'd like to request Deputy Director Hart or Ms. Oana or Mr. Mitchell, can you please let us know all of the uses in PQP P-1? And then I guess Member Rawlins-Fernandez can say which ones she does not want.

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MR. HART: Chair, so the...the uses in PQ...sorry, Public/Quasi-Public P-1 and P-2 are the same.

CHAIR PALTIN: Oh.

MR. HART: But I did...I would really think that it would be more practical if you want to do a recess and do a markup and enter it back in rather than read it on the floor and...and say yes/no to all of them. But I can...I can do...I guess I can do that right now.

CHAIR PALTIN: Okay. Let's hear from Ms. Yoshimori-Yamamoto first.

MS. YOSHIMORI-YAMAMOTO: Hi. Thanks. You know the...the uses that Vice-Chancellor Tamanaha mentioned, like a daycare or those types of services that support our school typically fall under educational use because it supports our ability to operate and provide for our students, yeah. And so I don't think it falls under, you know, like daycare because it's a...it's a...again, a use that supports our...our ability to operate, yeah. So it's almost like an accessory to what we're doing. So I don't think it necessarily has to all be listed out because it's supporting that same mission of education.

CHAIR PALTIN: Thank you, Ms. Yoshimori-Yamamoto. I just would need the Planning Department's interpretation of how they interpret it because they would be the ones enforcing, I believe. So Mr. Hart, is that...are you amendable to what Ms. Yoshimori-Yamamoto said?

MR. HART: Yeah. So as was discussed with...in response to Councilmember Molina's question, basically if it...if...the education general...general education is the use that's being initiated, let's say it's a college, and everything that's occurring at the college is under the college, then we would say yes. Yes, basically if it's under the umbrella of the college, yes.

CHAIR PALTIN: Okay. And...and if you didn't have a problem reading off each usage and...I mean it seems like the only usage Member Rawlins-Fernandez wants is education, so everything else would be stricken. No wastewater treatment facilities, no crematoriums, no daycare facilities, just education. And so then the condition that Ms. Oana was saying would be this property shall only be used for education purposes. You have...is that okay, Mr. Hart?

MR. HART: I think that's fine if Corporation Counsel, you know, recommends it. I've seen...I've seen versions where they just go through and eliminate the others or...or...yeah, you could...you'll just basically say of the permitted uses only, education is...is allowed. I think that that would be clear enough.

CHAIR PALTIN: Oh, we got one more attorney. Ms. Chen, did you want to add something to the conversation?

MS. CHEN: Thanks, Chair. And hi, Members. So I...I do think it might be worthwhile to go through the list just to make sure that there isn't an inadvertent exclusion of an

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otherwise permitted use here. I'm happy to read through them so that you can discuss them. And you know, either it could be I think what...what Jen said where you limit it just to education, or we could write it such that otherwise permitted use would be...uses would be excluded. So just let me know if you want me to go through, I have it up, so...

CHAIR PALTIN: Sure. Yeah, let's go through them.

MS. CHEN: Okay. I'm hearing cemeteries and crematoriums are a no-go, but that is the first permitted use on the list.

CHAIR PALTIN: Yeah.

MS. CHEN: Second is churches.

CHAIR PALTIN: What was that?

MS. CHEN: Churches. You know, the second principle use is a church or churches. And sometimes, you know, that is something that's used on educational facilities or community centers or campuses, so I'll let you think about that one. The third is community centers. Fourth, education, general and specialized. Facilities for nonprofit organizations. Fire and police stations. Government buildings and facilities. Hospitals. Kindergartens, elementary schools, middle schools, high schools, colleges, and libraries. Nursery schools and daycare centers. Private parking lots or structures serving public purposes. Public facility or public uses. Public parking lots or structures. Public utility substations. Quasi-public uses or quasi-public facilities. And then the water treatment facilities and wastewater treatment facilities.

CHAIR PALTIN: Okay. Thank you so much. Member Rawlins-Fernandez, you still want to stick with education general and specialized as the only one?

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So I would consider a daycare educational. And so in the Code, if it's separated, then it would be...it...exclusive. So a daycare would not be considered educational purposes. A graduation ceremony would not be considered educational purposes. A...a...a business conference, which is where we often have our Maui County Business Conference, would not be considered educational purposes.

CHAIR PALTIN: Is that a question for Ms. Chen?

COUNCILMEMBER RAWLINS-FERNANDEZ: Sure.

CHAIR PALTIN: Okay. Ms. Chen?

MS. CHEN: Okay. Thanks, Councilmember Rawlins-Fernandez. So you know, I think that may be a better question for the Department because, you know, they are the ones enforcing these principle uses.

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COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

MS. CHEN: So I...I --

COUNCILMEMBER RAWLINS-FERNANDEZ: *(audio interference)*

MS. CHEN: -- think from the...oh, sorry. From our perspective, you know, I think excluding everything that is otherwise permitted in the Code here does create a little bit of confusion as to what would be...what Council's intent was in enacting this Change in Zoning. So that would be my only comment there.

CHAIR PALTIN: Okay. Deputy Director Hart?

MR. HART: Chair, so I just want to share that I...I relayed this to the Moloka'i Planning Commission, that's why I think it's appropriate to share here. It's really difficult to foresee what happens with...with land use. And so, you know, today you may try to limit all of the uses, and then in 7 to 12 years something great may come forward, and it'll just require a Change in Zoning. I want to point out that in the Special Management Area, any significant action would require an SMA major permit that would be reviewed and approved by the Moloka'i Planning Commission. So you know, if you propose to, you know, cut out some of the more let's call them noxious potential uses, like a wastewater treatment facility or something like that, you know, that might be appropriate. But I think that you're going to see that people are going to come forward with ideas that maybe UH will be open to, and it's going to require a Change in Zoning, or they cannot get an SMA permit because you have to do a land use consistency test. Now, specific back to the question about...to...that was proposed by Councilmember Rawlins-Fernandez to Corporation Counsel about how we would treat umbrella uses that were conducted by the college, basically our interpretation that anything that the college is doing in their facility and under their operations would be part of their education...general education use. But there may be other things. Let's say they wanted to entertain a farmers market or whatever, some other random thing that seems okay, but doesn't line up, the Planning Department wouldn't be able to let them do it. And so when you...when you try to foresee all of the potential options in land use, it's really difficult to do that, and...and you will end up with a limited-use property. And I understand on one hand that is the intent, but I don't think it's going to be fully realized until a couple years down the road.

COUNCILMEMBER RAWLINS-FERNANDEZ: And so Chair, that's why the intention was for the condition not to be triggered unless UH vacates the property, which they don't intend to ever. And...and...and so this whole discussion is...

CHAIR PALTIN: I think that Ms. Oana's point, what she said was that the way that condition was written, if the UH would like to install a wastewater treatment facility or crematorium or church or anything, then they could. But I think that's what her point was on the condition. It...only if it triggers...only if UH leaves, then only education could be used. But if UH is there, PQP P-1 zoning allows for all that whole list of uses. So I think that's what...

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COUNCILMEMBER RAWLINS-FERNANDEZ: Right. Ms. Oana said.

CHAIR PALTIN: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: Right. And so if...if they did want to, you know, build a crematorium on the property, they would need to get an SMA permit, among other things, I'm sure. And so at that point, the community would absolutely stop them. And I don't think they intend to build a crematorium or a wastewater facility. And so I...I think we'll be okay in letting them have all PQP uses. And if they ever leave, which they don't plan to, then the educational restriction would be on there. And it'll likely be underwater.

CHAIR PALTIN: Okay. So then either Ms. Chen or Ms. Oana, that's how she wants the condition worded, and is the legalities okay with that?

MS. CHEN: Thanks, Chair. So Jen...Jen said it, but I'll reiterate. So the condition attaches to the land, not to the owner. So if the Committee wants to place a condition, then it should place it on the land, not on when the owner vacates. That's...that's our comment there. And then I do have a comment about the sea level rise, but I can wait until it comes up.

CHAIR PALTIN: Okay. So the condition should be placed on the land and not tied to the owner.

MS. CHEN: Yeah. So I think placing the condition...you know, perhaps excluding otherwise permitted principle uses via the Change in Zoning would be more advisable than trying to place a condition on the applicant, UH. Does that make sense?

CHAIR PALTIN: Okay. All right. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. It is on the land, and if the land is not managed by the particular landowner that we're talking about now, then the new landowner would not have all PQP uses available to...to it. And so therefore, it runs with the land. And by then it'll all be underwater.

CHAIR PALTIN: Okay. Do we want a second opinion from Mr. Mitchell on that?

COUNCILMEMBER RAWLINS-FERNANDEZ: No, I'm fine.

CHAIR PALTIN: Okay. And then so the second condition, Ms. Chen or Ms. Oana?

MS. CHEN: Thanks, Chair. So for the...oh, sorry, did somebody else have something to say?

CHAIR PALTIN: Oh, that was Ms. Oana.

MS. CHEN: Oh, okay. Jen, I'll go first and then if you have something to add, maybe Chair

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will entertain it. So for the second proposed condition, so if...if and when sea level rise happens to that degree, the...the property would then be within State jurisdiction since it would be within the ocean. So perhaps just amending the wording a little bit to say something to the effect of the applicant will do compliance with mitigation measures, including removal at the direction of the regulatory agency, something to that effect.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR PALTIN: Yes?

COUNCILMEMBER RAWLINS-FERNANDEZ: Ms. Chen, would you repeat yourself please?

MS. CHEN: Yes. So the...something to the effect of the applicant will complete compliance with mitigation measures in the event of sea level rise, including removal at the direction of the regulatory agency. And that's taking into account the jurisdictional issue.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So who is the regulatory agency for the Pā'ia Community Center or that Baldwin Community Center that's being washed away right now into the ocean? Who's the regulatory agency for that? Because right now, a lot of the pieces are going into the ocean and no one's removing it.

MS. CHEN: Yeah, I understand the concern, and I think it's a good condition. I just want to make sure that the T's are crossed and the I's are dotted, and that it will be enforceable.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. That's fine. Who is the regulatory agency? Because isn't that our facility, isn't that County facility, and we're not taking responsibility in decommissioning that...that facility? Is it DLNR that...that you would be referencing?

CHAIR PALTIN: Ms. Chen?

MS. CHEN: So I'm not prepared to talk about that specific item because it's not on the agenda, but I believe insofar as it's related to this item, it could be DLNR, it could be Department of Health.

CHAIR PALTIN: Or Office of Coastal...OCCL? Oh, OCCL is under DLNR, right? Sorry, my bad. Okay. Member Sugimura?

COUNCILMEMBER SUGIMURA: I was going to answer that question about the Pā'ia Youth and Cultural Center because I think that's what she's talking about, but it's not on the agenda. Thank you.

CHAIR PALTIN: Okay. All right. So are we then ready? Ms. Chen, is there any problem signing off on a bill with these types of conditions not amended the way that you want them to be or that you think is legal?

MS. CHEN: I...I'd want to take a look at them in greater detail, but I think that the issues that

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Jen and I have pointed out will be issues with the current language. But I'd be happy to look at ways of amending the language so that we could sign off.

