

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

MINUTES

September 16, 2021

Online Only Via BlueJeans

CONVENE: 9:01 a.m.

PRESENT: Councilmember Tamara Paltin, Chair
Councilmember Kelly Takaya King, Vice-Chair (out 10:48 a.m.; in 11:25 a.m.)
Councilmember Gabe Johnson, Member (out 10:30 a.m.; in 11:25 a.m.)
Councilmember Tasha Kama, Member (out 10:30 a.m.; in 10:50 a.m.)
Councilmember Alice L. Lee, Member
Councilmember Michael J. Molina, Member (out 11:55 a.m.)
Councilmember Keani N.W. Rawlins-Fernandez, Member (out 10:50 a.m.; in 11:37 a.m.)
Councilmember Shane M. Sinenci, Member
Councilmember Yuki Lei K. Sugimura, Member

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

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
Axel Beers, Executive Assistant to Councilmember Kelly Takaya King
Ellen McKinley, Executive Assistant to Councilmember Kelly Takaya King
Sarah Pajimola, Executive Assistant to Councilmember Keani N.W. Rawlins-Fernandez

ADMIN.: Michael Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel
Michele McLean, Director, Department of Planning
Scott Forsythe, Planner, Department of Planning
Erin Wade, Chief of Planning and Development, Department of Management
Jordan Molina, Deputy Director, Department of Public Works

OTHERS: Mahina Martin
(2) additional attendees

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

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

September 16, 2021

CHAIR PALTIN: . . .*(gavel)*. . . Will the Planning and Sustainable Land Use Committee meeting of September 16th, 2021 come to order. The time is now 9:01 a.m. If everyone can please silence their cell phones or other noise-making devices, that would help our cause. My name is Tamara Paltin, and I'll be your Chair for today's meeting. With us today, we have Committee Vice-Chair Kelly King from South Maui. Osoni mint and aloha kakahiaka.

VICE-CHAIR KING: Aloha kakahiaka, and osoni mint, Chair and colleagues. I am alone. There's nobody with me in my meeting room here. And it's a very sunny day, this South Maui day.

CHAIR PALTIN: Awesome. Okay. And from the island of Lānaʻi, we have Councilmember Gabe Johnson. Osoni mint and aloha kakahiaka.

COUNCILMEMBER JOHNSON: Osoni mint, everybody. Good morning. I am home alone, and looking forward to a wonderful meeting. Thank you, Chair.

CHAIR PALTIN: Thank you. And from the neighborhood, we have Councilmember Tasha Kama. Aloha kakahiaka and osoni mint.

COUNCILMEMBER KAMA: Aloha kakahiaka to you, Chair, and osoni mint to each and every one of my colleagues. I am here in my room. I'm all by myself, and ready and willing to continue our conversations today.

CHAIR PALTIN: Awesome, I love it when people are ready and willing. From under the bridge, the virtual bridge in Makawao, we have Councilmember Mike Molina. Osoni mint, and aloha kakahiaka.

COUNCILMEMBER MOLINA: Osoni mint, and aloha kakahiaka to you, Madam Chair, and my colleagues, and everyone else joining us for another exciting PSLU meeting. I'm broadcasting live from my residence here in Makawao, and my wife is in the other room with the family pets. Aloha.

CHAIR PALTIN: Aloha. And from the island of Molokaʻi, we have Councilmember Keani Rawlins-Fernandez. Osoni mint and aloha kakahiaka.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha kakahiaka, Chair. Mai Molokaʻi nui a Hina. Osoni mint kākou. I'm here at the Molokaʻi District Office by myself.

CHAIR PALTIN: Thank you. And from the hale, we have Councilmember Shane Sinenci of Hāna. Osoni mint and aloha kakahiaka.

COUNCILMEMBER SINENCI: Hey, osoni mint, Chair. Aloha kakahiaka. Mai ka hale halawai. I am here with my EA, Dawn Lono.

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

September 16, 2021

CHAIR PALTIN: Thank you. And last but not least, we have Councilmember Sugimura from Jacaranda country. Aloha kakahiaka, and osoni mint.

COUNCILMEMBER SUGIMURA: Osoni mint. Yes, I am in Jacaranda country. I'm up in Kula today, and enjoying the...we had rain yesterday, so that was good. Let's hope it continues today. And looking forward to talking about my hometown, Wailuku. So thank you, Tamara, for putting this on the agenda.

CHAIR PALTIN: Thank you. And I am broadcasting live and direct from the West Maui County Council District Office with Angela, spaced much more than six feet apart. Chair Lee.

COUNCILMEMBER LEE: Chair? Chair?

CHAIR PALTIN: Yes.

COUNCILMEMBER LEE: I don't think you called me.

CHAIR PALTIN: Oh, sorry.

COUNCILMEMBER LEE: Yeah, this is Alice Lee, broadcasting from Wailuku in my home. Only with my...my dear pet Koa, nobody else. Osoni mint, everyone.

CHAIR PALTIN: Osoni mint. I totally skipped your name. I don't know, I figured everyone knows who you are. All right, sorry about that. Okay, from Corporation Counsel, we have Deputy Corp. Counsel Michael Hopper, mai ka Administration, we have Erin Wade, I guess, representing the Department of Management, and she's a planner with them.

MS. WADE: Good morning.