CHAIR PALTIN: Okay. All right. Members, we...there is a time sensitivity, but we're not at the Charter deadline. Go ahead, Ms. Oana.

MS. OANA: Thank you, Chair Paltin. With regard to the two conditions, first of all talking about the second one where it says UH must pay for the removal and disposal of all buildings and structures, could we change that to the owner of the property? So it's not specific to UH.

CHAIR PALTIN: Looks like that's a yes.

MS. OANA: Okay. Then with regard to the first condition, you know, I'm really not prepared to talk about this, but I think that there's going to be a problem with holding the next...well, I...I think the...the conditions for zoning have to be consistent with regard to no matter who owns it. So having UH being allowed to do all of the permitted uses, and...and then if they vacate or sell then a new owner is only allowed to do educational purposes, I think that...and I can't really say for sure, but I think that there's going to be a problem with that. So I would suggest doing...having the...the uses be consistent with no matter who owns the property.

CHAIR PALTIN: Okay. It looks like we're kind of at an impasse. Members, do we want to defer or do we want to --

COUNCILMEMBER RAWLINS-FERNANDEZ: Pass.

CHAIR PALTIN: -- pass it with Corp. Counsel's recommendation or without? I don't feel comfortable passing an unsigned bill.

COUNCILMEMBER SUGIMURA: Yeah, with...with their recommendation.

COUNCILMEMBER MOLINA: Your recommendation, Chair?

CHAIR PALTIN: Okay. So Chair will entertain a motion to recommend passage on first reading of the proposed bill, and folks can propose amendments later, and incorporating nonsubstantive revisions, entitled "A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT CLASSIFICATION FROM AGRICULTURAL DISTRICT TO URBAN DISTRICT FOR PROPERTY SITUATED AT KAUNAKAKAI, MOLOKA'I, HAWAII, TAX MAP KEY NOS. (2) 5-3-003:013 AND (2) 5-3-003:014."

VICE-CHAIR KING: So move.

COUNCILMEMBER RAWLINS-FERNANDEZ: So move.

CHAIR PALTIN: Moved by Committee Vice-Chair King, seconded by Member Rawlins-Fernandez. Okay. Any amendments to the bill? Member Rawlins-Fernandez?

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COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I move to amend by adding a condition of zoning: one, in the event that UH vacates the parcel, the property may continue to be used for...only for educational purposes; and two, in the event that the parcel is vacated by its last tenant due to sea level rise inundation, the property owner must pay for the removal and disposal of all buildings and structures from the Island of Moloka'i.

CHAIR PALTIN: It's been moved by Member Rawlins-Fernandez, second by Chair Lee. Discussion? Chair Lee? Can't hear you, you're muted. Still muted. Staff might have to unmute you. I'll...

COUNCILMEMBER LEE: I can't unmute myself.

CHAIR PALTIN: There, we got it. We got it. We can hear you.

COUNCILMEMBER LEE: Okay. Okay. I support the second amendment, but not the first because I...I...I'm uncomfortable about telling the university how to use their property when essentially they're going to use it for education and education-related type activities. So I just want to let you know I support the second. In fact, is there a reason why you're putting the two amendments together?

CHAIR PALTIN: Can you separate the amendments, Member Rawlins-Fernandez, or no?

COUNCILMEMBER RAWLINS-FERNANDEZ: Well, because the community wants both.

CHAIR PALTIN: Okay. So is that a no?

COUNCILMEMBER RAWLINS-FERNANDEZ: So the...the first one, like I said, UH would be given all the uses of a PQP. So if they wanted to build a crematorium the zoning wouldn't stop them, but they would...they would need to get an SMA major permit and go through all of that work. It's not until they vacate the property would it be used for educational purposes exclusively. But they don't plan --

CHAIR PALTIN: I guess...

COUNCILMEMBER RAWLINS-FERNANDEZ: -- to ever vacate, so it shouldn't be a problem.

CHAIR PALTIN: Well, for me, the issue is I don't want to pass an unsigned bill. And if Corp. Counsel isn't going to sign it with conditions tied to who the owner is versus tied to who the lands is, then I can't vote to support it. I no think maybe that's how people feel, but I don't know, we...anyone else have discussion before we vote on the amendment? Member --

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR PALTIN: -- Molina?

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COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

COUNCILMEMBER MOLINA: Chair...Chair what is our time deadline?

COUNCILMEMBER RAWLINS-FERNANDEZ: You...you...the Corp. Counsel --

CHAIR PALTIN: Huh?

COUNCILMEMBER RAWLINS-FERNANDEZ: -- talked about it not passing with all of their amendments. I incorporated some of their amendments.

CHAIR PALTIN: Okay. Member Molina?

COUNCILMEMBER MOLINA: Yeah. Chair, what is our deadline to...to act on this?

CHAIR PALTIN: Like I think December.

COUNCILMEMBER MOLINA: Oh, so we have some time, yeah? I mean, I'm open...

CHAIR PALTIN: Well, the time sensitivity was about funding, and they still need to get the SMA permit, but my Charter deadline is like December 15th or something.

COUNCILMEMBER MOLINA: Okay. I was hoping we would consider maybe deferring and let Corp. Counsel work out all these concerns that they have. But I think when Ms. Oana mentioned about the first condition, that could...I mean, in the unlikelihood that UH has to vacate the...the premises, now I kind of agree with Ms. Oana that there could be some legal issues for the next landowner that could come in. But yeah, I'm kind of like with Chair Lee, I'm a little uncomfortable with that first amendment based on the concerns from Corp. Counsel and the fact that you mentioned, Chair, that they're unwilling to sign. So if we have time to defer it and work these issues out, I'd be open to that, but that's just me. Thank you, Chair.

CHAIR PALTIN: Okay. We heard from Chair Lee, we heard from Member Molina. Anybody else that hasn't spoken yet want to discuss?

COUNCILMEMBER RAWLINS-FERNANDEZ: Point of personal privilege.

CHAIR PALTIN: Seeing no one. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. It's 2:59, so it's close to recess. I can work with Corporation Counsel on the two amendments, something that would be amendable to the Members so that we can pass it out today. Because I know UH would appreciate us passing it out today.

CHAIR PALTIN: Okay. Let's...any objection on a 15-minute break?

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COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR PALTIN: Okay. We'll be back at 3:15. . . .*(gavel)*. . .

RECESS: 3:00 p.m.

RECONVENE: 3:17 p.m.

CHAIR PALTIN: . . .*(gavel)*. . . Will the Planning and Sustainable Land Use Committee meeting of August 30th return to order. The time is now March 17th [*sic*], and I believe there is a condition in the chat waiting for us and I will read it. Oh, Member Rawlins-Fernandez can read it.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair, and just to let you know, you said the time is March 17th.

CHAIR PALTIN: So the time is 3:17. Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: We knew what you meant.

CHAIR PALTIN: And so then are you withdrawing...

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, you want me to read it?

CHAIR PALTIN: Huh?

COUNCILMEMBER RAWLINS-FERNANDEZ: I worked with Ms. Oana on this language, which she said she would sign off on.

CHAIR PALTIN: Okay. So are you withdrawing the earlier amendment?

COUNCILMEMBER RAWLINS-FERNANDEZ: I withdraw my motion.

CHAIR PALTIN: Okay. So earlier amendment withdrawn. Chair Lee, earlier second withdrawn? Oh, somebody needs to unmute Chair Lee. Thumbs-up, withdrawing your earlier second because she...

COUNCILMEMBER LEE: Withdraw...

CHAIR PALTIN: Okay. Okay. All right. Okay. I'll entertain a motion to amend the main motion.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I move to amend to add two conditions. The first condition, notwithstanding permitted uses under 19.31.020, the property may only be used for churches, community centers, education general and specialized, facilities for nonprofit organizations, government buildings and facilities, kindergartens, elementary school, middle schools, high school, college and libraries,

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nursery schools and daycare centers, private property lots or structures serving as public purposes, public facilities and public uses, public parking lots and structures, quasi-public uses or quasi-public facilities, water treatment facilities. And two, in the event that the property is vacated due to sea level rise inundation, the property owner must remove and dispose of all buildings and structures from the Island of Moloka'i from the property in compliance with mitigation measures at the direction of the appropriate regulatory agency.

CHAIR PALTIN: Is there a second? Seconded by Member...or Chair Lee. Okay. The amendment has been moved and seconded. Discussion, Members? Member Sugimura?

COUNCILMEMBER SUGIMURA: So this was worked on with Corp. Counsel, so Corp. Counsel is now signing off on it? Can you please confirm?

CHAIR PALTIN: Ms. Oana? Can you confirm that?

MS. OANA: Yes, I'll sign off.

CHAIR PALTIN: Okay. Yay. And any further discussion? All right. All those in favor of the...the amendment as moved, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Unanimous, with Member Kama excused.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Kama.

MOTION CARRIED.

ACTION: APPROVED AMENDMENT.

CHAIR PALTIN: Okay. We're bringing it back to the main motion, as amended, and I believe that now, because of the Conditional Zoning, the bill will need a revised title to mention Conditional Zoning, so no objection to that, right? Revised title...okay. So...

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COUNCILMEMBERS VOICED NO OBJECTIONS.

COUNCILMEMBER LEE: Not if you put it that way.

CHAIR PALTIN: Okay. Chair will entertain a motion to recommend passage on first reading --

COUNCILMEMBER SUGIMURA: Chair?

CHAIR PALTIN: -- of...

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair, point of...point of order. I think...I think --

CHAIR PALTIN: Yes?

COUNCILMEMBER RAWLINS-FERNANDEZ: -- we did that, yeah? Or you're changing the title?

CHAIR PALTIN: Changing the title and the main motion now, because we amended...we just voted on the amendment, so now we're voting on the main motion, right? We never did...

COUNCILMEMBER SUGIMURA: What is the bill...the...the title going to be?

CHAIR PALTIN: A Bill for an Ordinance for Conditional Zoning from Interim District to P-1 Quasi/Quasi-Public District for Property Situated at Kaunakakai, Moloka'i, Hawai'i, Tax Map Keys (2) 5-3-003:013 and (2) 5-3-003:014, as amended, and incorporating nonsubstantive revisions.

COUNCILMEMBER SUGIMURA: Chair?

CHAIR PALTIN: Yes, Member Sugimura?

COUNCILMEMBER SUGIMURA: So can I ask...you know, I should have asked this for the amendment, so tell me if it's out of order. But what does UH say about the amendment?

CHAIR PALTIN: Okay. You want --

COUNCILMEMBER SUGIMURA: Is it too late?

CHAIR PALTIN: -- Mr. Tamanaha?

COUNCILMEMBER SUGIMURA: Yeah, or Mr. Schnell. Maybe Mr. Tamanaha, yeah.

MR. TAMANAHA: Thank you, Councilmember Sugimura. As far as the amendments, the college...from the college level is that...that's the only level I can speak on behalf of, we would support it. We don't have an issue with it. But it would require the university system level to review it. I don't foresee it to become an issue though.

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COUNCILMEMBER SUGIMURA: Okay.

CHAIR PALTIN: Any further discussion? And this would include the filing of Communication 21-286. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. And mahalo, Members, for supporting the community in adding these conditions that they tried to add at the commission level. Your support is very much appreciated. In the second condition, where we're anticipating sea level rise, I think this kind of condition should become normalized. In so many instances now, we've seen public facilities be constructed without any, you know, anticipation and foresight into planning the removal of it. And if you look on Mauna Kea, you'll see what, 13 telescopes or 12 telescopes, 8 of which are inoperable, and there's no plans to remove them. And I...I...we have to stop doing that as a government. And...and we need to hold any entity that's going to be building things accountable to having it removed. Look at the pineapple industry, they've littered our 'āina with all kind of black plastic everywhere, and no one is held accountable to...for that. And so I think we...we as a government need to be the ones to protect our people, protect the health of our people, protect the health of our...our land, our environment. And so this is one way of (*audio interference*). Mahalo, Chair.

CHAIR PALTIN: Okay. Any further discussion? Seeing none. All those in favor of the main motion as amended and the filing of the communication, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Okay. Measure passes unanimously, with Member Kama excused.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Kama.

MOTION CARRIED.

ACTION: Recommending FIRST READING of revised bill and FILING of communication.

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PSLU-69: AMENDING CHAPTERS 19.35, 19.64, AND 19.65, MAUI COUNTY CODE, RELATING TO ACCESSORY DWELLING, BED AND BREAKFAST HOME, AND SHORT-TERM RENTAL HOME PERMITS
(CC 21-140)

CHAIR PALTIN: Okay. Moving right along to our second legislative action for the day, PSLU-69, Amending Chapters 19.35, 19.64, and 19.65, Maui County Code, Relating to Accessory Dwelling, Bed and Breakfast Home, and Short-Term Rental Home Permits. The Committee is in receipt of County Communication 21-140, from the Planning Director, transmitting a proposed bill entitled, "A BILL FOR AN ORDINANCE AMENDING CHAPTERS 19.35, 19.64 AND 19.65, MAUI COUNTY CODE," same stuff. The purpose of the proposed bill is to allow transient vacation rental use in accessory dwelling units, limit short-term rental home permits to one per applicant per property, clarify trusts and ownership requirements, expand transient vacation rental notification requirements, and make other minor revisions to Chapters 19.64 and 19.65 for clarity and consistency. The Committee may consider whether to recommend passage of the proposed bill on first reading, with or without revisions. The Committee may also consider the filing of County Communication 21-140 and other related action. Okay. Comments from the Planning Department? A little three to five-minute presentation. Ms. Takakura, I know you're good at those.

MS. TAKAKURA: Good afternoon, everyone, Planning and Sustainable Land Use Commission...Committee. I'm going to share my screen. I'm going to try to keep this as brief as possible.

CHAIR PALTIN: Thank you.

MS. TAKAKURA: I'm going to share screen now.

CHAIR PALTIN: Go ahead.

MS. TAKAKURA: Okay. Thank you. And let me just frame this that we began working on this over a year ago, and so we kind of got to look at it like that. And then since then, we've had a few changes in terms of the number of caps for the different districts. And then also, you're going to be talking on Friday about...specifically about the Island of Lānaʻi. And so, you know, we're going to try to...the end result will be incorporating all the changes that have been made over time. But just keep in mind that, yeah, this one was kind of started before, so you know, we're --

CHAIR PALTIN: Thank you.

MS. TAKAKURA: -- going to have to kind of play it by ear. But anyway, let me get started.

CHAIR PALTIN: In Lānaʻi's bill we had to amend it to incorporate the new short-term rental cap numbers as well, so totally --

MS. TAKAKURA: Yes.

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CHAIR PALTIN: -- understand what you're talking about. Go ahead.

MS. TAKAKURA: Right. It's a work in progress. Getting better all the time. Okay. So this bill is...it's...the purpose of the bill is to allow a little bit of flexibility for property owners, and the proposal is to revise three chapters, 19.35, 19.64, and 19.65 of the Maui County Code. And that would be to allow vacation rental use in accessory dwelling units while encouraging long-term occupancy. We also want to add some limits to permits per property and per applicant. We want to clarify trusts and ownership requirements. Expand the vacation rental notification requirements to neighbors of properties, and other minor revisions to help make the two chapters--19.64 is the bed and breakfast one, and 19.65 is the short-term rental home one--be easier for the public and for planners and for everyone really, for clarity and consistency. As you see...as we go through this, you're going to see some things in green and some things in red. The green are things that we think might be more permissive, and the red is more restrictive, and then black is neutral. Let me get started with the details of these things. Okay. So going in numerical order of the three chapters. 19.35 is the chapter on accessory dwellings, and the proposal is to allow a main or accessory dwelling to be used as a short-term rental home, which allows for flexibility for the property owner and requires some long-term residency. For bed and breakfasts, you can actually...right now it allows two, and the proposal is that the bed and breakfast may operate in the main dwelling and/or one accessory dwelling, not to exceed two dwelling units. So the total number doesn't change, it's still just one on a short-term rental home and two on B&Bs. And then the others...any other dwelling units would have to be occupied on a long-term residential basis. So as you can see here, like what I just said, for the short-term rental homes it could be an either/or, and sometimes it might make more sense for the family to live in the main dwelling and have their vacation rental the accessory dwelling. So you know, it just gives people some options, but it doesn't increase the number of vacation rentals. So the next chapter is 19.64, bed and breakfasts. And this is kind of the parallel language to go with 19.35, that the bed and breakfast use can be permitted in no more than two single-family dwelling units per lot. So it could be in one accessory dwelling, still for a total of two, and any other dwellings units have to be occupied long-term.

CHAIR PALTIN: Ms. Takakura, may I stop you right there?

MS. TAKAKURA: Yes.

CHAIR PALTIN: One of the testimonies mentioned that an accessory dwelling or a single-family dwelling have two different...two different meanings in 19.04.040, and that they're only allowed in single-family dwellings. And I just was wondering if you could clarify that?

MS. TAKAKURA: So when we are talking about these, we...when we say single-family dwellings, that would be as compared to say multi-family dwellings or, you know, like apartments. So an accessory dwelling, because it's still for a single family, that's what we mean, it would be okay. If that answers your question. It would be as compared to a multi-family or a duplex, which is different. Does that answer your question, Chair

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Paltin?

CHAIR PALTIN: Kind of. Because the way it's defined in 19.04.040, dwelling single family, or single-family dwelling unit means a building consisting of only one dwelling unit designed for or occupied exclusively by one family. Whereas accessory dwelling means an attached or detached dwelling unit which is incidental or subordinate to the main or principle dwelling on a lot. So would those definitions conflict with this part of the ordinance?

MS. TAKAKURA: What I can do is when we finalize this, we can work with Corporation Counsel to make sure that not being inconsistent in those two. I see those two definitions.

CHAIR PALTIN: Okay. Great. Thanks. Continue. Sorry to interrupt, just...

MS. TAKAKURA: No, thank you very much.

CHAIR PALTIN: Okay.

MS. TAKAKURA: Like I said, getting better all the time, so...

CHAIR PALTIN: Go ahead.

MS. TAKAKURA: Okay. So continuing, we're still on the chapter about the bed and breakfast homes. And another proposal that came up was limiting...having a construction and ownership requirement. And the intent of that was to reduce speculation and encourage a connection to the neighborhood. B&Bs never had that kind of ownership and construction requirements before, but short-term rental homes, they have a five-year requirement. This amendment was intended to bring parity between the two. When we took this to commissions, Lānaʻi...Lānaʻi and Molokaʻi were fine with it, but Maui did not want that. So the proposal is just for Lānaʻi and Molokaʻi to have a five-year construction and ownership requirement. The next item you see here about Lānaʻi, I understand that that's going to be changed. It's not 21, it's going to be 15, and sorry about that, yeah, like I mentioned, that part needs to be updated. The third item here is that the B&B permit can't be issued to anybody who holds a valid short-term rental home permit or who has been prohibited from applying for a short-term rental home permit. And that's just kind of like to give others an opportunity to participate. And then the fourth item is that conditions could be imposed to mitigate impacts of bed and breakfast use. For bed and breakfast there's also language about family trusts, and they're both in 19.64 for bed and breakfast and 19.65. And I'll discuss it when I get to the short-term rental home permit language. There's only one difference, which I would like to have it changed when we get to the final, and that's regarding revocable or irrevocable. Both of them should say both, and we can get to that one in a few slides. *(audio interference)* This is just about signs. As one of the testifiers had mentioned, you know, bed and breakfast came about a lot...or a long time ago compared to short-term rental homes, and there was a lot of caution in developing the procedures. And for some things, it's actually harder for bed and breakfast homes, and we'd like to make them consistent between bed and breakfast and short-term rental homes. And so this is one

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of them about the signs is proposing to make it similar to...for short-term rental homes for consistency and clarity and simplicity purposes. Next is the public hearing criteria and notification requirements. That is also to make them consistent with the short-term rental home requirements. The current criteria for a bed and breakfast public hearing is one existing bed and breakfast on a lot within 500 square feet, and for short-term rental homes it's two. We're proposing to make the revision so that both chapters are two, so that it's the same as each other. Okay. So now the last chapter, 19.65, this is the one about short-term rental homes. Like mentioned in the 19.35, it would be permitted in a main or an accessory dwelling to be used as short-term rental home, and that allows for flexibility. And if a permit holder had a short-term rental home in their main home right now, and then say they...say the law passes and they would like to change it to the accessory dwelling, they can do a permit amendment. They can come into the Planning Department and work on that. It's not too complicated to make that change if they need. Okay. I mentioned trust language. I have that here. And this is for the two...we have similar language in 19.64 for bed and breakfasts. Trusts must be in the name of the applicant. And then there's a definition for family trust here defined as a self-settled revocable or irrevocable trust where the trustee is also the trustors or grantors or related by blood, adoption, marriage, or civil union beneficiaries. And we worked closely with Corporation Counsel on the trust language after we struggled with two STRH applications from trusts. The language clarifies how trusts work as ownership entities for short-term rental homes. Existing ones would be allowed to continue, they'd be like grandfathered if they don't fit this definitions, and new ones would have to comply. And the intention here is one person, one permit, whether individual, trustee, partner, shareholder, or member. One permit, one...one person, one permit. And by keeping the permit in the family, it adds some accountability and hopefully encourages small mom and pop businesses and family involvement. We do want to have only one short-term rental home permit per applicant regardless of wealth. Others then would be...you know, might be able to participate in this investments if they, you know, wanted to. Right now it's okay to have more than one short-term rental home if the valuation is greater than \$3.2 million, but we'd like to make it just be one permit applicant period. And then the last one you see here is that if a permit is held by a trust, it may be transferred to a beneficiary of the trust. The next parts are in terms of when the person applies. We'd like to add that they need to show that...the benefits that the short-term rental home would bring to the community, and also show justification and reasons for applying for the short-term rental home use, and how the property would be used if the permit is not granted. And that actually helps the applicant in conforming to the character of the existing neighborhood and be part of the community. And this helps the short-term rental home applications in getting approved when they go to the planning commissions because this information often comes out at the hearing, and so it should be included upfront in the report and the analysis. The proposal is included to increase construction and ownership requirements to 15 years, 1-5...right now it's five years, and that's intended to encourage a connection to the neighborhood. And this was requested by the Mayor, so we do have that on here, to increase the ownership and construction requirement to 15 years. Next just some other minor changes. The first one about Lānaʻi, we know that's not 21 anymore, 15. The next part is where there shouldn't be short-term rental homes. Right now, we already have that we shouldn't have short-term rental homes in like 201H and 2.96. We'd like

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to also include the experimental and demonstration housing projects, and that's the 16.28 of the Maui County Code. And then we'd also like to ask if you could include Chapter 2.97, which is residential workforce housing, to that --

CHAIR PALTIN: Okay.

MS. TAKAKURA: -- list of developments that can't have short-term rental homes.

CHAIR PALTIN: Ms. Takakura?

MS. TAKAKURA: It's very similar to 2.96.

CHAIR PALTIN: You just said 2.96 as well, is that what you meant as well? 201H, 2.96, 2.97, experimental, were those all the ones?

MS. TAKAKURA: We forgot to include 2.97, so we'd like to have that added on.

CHAIR PALTIN: Okay. So 2.96 and 2.97 and experimental.

MS. TAKAKURA: 2.96 is already there --

CHAIR PALTIN: Okay.

MS. TAKAKURA: -- and the experimental housing...experimental and demonstration housing, I have it in the bill that is before you today.

CHAIR PALTIN: Okay. Thank you. Thank you for that clarification.

MS. TAKAKURA: The next one is similar to what you saw with the bed and breakfasts. If you have a short-term rental home permit, you can't have a B&B permit and vice versa. Or if you've been banned from applying for a B&B permit, you can't come in for a short-term rental. And then ads include tax map key number, and then owners not having a financial interest in another B&B or short-term rental. The other next thing is regarding neighbors. A lot of times with public notices on these things, they go to owners and lessees of record, and a lot of them are not here. We're proposing to include the physical addresses, and so that way renters can be included in the...any notification requirements, and you'll see this throughout the chapters. And it would be okay to use regular mail or hand delivery for notification to physical addresses. And that way, the people who are there in the community will be included in any notification. Next, when we get written protests, if it's from the same lot, that counts as one protest, and that's actually how we do things now. And then just a little bit more stricter requirements on public hearings. If the application is...if there's a variance to meet the short-term rental home requirements, then a public hearing would be required. If two or more existing short-term rental homes are within a 500-foot distance or if the property is on Moloka'i and Lāna'i (*audio interference*) and public hearing. So that's it. Accessory dwellings, we're proposing that they could be used for B&Bs and STRHs if the other dwellings are occupied long term. We have definitions of family trusts, ownership requirements,

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limiting permits to one per property and one per applicant, whether individual or trustee, consistency between the bed and breakfast and the short-term rental home rules, neighbors included in communications. And then also, that existing permit holders would continue to operate and renew under existing rules. And short-term rental home permit renewals that comply with the revised renewal procedures for notification. But otherwise, they would get to continue as...as they were approved. So that's it. As I mentioned, the three things that would ask for you to incorporate is in the bed and breakfast definition of family trusts, include the word irrevocable, so that the definition of family trust is the same for two chapters. Adding 2.97, residential workforce housing, to the list of no cans, 19.65.030(T), and then as we know, the changes to the Lānaʻi numbers. So that's it in a nutshell, and I'm going to stop sharing unless anybody wants to look at any particular screen get from there.

CHAIR PALTIN: Thank you, Ms. Takakura. And we also have that presentation uploaded on Granicus if Members wanted to review at their own rate. Thank you so much. So we did get a whole lot of testimony about keeping Section 13. My intention is to not change that, keep Section 13. A few of the things...and I have no problem with adding 2.97. I have no problem with revising Lānaʻi to 15 for B&B and STRH. I have no problem with adding irrevocable to the family trusts for B&B. Those are all fine by me. I like the Mayor's suggestion for 15 years. I would like to see Maui included in the five years for 19.64.030(N). And you know, being that it's a difference that you are now sending it to the physical address, I think it would be prudent to, you know, one voice, one vote to count each protest as one protest. Because you know, does...it's not always the same, a husband and wife vote the same way, and I think, you know, our...our community members would like their voices to be heard individually. What happens in the case where the owner off island is okay with it but the renter is not, and...and situations like that. But that's just a recommendation for discussion. And then the other thing, we...we did receive a pretty passionate email...or sorry, eComment testimony, and I was wondering if we could start off...if you could explain the reason for taking the accessory dwelling unit out of long-term rental and putting it into short-term rental occupancy. And...and the testimony said that, you know, this would remove available housing that is the lowest cost housing for our residents and ultimately increase the housing price that is left for our residents to choose from. Please, if you care about our residents who struggle to pay these high rental prices, please do not let this section of the Code be changed to allow any accessory dwelling to be used as a vacation rental. Regardless of what you call it, any bed and breakfast, short-term rental home, or transient vacation rental, these are all forms of vacation rental and are not available for our residents to rent or live in. So I was wondering if you could explain the reasoning for allowing TVR usage in ADUs to the Committee?

MS. TAKAKURA: Thank you, Chair Paltin. I believe the intent was simply to just offer some flexibility. Say you have a smaller...you know, if you're just a husband and wife and you want to live in a smaller quarters, you could live...or...or vice versa, if you have a bigger family and you wanted to live in the house, you could rent out one. It wouldn't increase the number of vacation rental units because it would still be one for one, and it's just to offer some flexibility, like I mentioned, for property owners.

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CHAIR PALTIN: Okay. Thank you. Members, we'll set the clock at two minutes for the first round. Member King, go ahead.

VICE-CHAIR KING: Right. Thank you, Chair. Okay. So just to clarify that last statement that you made, the caps are still the caps, and if you have...whether you have an accessory dwelling or a house in your...a room in your house, you still have to apply for the permit and get the permit, and there has to be one...one open within the cap, right? So it's not going to change the number of short-term rentals that are allowed in an area. I had a question about the trustee issue. So if you...if there's only one, the applicant is the head of the trustee, I guess, or the...the...the main trustee. If you have several people in a trust and some of them are involved in another trust that has a short-term rental too, what happens in that case? Are you just looking at the head of the trust...the trust...the person who's listed as the trustee?

MS. TAKAKURA: Thank you, Member King. The intent is to try to keep it to one applicant per property. And that's why we didn't want to have the different...I think I need to refer to...defer to Corporation Counsel because I understand the intent, but they can explain it so much better than me. But the intent is one person, and not to have these fingers of different ownership, and then when you get down to who it actually is, they own more than one. But --

VICE-CHAIR KING: Okay.

MS. TAKAKURA: -- I'm going to ask if Corporation Counsel can advise on this one. They explain it so much better than me.

CHAIR PALTIN: Ms. Chen?

MS. CHEN: Thanks, Chair. So as Jacky said, the...the intention here is just to further restrict the definition. Well, there is no current definition of family trust, so it's to add that to further restrict who could potentially be an applicant and hold an STRH permit. Because as Jacky said, within the last maybe year and a half, there were a couple instances where it wasn't...

VICE-CHAIR KING: Okay. But I just...because I don't have much time. Sorry, Ms. Chen. But --

MS. CHEN: Oh.

VICE-CHAIR KING: -- so you're just saying . . .*(timer sounds)*. . . the applicant is the main person on the trustee regardless of who else is in the trust?

MS. CHEN: The applicant would be the...the trustee or trustees, but it wouldn't have to include all of the trustees. And the trustee would have to be the grantor or the trustor, and would also have to be related by blood, adoption, marriage, or civil union to the beneficiaries. But a self-settled revocable or irrevocable trust necessarily means that the grantor is also one of the beneficiaries.

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VICE-CHAIR KING: Okay. And they can only...and...and as...and together they can only hold one property with a permit?

MS. CHEN: Well, it depends on who the...what...under what the name the application is filed, so it wouldn't necessarily have to include all of the trustees. But the trustees...so one trustee could apply on behalf of that trust. And I guess if there were more than one trustee, the...and the other trustees were trustees for another trust, it's possible that another trustee could hold a permit on behalf of another trust. But it's one person, one permit is what we understood the...the Council's intent to be.

VICE-CHAIR KING: Okay. I think my time's up. Thank you.

CHAIR PALTIN: Any other questions for...Member Sinenci?

COUNCILMEMBER SINENCI: Mahalo, Chair. And yeah, I agree, I would support 19.64.030 to include the Maui Commission with the five years ownership for...for a B&B unit. Just a clarifying question for Ms. Takakura. We do...we're proposing one...one STRH per applicant. Is there any situations when...where we have more than one currently per property?

CHAIR PALTIN: Not for the permitted ones. Like Minatoya list is not considered a permitted one or, you know, planned developments. We're strictly talking about permits, which is its own process. Is that correct, Ms. Takakura?

MS. TAKAKURA: Thank you, Chair. Yes, that is correct. And in answer to Member Sinenci's question, there's this provision in 19.65 now that says if the property is--I'm looking for it--if it's more than \$3.2 million or something, that you could have more than one permit. Kind of unusual. But I think that's what the language, you know, when they first came out, when they first made the rule. So we'd like to take that out.

COUNCILMEMBER SINENCI: Oh. All right. Thank you.

CHAIR PALTIN: And...and when I...I meant Minatoya properties, like they could have two apartments in a Minatoya property with one owner. This only applies to folks that have to go through the permitting process. Is that clear enough, Member Sinenci?

COUNCILMEMBER SINENCI: Yeah, for...like just for a single property versus a condominium.

CHAIR PALTIN: Yeah.

COUNCILMEMBER SINENCI: Okay. Yes. Thank you.

CHAIR PALTIN: Okay. Member Molina?

COUNCILMEMBER MOLINA: Yeah, thank you, Madam Chair. Ms. Takakura, you know, under the language which allows for accessory dwelling units to be short-term rented if

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the main dwelling is long-term occupied, would the Department allow a permit holder to continue short-term rental operations if their main dwelling is temporarily vacant? And if operations were allowed to continue, how long can the temporary vacancy last before the Department would consider enforcement?

CHAIR PALTIN: Oh, good question. Ms. Takakura?

MS. TAKAKURA: Thank you for the question. That did come up with the commissions. When we say long term, it can be owner occupied or a long-term rental or an owner's second home that they stay at occasionally. We can also add language in there to clarify that if you want. So yeah, owner occupied or long term...owner occupied, long-term rental, or owner's second home that they stay at occasionally and don't rent out for other transient vacation rental.

COUNCILMEMBER MOLINA: Okay. Yeah. And I bring that up because...well, under...I believe it's State law, if I'm the landlord, I have...and I wanted to kick my tenant out and...for a long-term rental, I have...I have to give them like 45 days to get off the premises. And then if this law passes and if...if my ohana is...currently has short-term approval, then you know, then it begs the question then can this continue while I still...you know, my main dwelling is, you know, currently vacant for a long-term rental. So kind of why I brought that up. So yeah, whatever I guess language that could kind of close that loophole I think would be...be helpful.

CHAIR PALTIN: Thank you, Member Molina. And to follow up on Member Molina's question, can we not allow this for second homes that are not long-term rented or owner occupied? I thought kind of part of the reason we were doing this was to increase long-term rental opportunities or things like that. No? Is that a possibility, or should I ask Corp. Counsel?

MS. TAKAKURA: I would defer to Corporation Counsel.

CHAIR PALTIN: Ms. Chen or Ms. Oana, would that be a possibility or no, not allowed?

MS. CHEN: Thanks, Chair. So the question is could...oh, Jen, do you want to respond? Okay. So the question is could this be limited to only owner occupied...only owner occupied tax classified properties?

CHAIR PALTIN: Or ones with a long-term rental lease agreement and not...

MS. CHEN: Well...oh, okay, so one of the...one of the...say the main house was long-term rented and then the accessory, there was an STRH permit for the accessory dwelling?

CHAIR PALTIN: Uh-huh.

MS. CHEN: You know, I hadn't...I haven't looked into that. I don't think that that's...I don't see anything necessarily that...you know, these are discretionary permits. So I'd be

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happy to look into that, but I can't just answer that question on the fly without knowing a little bit more.

CHAIR PALTIN: Okay. I was just throwing it out there. Members, any further questions? Chair Lee, followed by Member Sugimura, and then we'll do second rounds.

COUNCILMEMBER LEE: Do we have anybody here from Finance? My question has to do with tax revenues. Will there be any tax revenue implications as a result of these changes?

CHAIR PALTIN: No, did...didn't request anyone from Finance.

COUNCILMEMBER LEE: Okay, let me ask you then. Will...will there be any tax revenue ramifications?

CHAIR PALTIN: Well, the property would be...if there is a short-term rental home permit, then it would be classified as Short-Term Rental, right? Corp. Counsel?

MS. CHEN: Thanks, Chair. Yes, I believe if it's...if the property has a short-term rental home permit, it would be classified STRH.

CHAIR PALTIN: So I don't think there would be tax ramifications because the valuation would still be the same, it wouldn't...

COUNCILMEMBER LEE: Even though the owner switched houses with like a B&B? They go into --

CHAIR PALTIN: Oh.

COUNCILMEMBER LEE: -- the small cottage and the S...and their visitors go into the big house, which has way more value. Just...just asking. Maybe you can check on that at some point.

CHAIR PALTIN: The...the...Member Rawlins-Fernandez says the classification is not the valuation. So the valuation would remain the same regardless of the classification.

COUNCILMEMBER LEE: Regardless...okay. So the valuation would remain the same, even though you're using different dwellings?

CHAIR PALTIN: That's my understanding.

COUNCILMEMBER LEE: Yeah. Because the...the bigger dwelling, let's say, would be used for the...let's say...

CHAIR PALTIN: Either the owner or the long-term renter if they choose --

COUNCILMEMBER LEE: Yeah.

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CHAIR PALTIN: -- to make the ADU the STR or B&B.

COUNCILMEMBER LEE: Okay. Thank you. So the answer is no ramifications?

CHAIR PALTIN: Well, we got a message from Member Rawlins-Fernandez. As long as there's an STR on the property, it's classified as STRH classification.

COUNCILMEMBER LEE: And then what about B&Bs?

CHAIR PALTIN: B&Bs is Commercial Residential regardless.

COUNCILMEMBER LEE: Regardless. Okay. Regardless of who's staying in which dwelling? Okay.

CHAIR PALTIN: Correct.

COUNCILMEMBER LEE: Thank you.

CHAIR PALTIN: Okay. Member Sugimura for her first opportunity.

COUNCILMEMBER SUGIMURA: So we were getting emails, and the...the subject is PSLU Item 69 support if no changes to Section 13.

CHAIR PALTIN: Yes.

COUNCILMEMBER SUGIMURA: So Jacky, what is Section 13?

CHAIR PALTIN: That's the one where the existing permit holders can continue on under the rules that they first got their permit, which --

COUNCILMEMBER SUGIMURA: Okay.

CHAIR PALTIN: -- I don't have a problem with keeping that.

COUNCILMEMBER SUGIMURA: So all of them are not going to be threatened by this change then? Okay. So Rule [sic] 13 remains.

CHAIR PALTIN: Section 13.

COUNCILMEMBER SUGIMURA: And going...I'm sorry. So...and then going back to Chair Lee's question, that's a good question. So let's say I live in my main house and my accessory dwelling, I decide to rent it out short-term vacation rental. Do...oh, I no longer get my homeowner exemption, right, because it has become commercial. So I no longer get the 200,000. Okay. Okay. I'm sorry, I answered my own question. Very good.

CHAIR PALTIN: Okay. I think the only ones that haven't asked questions this first round is Member Johnson and Member Rawlins-Fernandez. Any questions for you before I go to

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the folks for a second go?

COUNCILMEMBER JOHNSON: No questions at this time, Chair. Thank you.

CHAIR PALTIN: Okay. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I just wanted to know if your clarification was...if you got your clarification on if there's two...two dwellings on the property, the main dwelling, accessory dwelling, that only one property...sorry, only one dwelling would be allowed to have an STR permit or a B&B permit. Okay. I see Ms. Takakura shaking...nodding her head.

CHAIR PALTIN: Go ahead, Ms. Takakura.

COUNCILMEMBER RAWLINS-FERNANDEZ: But wanting to clarify.

MS. TAKAKURA: Yes. Member Rawlins-Fernandez, so the current rules for bed and breakfast, it allows two...two dwelling units on the property. And so that's not...yeah. Okay. So for the bed and breakfast one, it's permitted in no more than two single-family dwelling units per lot. And so what we're proposing is that it's still going to be two, but it can be an accessory dwelling or a main, as long as it's still only two. For short-term rental homes, it's going to be...it's one per lot.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo for that clarification. And so with the...so with the STR, regardless of whether it's the main or the accessory, just one dwelling would fall under that STR permit. And then for B&B, both would be considered B&Bs, both of the dwellings? One would be an STR?

MS. TAKAKURA: Well, the owner has to live on that lot for B&Bs, and so they would still be, you know, B&Bs because the owner's on that lot.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So both dwellings, and they...they would be under one permit, or would there be two separate permits?

MS. TAKAKURA: Sorry, I have to look it up because I don't process those permits. But I'm pretty sure it's they're all on the same permit because it's...it's permitted in no more than two single-family dwelling units.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So one permit would allow up to two dwellings on one lot, and it could be the main and the accessory dwelling, but it cannot be two accessory dwellings?

MS. TAKAKURA: For bed and breakfast that is correct, yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo for that clarification.

MS. TAKAKURA: For short-term rental home it's still just one.

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COUNCILMEMBER RAWLINS-FERNANDEZ: Regardless.

CHAIR PALTIN: All right. Okay. Second round, two minutes again. We have Member King, followed by Member Molina.

VICE-CHAIR KING: Okay. Just to follow up on...because I had a question about that last question. So if you had a permit for two B&B units, I mean one permit could be for like three rooms in your house and the other permit could be for an accessory dwelling? Or is it just two rooms total? Because you know, the...the original B&B requirement had to be six rooms or less, I think. So are you saying you could have up to six rooms in the house that you're...it has under B&B plus an accessory dwelling?

MS. TAKAKURA: Thank you, Member King. That part is not changing, or we're not proposing to change it. For B&Bs, the number of bedrooms used for...shall be no greater than six on Lānaʻi and Maui and no *(audio interference)* on Molokaʻi.

VICE-CHAIR KING: Okay. Because that...I mean, you could have up to...you could have up to eight or ten people on your property that way. That's...that's kind of a lot. But that sounds like what the rule is. And then the other question I have was when...on the...on the deliverable, you know, the notifications that are delivered, are those delivered to the owner or the renter? Like you give...if you have houses, you have to find the owner of that house?

CHAIR PALTIN: Both.

VICE-CHAIR KING: If they don't live there?

CHAIR PALTIN: That's the proposed change that they deliver it to both, the owner and the physical address.

VICE-CHAIR KING: Because a lot of the times the owner won't be there, so you have to find the owner and where they live. And then would...would each of those...like if each of those households say it's an owner that lives in another town and then the...the renter, will each of them be able to register a complaint if they didn't want it there?

MS. TAKAKURA: That is correct.

CHAIR PALTIN: That's not what the bill is proposing. It's proposing that...

VICE-CHAIR KING: No, I know, but I mean it's...they said one...one complaint per household, but if you have one household of...of the tenant there, and then you have another household which is the owner that lives somewhere else, you know, are they both allowed to register a complaint? Are they each allowed?

MS. TAKAKURA: If I may, Chair Paltin? That is not . . . *(timer sounds)* . . . it's not --

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CHAIR PALTIN: Go ahead.

MS. TAKAKURA: -- spelled out, and so...and our internal practice has been to count it as one per property. So we just wanted to codify that internal practice because it's not spelled out.

VICE-CHAIR KING: Okay. So just for the property that's nearby, it doesn't matter if it's the owner or the renter.

CHAIR PALTIN: And for me, I'm opposed to that. I think each person should have their own voice. You know, like when...

VICE-CHAIR KING: I would...yeah, I would have a problem with that because you could have a family with four kids, and you're not going to let each of the four kids have...I mean that wouldn't be fair, to have six complaints come from one household.

CHAIR PALTIN: Could we make it each complaint of a person of an adult?

VICE-CHAIR KING: Well, what if you have...what if you have a room full of roommates though? I mean, I've got one across the street from my house. But maybe...maybe whatever...if they're...maybe whatever number of adults are on the lease or something.

CHAIR PALTIN: Yeah. I mean, same thing if you have a household full of people and they vote, each vote counted as a vote, but okay. Member Molina?

COUNCILMEMBER MOLINA: Yeah, thank you, Madam Chair. First, just a request to you, maybe under your signature related to the question asked by Chair Lee about any tax consequences. I think it's good to know that, I think for anyone who decides to go into that venture. And then, you know, which was further expounded on by Member Sugimura about, you know, for example, she decides to go into that venture creating her accessory dwelling into a short-term rental, she could lose her homeowner's exemption. So that's a big tax benefit. So if we could have that memorialized in writing from the Finance Department, I think that would be really helpful. And...

CHAIR PALTIN: Okay. Staff, you got that?

COUNCILMEMBER MOLINA: Yeah. And then my...my question to the Department is, Ms. Takakura, are there any websites that prohibit adding the tax map key numbers in their advertisements? And also, will the Department's contractor for transient accommodation enforcement be able to assist with verification?

MS. TAKAKURA: Thank you, Member Molina.

CHAIR PALTIN: Ms. Takakura?

MS. TAKAKURA: Yes. Regarding the tax map key number, our vendor Host Compliance uses the tax map key number. The agreements with Airbnb and (*audio interference*) are going

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to be based on tax map key number also. There's such a plethora of sites to look up with vacation rentals that I don't know that we would even be able to know every single criteria of all these different sites that you could go to. But we talked about addresses, and we'd like to protect the...it just makes it a little bit harder for people to just go look up addresses and go and do things that, you know, may be malicious. TMK is a little safer for the property owners, and that's kind of just a step in the direction of, you know, monitoring and keeping track of these things. And consistent with...like I said, with Airbnb and with Host Compliance and with the research that we do.

COUNCILMEMBER MOLINA: Okay. Thank you. Thank you, Madam Chair.

CHAIR PALTIN: Member Sugimura, second.

COUNCILMEMBER SUGIMURA: Second and last, final. Good...good point, Mr. Molina, because actually, the new TAT tax, right, which is going before BFED Committee or Finance, that's exactly what we're in discussion. I think it was said that now with this new tax, we would be able to get the properties and the TMK. So that's perfect if we could, you know, require that. So I support the Department. And good...good question, Mr. Molina.

CHAIR PALTIN: Member Lee?

COUNCILMEMBER LEE: Thank you, Madam Chair. So I'm not sure, maybe I should ask Jacky. Jacky, on your presentation you pointed out changes. So were there...were they changes to what the Planning Commission proposed? Were they changes that the Department proposed or anybody else proposed?

MS. TAKAKURA: We actually took...we had feedback from the three commissions. We also talked with the Maui Vacation Rental Association and the REALTORS® Association and took all of that feedback and incorporated it in this bill that you have before you.

COUNCILMEMBER LEE: Okay. So there were additional changes to what the planning commissions proposed?

MS. TAKAKURA: Not since last...when we last talked to them. I think that was in November.

CHAIR PALTIN: So this bill was proposed by the Planning Department and then amendments were incorporated from the Planning Commission.

COUNCILMEMBER LEE: Okay.

MS. TAKAKURA: Correct.

COUNCILMEMBER LEE: So no other proposed changes are on this list or on this presentation, right? It's only...

MS. TAKAKURA: Just the one about adding 2.97 into the list of ones that cannot.

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COUNCILMEMBER LEE: Okay.

MS. TAKAKURA: And then adding irrevocable to the trust language in the B&Bs. I missed that one.

COUNCILMEMBER LEE: Okay.

MS. TAKAKURA: And then as we know, you know, the caps have changed since then, so those all got to be fixed too.

COUNCILMEMBER LEE: So you said that the Mayor . . . *(timer sounds)* . . . you said the Mayor suggested 15 years, where did that come from?

MS. TAKAKURA: From the Mayor.

COUNCILMEMBER LEE: Yeah. I...you know, we...we both know he doesn't read this stuff, so I'm asking you who proposed that? Was that really the Planning Department, or actually the Mayor read this whole thing and that was his one proposal?

MS. TAKAKURA: It came from the Mayor's Office, so...

COUNCILMEMBER LEE: Okay.

MS. TAKAKURA: I mean, and that's what I know.

COUNCILMEMBER LEE: Okay. Thank you.

CHAIR PALTIN: Okay. So at this time I will entertain a motion to recommend passage on first reading of the proposed bill entitled, "A BILL FOR AN ORDINANCE AMENDING CHAPTERS 19.35, 19.64 AND 19.65, MAUI COUNTY CODE, RELATING TO ACCESSORY DWELLING, BED AND BREAKFAST HOME, AND SHORT-TERM RENTAL HOME PERMITS."

VICE-CHAIR KING: So move.

COUNCILMEMBER SUGIMURA: Second.

CHAIR PALTIN: Moved by Member King, seconded by Member Sugimura. And then let's start with the Department proposed amendments. Let's see. So I will entertain a motion to amend the bill to revise the caps for Lānaʻi B&B and STRH to 15, and all the STRH caps to what we changed them earlier...couple weeks back. As well as to add the word "irrevocable" to the B&B family trust section. And to add 2.97 to the list of exempted areas that can...list of excluded areas that cannot have STRHs. And those are all the Department recommended amendments. Is that correct, Ms. Takakura?

VICE-CHAIR KING: So moved.

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MS. TAKAKURA: That is correct.

CHAIR PALTIN: Okay.

MS. TAKAKURA: Thank you, Council...

CHAIR PALTIN: Thank you. So that amendment has been moved by Member King, seconded by --

COUNCILMEMBER LEE: Second.

CHAIR PALTIN: -- Member Lee. And I don't think we need discussion because those are, you know, pretty straightforward and the Department. So all those in favor, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Okay. The amendment passes unanimously, with Member Kama excused.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Kama.

MOTION CARRIED.

ACTION: APPROVED AMENDMENT.

CHAIR PALTIN: Next up I'll entertain a motion to amend the bill, Section 19.64.030(N) to include Maui in the five-year...

VICE-CHAIR KING: 15.

CHAIR PALTIN: This one is construction and ownership requirement of five years prior to application date for B&B. Right now it's five years only for Moloka'i and Lāna'i. I'll entertain a motion to amend it to include Maui.

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VICE-CHAIR KING: So move.

COUNCILMEMBER SINENCI: So move. Second.

CHAIR PALTIN: By Member Sinenci or seconded by Member Johnson. So it says in the comments that construction and ownership requirement is aimed to reduce speculation and encourage a connection to the neighborhood. And it was one of the testifiers said why wouldn't we want this for Maui as well. Discussion, Member Sinenci? No?

COUNCILMEMBER SINENCI: Thank you, Chair. Yeah...I mean yes, this is...this would just mirror the...the STRH that is currently now, but we're supportive of including our Hāna community plan area under the Maui mission. So yeah, supportive, Chair. Thank you.

CHAIR PALTIN: Okay. Any further discussion? Seeing...oh, Member King?

VICE-CHAIR KING: Yeah. So I...I support this, but isn't this the one that we...that we've been asked by the Mayor to change to 15 years?

CHAIR PALTIN: No, the Mayor asked for a change in the STRH, this one is B&B.

VICE-CHAIR KING: Oh, okay. I thought we were trying to align the two. Okay.

CHAIR PALTIN: Yeah. So this one is B&B must be constructed and owned by the applicant for five years prior. And the bill only has it for Moloka'i and Lāna'i, so we're just including Maui. Any further comments or clarifications? Seeing none. All those in favor raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Amendment passes unanimously, with Member Kama excused.

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

NOES: **None.**

ABSTAIN: **None.**

ABSENT: **None.**

EXC.: **Councilmember Kama.**

MOTION CARRIED.

ACTION: **APPROVED AMENDMENT.**

CHAIR PALTIN: And then...so this was the one that I was saying, 19.65.060(A), I will entertain a motion to amend that written protests from multiple adult owners, lessees, or residents of the same physical address count as individual protests. Okay. Amendment does not get a motion. All right. Moving on. I'll entertain a motion to amend 19.35.010(D) and (E) and strike those. And 19.64.030(A), do not allow accessory dwelling units to be used for short-term rental or B&B per the testifier's suggestion.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair, would you mind repeating it? Oh, sorry. There's a...there's a motion.

CHAIR PALTIN: There's a motion by Member Molina...oh, no? No motion?

COUNCILMEMBER MOLINA: Yeah, I'll put that motion out for consideration.

CHAIR PALTIN: Okay. Motion by Member Molina. Is there a second? I can read the plea. Please do not change this to allow any accessory dwelling to be used for short-term occupancy. The accessory dwelling Code section was last changed to specifically not allow short-term occupancy of any accessory dwelling. This was done and supported by the Council and planning commissions in an effort to preserve the accessory dwelling for long-term occupancy, meaning for our residents who live here all year long. Accessory dwellings are the smaller dwellings on a lot, and they tend to be the lower priced dwellings available to our local residents. The accessory dwellings really should be reserved for our long-term residents. The cost of rent has gone crazy, and if you allow the accessory dwelling to be converted from long term to short term, such as this proposed revision will allow, this will remove available housing for our residents to live in. It will remove the lowest cost housing for our residents and ultimately increase the housing that is left for our residents to choose from. Please, if you care about our residents who struggle to pay these high rental prices, please do not let this section of the Code be changed to allow any accessory dwelling to be used as a vacation rental.

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COUNCILMEMBER MOLINA: So moved.

CHAIR PALTIN: So moved by Member Molina, seconded by Member Rawlins-Fernandez. Discussion? Member Molina, as the movant.

COUNCILMEMBER MOLINA: Yeah. Thank you, Madam Chair. And yeah, I had reservations with this proposal as well because I mean, here we are, we've taken a stance to expand as best as we can our long-term inventory, and I just see this as potentially it's kind of sending the wrong message if...I...I know the Department has said this is about flexibility and so forth. But at the same time, what is it saying to the people that are...who have...who are demanding more inventory for, you know, long term...long-term rentals? So I don't know, I...I...it just to me sends out a mixed message that I'm just not comfortable with. So that's my reasons for...for not supporting this measure. Thank you.

CHAIR PALTIN: Thank you. Member Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. Just a clarification. These include the ohana units, yeah?

CHAIR PALTIN: Yeah, this is saying that the ohana unit would not be the short-term rental. And that's the way it currently is, so we're just not changing the way it currently is.

COUNCILMEMBER SINENCI: Yeah. Speak in support. Thank you, Chair.

CHAIR PALTIN: Member King?

VICE-CHAIR KING: Thank you, Chair. Yeah, I have a hard time with this one too. It...it's...it takes away the flexibility of...of having the short-term rental in your...in your ohana, and then renting out long term the house. So you would...you would not have that opportunity to rent a larger house to a family, and then...and which would be the long-term residency, and then rent out the smaller unit as a short-term rental. I think that's what...my understanding is that's what the flexibility was. Because families who are looking for long-term rentals, it's hard to...you know, to...if you have a family of any consequence size-wise, it's hard to jam into a little ohana, and so we're kind of limiting ourselves that way, limiting that flexibility. So I have a really hard time with...you know, I thought it was a good idea to give that flexibility, but I do understand your point and I understand the original point in not allowing the accessory dwellings. But if we're going to allow only one on the property, then I think giving that flexibility of it either being the...the accessory or the main house as far as what's...which one is short term, which one is long term might be a better idea. Thank you.

CHAIR PALTIN: So currently as the bill is written, there's no requirement that they have the main house be a long-term rental. They can choose to leave the big house empty as a second home, and visit it when they come to visit. Maybe if there was a requirement that whatever house that's not being used as a short-term rental must be a long-term rental, that would make sense. But...

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VICE-CHAIR KING: Because that's what it said, and it was long-term resident occupancy. So I guess the problem is that there's...they're calling long-term occupancy could be an empty house?

CHAIR PALTIN: That's what Ms. Takakura said in her presentation, wasn't it? Could be...

VICE-CHAIR KING: Well, I thought...I thought the way we set the Tax Code up was that non-owner occupied or owner occupied if you weren't living there was in a different category. Because you had --

CHAIR PALTIN: Ms. Takakura?

VICE-CHAIR KING: -- no, you...you had to be...it would be...it would be Non-Owner Occupied because you wouldn't be occupying it if it was empty.

CHAIR PALTIN: Well, it would be Short-Term Rental tax class category, because as soon as you have a permit. And what the other dwelling, whether it's an ADU or a single-family home, it could be...remain vacant. That was one of the options that Ms. Takakura said. And so that's my problem is you're going to go through all this trouble to do a short-term rental, there's no guarantee that the other house is going to be a long-term rental or owner occupied. It could be the owner's second home that they visit on weekends and holidays or whatever. So that's why I proposed that amendment.

VICE-CHAIR KING: Yeah. Okay. Well, is it...is it possible just to have Ms. Takakura comment on that?

CHAIR PALTIN: Ms. Takakura, is that true what she said, it could be a non-owner occupied other unit?

MS. TAKAKURA: Thank you, Chair. I believe it could be because it would be hard for us to monitor if the other one is occupied or not or, you know, if there was a lease and then they allowed to break it. It would probably become an enforcement...I mean, you know, it would be based on complaints, and then we'd have to go and (*audio interference*). So that...that is a possibility (*audio interference*).

VICE-CHAIR KING: Okay. So they kind of negate...and, you know, like others have said, it kind of negates the original intent of the Council in...in prohibiting the...the short-term rentals in the accessory dwellings.

CHAIR PALTIN: Is that the end of your discussion, Member King?

VICE-CHAIR KING: Yeah, I was just trying to get a reaction. I see Ms. Takakura nodding her head, so...

CHAIR PALTIN: Okay. Member Sugimura, followed by Chair Lee. Oh, you don't have...or did you have, Member Sugimura? Okay. Chair Lee?

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COUNCILMEMBER SUGIMURA: That was my question, what Chair Lee...not Chair Lee, Member King said. So thank you.

CHAIR PALTIN: Okay. Chair Lee?

COUNCILMEMBER LEE: I seem to think that by allowing this so-called flexibility to use two dwellings for short-term rentals is a disincentive to people to use it for long-term rentals. And I...I still believe, and I would really appreciate if you ask the Finance Department Real Property Division on the consequences, tax ramifications because there's got to be some ramifications if the second dwelling is left as a second home unoccupied.

CHAIR PALTIN: So Ms. Stewart said she did get that question, and per Member Molina's request we'll transmit that and have that before first reading available for you folks.

COUNCILMEMBER LEE: Okay. Okay. Good. Thank you. Thank you.

CHAIR PALTIN: Sure, sure. Okay. Member Molina?

COUNCILMEMBER MOLINA: Yeah. Thank you, Chair, for my second and last time. I don't know if maybe Chair Lee can recall, but what was the original intent of ohanas? Unless Ms. Takakura can tell us. Because I think it was not meant to use accessory dwellings for short-term purposes, right, it was...I guess if...the main house, mom and dad get older, maybe they move into the smaller house and the kids move into the bigger house, I don't know. Was that part of the intent with ohanas in the first place?

COUNCILMEMBER LEE: Yes, yes, it was. Yeah.

COUNCILMEMBER MOLINA: Okay. Thank you. Thanks, Chair.

CHAIR PALTIN: Sure. All those in favor of the amendment, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Okay. One, two, three, four, five, six, seven...

COUNCILMEMBER LEE: Excuse me, Chair.

CHAIR PALTIN: Yes?

COUNCILMEMBER LEE: The amendment is to allow for second dwellings for --

CHAIR PALTIN: Oh, but...

COUNCILMEMBER LEE: -- short-term rentals?

CHAIR PALTIN: The...the amendment is to not allow accessory dwelling units to be allowed for

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short-term rentals. It stays --

COUNCILMEMBER LEE: Oh, okay.

CHAIR PALTIN: -- as it is.

COUNCILMEMBER LEE: Okay. All right.

CHAIR PALTIN: It's eliminating 19.35.010(D) and (E), and leaving that short-term rental home units is limited to one per lot.

COUNCILMEMBER LEE: Okay. Thank you.

CHAIR PALTIN: All those in favor, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: All those opposed? Okay. Measure passes seven to one, Member Sugimura, with Member Kama excused. Okay.

COUNCILMEMBER SUGIMURA: I'm here. Did you not see me?

CHAIR PALTIN: I put you as a no. Were you voting as a yes?

COUNCILMEMBER SUGIMURA: Oh, I voted yes. Sorry.

CHAIR PALTIN: Oh, okay. That was a late one. Okay. Eight "ayes," one excused, Member Kama.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Kama.

MOTION CARRIED.

ACTION: APPROVED AMENDMENT.

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CHAIR PALTIN: All right. That concludes my proposals for amendments. Did anyone have any organic proposals? Member King?

VICE-CHAIR KING: Did we do the Mayor's proposal for the 15 year?

CHAIR PALTIN: Oh, that's included in the bill, I believe.

VICE-CHAIR KING: Oh, that's already there? Okay. I thought that would --

CHAIR PALTIN: Yeah

VICE-CHAIR KING: -- be an add-on.

CHAIR PALTIN: It's 19.65.030(O) on page 3.

VICE-CHAIR KING: Oh, okay. So that was in the original bill, they just happened to mention that it was the Mayor's inclusion.

CHAIR PALTIN: It was the Mayor's contribution to this long list of changes, I guess, or something. Good job. Anybody have any additional amendments that they'd like to propose? Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. 19.64.030, restrictions and standards, A, so here it says the bed and breakfast use may be permitted in no more than two single-family dwelling units per lot pursuant to Chapter 19.35 of this title. So I...I was trying to wordsmith something very quickly on the fly. But I...I guess...can I ask Ms. Takakura the rationale behind it written this way? If not, I will try to propose something if it's not a question.

CHAIR PALTIN: Ms. Takakura?

MS. TAKAKURA: I'm sorry, Member Rawlins. Can you repeat the section that you were referring to? Was it 19.64?

CHAIR PALTIN: 030(A).

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah, 19.64.030(A). And so this is the question I was asking you earlier about bed and breakfasts, if...to make it clear in this section, would it make sense to add the bed and breakfast use may be permitted in no more than two single-family dwelling units per lot, the...the main housing lot and the...or the main housing...the main dwelling and the accessory dwelling pursuant to the Chapter 19.35 of this title. Just to...to make it clear here.

MS. TAKAKURA: Member Rawlins-Fernandez, do you mean that it would be allowed...bed and breakfast would be allowed in an accessory dwelling unit? I don't think I understand the question.

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COUNCILMEMBER RAWLINS-FERNANDEZ: So above it, E, only one accessory dwelling per lot may be used as a bed and breakfast home. So...

CHAIR PALTIN: Oh, we struck D and E as part of that previous amendment.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, okay. Then I guess that clarifies it. Mahalo, Chair.

CHAIR PALTIN: Sure. Any further proposals for amendment? Seeing none. We can vote on the main motion as amended, incorporating nonsubstantive revisions, and filing of County Communication 20-140. And we'll get a statement from the Finance before first reading. Yes, Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Will you please read the amended Section 19.64.030(A)?

CHAIR PALTIN: Okay. The amended section says the bed and breakfast use may be permitted in no more than two single-family dwelling units per lot, pursuant to Chapter 19.35 of this title.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo for reading that. That's what I have on my paper too. So I'm confused now because if it's not allowed on an accessory dwelling, there's only one main dwelling.

CHAIR PALTIN: The definition of a single-family dwelling unit means a building consisting of only one dwelling unit designed for or occupied exclusively by one family. Whereas an accessory dwelling means an attached or detached dwelling unit which is incidental or subordinate to the main or principle dwelling on a lot.

COUNCILMEMBER RAWLINS-FERNANDEZ: So how would two --

CHAIR PALTIN: Oh.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- single-family dwelling...

CHAIR PALTIN: Ms. Takakura?

MS. TAKAKURA: If I may, I think the proposal, it would actually be to leave 19.64.030(A) as it is. So you would keep the part that's in bracket that says, except that short-term rental use shall not...oh, it's actually bed and breakfast use shall not be permitted in any accessory dwellings. And then I just wanted to clarify that some of the bigger residential lots are allowed to have more than one main dwelling. So you do see some of those where there is more than one dwelling in a few places.

CHAIR PALTIN: Okay. So your recommendation is to amend 19.64.030(A) and leave it as it currently is? And as it currently is, it says bed and breakfast instead of short-term rental use.

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MS. TAKAKURA: I think that's the intent that you are pursuing, yeah?

CHAIR PALTIN: Yeah. Not...we don't want in...accessory dwelling units only in the main unit, and some of the larger lots allow for two main units per lot.

MS. TAKAKURA: Correct.

CHAIR PALTIN: Okay. I guess I'll withdraw that motion. Yes, Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. It just inherently sounds not correct because, you know, like a main dwelling is...is usually one main dwelling, and then other dwellings would not be the main dwelling. I don't...I...I guess that...that terminology doesn't fit.

CHAIR PALTIN: I guess depends on lot size how many main dwellings you're allowed to have and how...oh, okay, Deputy Director, maybe you can explain it.

MR. HART: Chair, thank you very much. Accessory dwellings also have limited lot...or sorry, unit sizes as outlined by the Code, and main dwellings are not limited in that way. They may have setback and height requirements, but...but there's not a square footage in general.

CHAIR PALTIN: It's just planning speak.

COUNCILMEMBER RAWLINS-FERNANDEZ: Is it...is it --

MR. HART: I'll...I'll...

COUNCILMEMBER RAWLINS-FERNANDEZ: -- planning speak?

MR. HART: I'll refer to the Code section that outlines what...what accessory dwellings are, and basically they're...they're generally limited by size, where the main dwelling is not. So...so what Ms. Takakura was referring to is the...there's certain lots that are large enough to have two unrestricted-sized dwellings that would be treated as main dwellings, let's just call them, for the purpose of this conversation.

COUNCILMEMBER RAWLINS-FERNANDEZ: Is there a better term for it instead of main? Because main usually refers to one, like one main dwelling.

CHAIR PALTIN: Single-family dwelling? And if that's the case then --

MR. HART: . . .*(inaudible)*. . .

CHAIR PALTIN: -- it seems like it's okay as how it's written because it says, may be permitted in no more than two single-family dwelling units per lot. So it's okay how it's written, right? Okay. On to the main motion as amended, incorporating any nonsubstantive

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changes, and filing of County Communication 20-140. I'll entertain a motion. Moved by Member Sinenci.

VICE-CHAIR KING: Don't we already have a motion?

CHAIR PALTIN: Oh, sorry. Call for the question. All those in favor, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Okay. Measure passes unanimously, eight "ayes" and one excused, Member Kama.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Kama.

MOTION CARRIED.

ACTION: Recommending FIRST READING of revised bill and FILING of communication.

PSLU-27: DISTRICT BOUNDARY AMENDMENT AND CHANGE IN ZONING FOR THE MOLOKAI EDUCATION CENTER (KAUNAKAKAI) (CC 21-286)

CHAIR PALTIN: Members, I'm really sorry, I made an error in our last one. If Members don't mind going back to PSLU-27, a fast one. There were two bills and we only passed one of them. And I...I mixed it up. Like we made the motion on the land use district classification first, and then when we voted, we voted on the Change in Zoning instead of the State land use district classification. So if Members don't mind, let's...can we redo that?

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR PALTIN: Okay. So we'll take it from the top. The Chair will entertain a motion to recommend passage on first reading of the proposed bill as amended, and incorporating nonsubstantive revisions, entitled, "A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT CLASSIFICATION FROM AGRICULTURAL DISTRICT TO

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URBAN DISTRICT FOR PROPERTY SITUATED AT KAUNAKAKAI, MOLOKAI, HAWAII,
TAX MAP KEYS [sic] NO. (2) 5-3-003:013 AND (2) 5-3-003-014.”

COUNCILMEMBER RAWLINS-FERNANDEZ: So move.

VICE-CHAIR KING: So move.

CHAIR PALTIN: Moved by Member King, second by Member Johnson. All those in favor, raise your hand and say “aye.”

COUNCILMEMBER RAWLINS-FERNANDEZ: Wait, Chair?

CHAIR PALTIN: I...I said as amended, does that not good enough or no?

COUNCILMEMBER RAWLINS-FERNANDEZ: Can...can we get --

CHAIR PALTIN: We have to restate...

COUNCILMEMBER RAWLINS-FERNANDEZ: -- confirmation?

CHAIR PALTIN: Okay. Ms. Oana, Ms. Chen, or Mr. Mitchell, is it okay that I said as amended, or do we have to restate the amendment?

MS. OANA: Are you doing the DBA?

CHAIR PALTIN: Yeah, we're doing the DBA.

MS. OANA: I don't know if it was amended, only the CIZ.

CHAIR PALTIN: Oh, okay. Only the CIZ. Okay. So this one is not as amended, only the CIZ. So all those in favor, raise your hand and say “aye.”

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Okay. Motion passes unanimously, with Member Kama excused.

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

NOES: **None.**

ABSTAIN: **None.**

ABSENT: **None.**

EXC.: **Councilmember Kama.**

MOTION CARRIED.

ACTION: **Recommending FIRST READING of bill (District Boundary Amendment).**

CHAIR PALTIN: Okay. Now we're going on to the CIZ. The Chair will also entertain a motion to recommend passage on first reading of the proposed bill entitled, "A BILL FOR AN ORDINANCE FOR A CONDITIONAL CHANGE IN ZONING FROM INTERIM DISTRICT TO P-1 PUBLIC/QUASI-PUBLIC DISTRICT FOR PROPERTY SITUATED AT KAUNAKAKAI, MOLOKA'I, HAWAII, TAX MAP KEYS (2) 5-3-003:013 AND (2) 5-3-003-014."

COUNCILMEMBER RAWLINS-FERNANDEZ: So moved.

VICE-CHAIR KING: Assuming that we don't have to redo the conditions?

CHAIR PALTIN: Moved by Member Rawlins-Fernandez, second by Member King. The Chair will entertain an amendment to the thing as amended in the chat. Member Rawlins-Fernandez, and seconded by Member Johnson. We're voting on the amendment. All those in favor, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Amendment passes unanimously, with Member Kama missing...I mean excused.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Kama.

MOTION CARRIED.

ACTION: APPROVED AMENDMENT.

CHAIR PALTIN: On to the main motion, as amended, incorporating nonsubstantive revisions and filing of Communication 21-286. All those in favor, raise your hand and say “aye.”

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Motion passes unanimously, with Member Kama excused.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Kama.

MOTION CARRIED.

ACTION: Recommending FIRST READING of revised bill (Change in Zoning), RECORDATION of unilateral agreement, and FILING of communication.

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PSLU-25: UNLAWFUL CONSUMPTION OF INTOXICATING LIQUOR AND MINOR UPDATES FOR HISTORIC DISTRICTS NUMBERS ONE AND TWO (LAHAINA) (CC 21-192)

CHAIR PALTIN: Okay. On to our last one, and I see Director Peters and Mr. Kauhaahaa came on. The last one, I think we can do it in ten minutes. PSLU-25, Unlawful Consumption of Intoxicating Liquor and Minor Updates for Historic Districts Number One and Two (Lāhainā). The Committee is in receipt of County Communication 21-192, from the Planning Director, transmitting a proposed bill entitled, "A BILL FOR AN ORDINANCE AMENDING SECTION 19.52.090, MAUI COUNTY CODE, RELATING TO UNLAWFUL CONSUMPTION OF INTOXICATING LIQUOR AND OTHER MINOR UPDATES FOR HISTORIC DISTRICTS NUMBERS ONE AND TWO." The purpose of the proposed bill is to prohibit the consumption of intoxicating liquor in recreational areas under the jurisdiction of the Department of Parks and Recreation in Historic Districts One and Two. Committee may consider whether to recommend passage of the proposed bill on first reading with or without revisions. The Committee may also consider the filing of County Communication 21-192 and other related items. And I just wanted to let Members know, there is a revised bill from Planning that has been transmitted on August 26, 2021, which is number 2 on the Granicus list. This substitute bill is what we will be working from today. And under Council Rule 18(A), I'd like to designate Lawrence Kauhaahaa of the Clean and Safe Program a resource, and I believe Director Peters is also here. Mr. Kauhaahaa, did you want to say anything to open this up? This was based on a suggestion made by you.

MR. KAUAHAHAA: Yeah. I mean, you know, looking at...at parks, County parks and...and its use of its facilities, you know, when you're looking at just the safety, you...you don't have to look much further than what, about a week ago when there was a woman attacked in the County restroom...or the State restroom next to a County park at the harbor. You know, keeping things like restrooms safe, you know, people...you know, humans in general are, you know, most vulnerable either when you're sleeping or when using the restroom. That's why even in the animal world, they hide when they do one of those two things. So you know, building an area and a buffer from any of that type of activity, especially if it's near a school, a bus stop, a restroom where...you know, a lot of the issues we're having in our County parks are directly related to intoxication, whether it's alcohol, drugs, or what have you. So you know, taking that extra step to just keep people safe, I think, is kind of the...the...the key issue behind all of that. Especially when you're in an area where, you know, you have sacred sites, things that are traditionally protected. You know, we want to take those extra steps to make sure that we treat it with the reverence and the respect it deserves so that we don't have people getting intoxicated, urinating, defecating in those sites or near or around parks where there's children and bus stops, schools, and what have you. So I'm saying where there's parks where you're supposed to have that kind of...like softball, you know, adult activities then, you know, people responsibly consuming alcohol is okay. But when it's an area with...like I said, where it's sacred or it should be treated with reverence or where you have children that are there, whether it's because they have playground facilities or like the restrooms and that kind of thing, I think we want to try and keep a little bit of a buffer and keep those areas a little bit safer and exclude it from the...

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CHAIR PALTIN: Thank you, Mr. Kauhaahaa. And...and I just wanted to share, he had also said that originally the exclusion, there was softball played down Malu 'Ulu O Lele back in the day, and that's the reason for the exclusion, but now those folks don't play there anymore. They play at I think the Lāhainā Rec Center field, so there's no real reason for the exclusion to continue. Any questions for Mr. Kauhaahaa? Seeing none. Any comments from the Parks Department?

MS. PETERS: Hi, Chair. Good afternoon. Good afternoon, Committee. So our Department is in support of the proposed legislation, which we...which would require amendments to our Title 13, Maui County Code, 13.04A relating to parks and recreational facilities. We are currently working on those modifications, and will be submitting those proposed changes to the Planning Department for our CRC review, and then on to Council for your review. Thank you.

CHAIR PALTIN: Thank you, Director Peters. And I just wanted to add in the notes, this bill, there were other minor revisions. It went through, I think, all three planning commissions, as well as the Cultural Resource Commission. The three planning commissions were okay. I believe the Cultural Resource Commission wanted to take out number 28 in Part B of the bill. And this is...they were basically updating the Historic District because, you know, it's such an old bill. But the Cultural Resource Commission was good with pretty much everything except for Number 28, I believe, which says subordinate uses and structures determined by the Director of Planning to be clearly incidental and customary to the permitted uses and structures listed herein. And they felt, based on the minutes, that they...they didn't want it to change from the way it is, they thought that was too much discretionary authority, and they wanted a more public process, I believe. So I guess, you know, if...if that's the will of the body, we can take direction from the Cultural Resources Commission or not. But my recommendation would be to recommend passage on first reading of the proposed bill entitled, "A BILL FOR AN ORDINANCE AMENDING SECTION 19.52.090, MAUI COUNTY CODE, RELATING TO UNLAWFUL CONSUMPTION OF INTOXICATING LIQUOR AND OTHER MINOR UPDATES FOR HISTORIC DISTRICTS NUMBERS ONE AND TWO (LĀHAINĀ)." Moved by Member King, seconded by Member Rawlins-Fernandez. And then per CRC, I'll entertain a motion to remove number 28, B(28).

VICE-CHAIR KING: So move.

CHAIR PALTIN: Moved by Member King, seconded by Member Rawlins-Fernandez. Any further discussion on the amendment? Member Sugimura?

COUNCILMEMBER SUGIMURA: I support it. I just wondered if Lāhainā Town Action Committee had any comments? They're pretty active.

CHAIR PALTIN: We did send out notices...I mean emails to Lāhainā Town Action Committee, Lāhainā Restoration Foundation --

COUNCILMEMBER SUGIMURA: Restoration.

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CHAIR PALTIN: -- West Maui Taxpayers Association to let them know that today was the day that we're taking action on this bill. Prior to it going to the planning commissions and CRC, I called everybody, and they liked the intoxicating liquor removal. I'm not too sure how they felt on the minor updates proposed by the Planning Department because they're so...you know, some of it is like updating that haberdashery stuff and like that, so...

COUNCILMEMBER SUGIMURA: Okay. Thank you.

CHAIR PALTIN: The only one that CRC had a problem with was that number 28. Any further discussion? Seeing none. All those in favor of the amendment, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Okay. We got eight "ayes." Measure passes unanimously, with Member Kama excused.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Kama.

MOTION CARRIED.

ACTION: APPROVED AMENDMENT.

CHAIR PALTIN: And moving on to the main motion, as amended. All those in favor, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Okay. Motion passes unanimously, with Member Kama excused. So this also includes filing of County Communication 21-192.

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

NOES: **None.**

ABSTAIN: **None.**

ABSENT: **None.**

EXC.: **Councilmember Kama.**

MOTION CARRIED.

ACTION: **Recommending FIRST READING of revised bill and FILING of communication.**

CHAIR PALTIN: Wow, Members, we took legislative action on three Charter deadline items. Pat yourself on your back. This concludes today's Planning...

VICE-CHAIR KING: Chair, can I ask you something?

CHAIR PALTIN: Sure.

VICE-CHAIR KING: It's after the fact, but is this going to have an impact on...if it ever comes back, on the Halloween activities?

CHAIR PALTIN: It shouldn't have any change. It was just minor revisions. But Deputy Director Hart, would that have an impact on Halloween? If you're still there.

MR. HART: Yeah, I'm still here. I...I can't...I can't think of any that it would have had. We weren't...we didn't discuss that at all when we were proposing our adjustments to the housekeeping portions of the ordinance.

VICE-CHAIR KING: Okay.

MR. HART: As far as we weren't setting out to try and affect that, so I don't think that...I don't think that anything we adjusted would cause that to be affected.

VICE-CHAIR KING: Okay. Just...just trying to be prepared in case we got some pushback.

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CHAIR PALTIN: Okay. This concludes today's Planning and Sustainable Land Use Committee meeting. Thank you very much, everyone. The time is now 4:49, and this meeting is adjourned. . . .*(gavel)*. . .

ADJOURN: 4:49 p.m.

APPROVED:



TAMARA PALTIN, Chair
Planning and Sustainable Land Use Committee

pslu:min:210830

Transcribed by: Daniel Schoenbeck

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CERTIFICATION

I, Daniel Schoenbeck, hereby certify that pages 1 through 68 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 1st day of October 2021, in Kula, Hawai'i



Daniel Schoenbeck