CHAIR PALTIN: And we have...good morning. From Planning, we have Director Michele McLean, and from the Public Works Department, we have Deputy Director Jordan Molina. Our Committee Staff today, we have Committee Secretary Clarita Balala, Assistant Clerk Lei Dineen, Legislative Analysts Kasie Apo Takayama and Alison Stewart, as well as our OCS Legislative Attorney Richard Mitchell. On the agenda today, we have one item, a continuation of the discussion on PSLU-24, Wailuku Redevelopment Area and Variances. This meeting...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. Let's see. Let me just check if there are any testifiers before I read that whole long testimony thing. Oh, two testifiers. Okay, here we go. 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 1-408-915-6290 and enter meeting code 149341846, also noted on today's agenda. Written testimony is encouraged, and can be sent at any time via the eComment feature at mauicounty.us/agendas. Oral testimony is limited to three minutes per agenda item. When your name is called, please unmute yourself by clicking the microphone icon, or if calling in, please press star 4 to unmute yourself. Please be

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

September 16, 2021

courteous to others by muting your microphone 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, please disconnect from the BlueJeans meeting. You are welcome to continue viewing on *Akakū* Channel 53, Facebook Live, or on mauicounty.us. Once oral testimony concludes, only Councilmembers, Staff, and designated resources will remain online, and all others will be dropped from the BlueJeans connection. A link to the list of testifiers is posted in the chat...or not. However, 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. Ms. Livit Callentine has indicated that she does not wish to testify. So the next name on the sheet is Scott F. Scott F., if you can unmute yourself, we're ready for your testimony.

. . . BEGIN PUBLIC TESTIMONY . . .

MR. FORSYTHE: Hi. Good morning. This is Scott Forsythe, and I am not online to testify. I'm with the Department of Planning.

CHAIR PALTIN: Great. Thank you for clarifying that. Next, we have Mahina Martin. Mahina, if you're there, if you can please unmute and...

MS. MARTIN: Oh, hi. Sorry, can you hear me now?

CHAIR PALTIN: Yes.

MS. MARTIN: Okay, some video things. I also put in an eComment, so I just want to just say really quickly that as a Wailuku resident, you know, I am asking that this be...no action be taken. I had a chance to kind of look through it pretty quickly, and I...I feel like it...it requires a little bit more examination. The Planning Commission had a meeting, I believe, in January. Seven people attended with some comments. It's a pretty sweeping change, and a little bit more time would be warranted. One of the questions I had was, why? And I actually am not a zoning...that's not my forte. So I really struggle with it. I think most of our community does. But there's a section in there that talks about a hotel. Although while it would meet the 20 room existing requirement, also will require a...what is it called...from the MRA? It would require a...oh, MRA use permit which, as you all know, has been a continuing issue with authority to MRA. So whatever the...whatever the intention is, I feel it deserves more vetting by the community. But thank you. Thank you, Chair.

CHAIR PALTIN: Thank you, Mahina, for testifying. Members, questions for the testifier? Seeing none. I just wanted to share with you the advice from our attorney is to move it forward because of the lawsuit. But I will be going through page by page with the Members to discuss it. The...the advice was to move it forward, as is, and introduce amendment summary forms at first reading. So we'll just see how that goes. And at

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

September 16, 2021

the time when it gets to first reading, there's still, you know, first and second readings, so hopefully we can get more community input by then. But if we don't finish going through all 99 pages, I do have this on my three-month calendar to continue on at the next meeting. So hopefully that works out for everyone.

MS. MARTIN: Is that...that a comment...question to me? Or can I respond to that?

CHAIR PALTIN: You can respond to that. It was trying to clarify a little bit what the recommendation was from the lawyers this morning that I received after 8:00.

MS. MARTIN: Okay. Well, I...I understand the lawsuit by...led by Maui Tomorrow and others. It is one that I personally support, as you all know, and I've always said we...we do not want to get back to the same circle over and over again with this. Attorneys are great. Sometimes attorneys and communities don't converge well together in timing. So I just want to kind of point that out, and be mindful going forward. I know we're all busy, a lot of issues, and the more Wailuku stakeholders are brought in, the better early on. So...appreciate that insight though. Thank you, Chair.

CHAIR PALTIN: Thank you. Any further questions for the testifier? Seeing none, thank you so much for making the time to come testify. Next up, we have a testifier listed as Jordan. Not sure if this is one of the Jordan's that works for the County or not. Jordan going once. Jordan going twice. Okay, no Jordan. All right. Is there anyone else wishing to testify at this time? Anyone on the call, you can unmute yourself and let us know. Going, going, gone. All right. Members, seeing there are no more individuals wishing to testify, without objection, I will now close oral testimony. And written testimony has been accepted, and can be sent in at any time, right. I believe we have at least two written testimonies.

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR PALTIN: Thank you.

. . . END OF PUBLIC TESTIMONY . . .

PSLU-24: WAILUKU REDEVELOPMENT AREA AND VARIANCES (CC 21-156)

CHAIR PALTIN: Members wishing to speak during today's meeting should say my name and raise their hand, so that I may recognize you. The one item on our agenda is Wailuku Redevelopment Area and Variances. The Committee is in receipt of County Communication 21-156 from the Planning Director, transmitting a proposed bill entitled, "A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE, TO ESTABLISH A NEW CHAPTER 19.39, MAUI COUNTY CODE, RELATING TO THE WAILUKU REDEVELOPMENT AREA, AND TO AMEND CHAPTER 19.52 [sic], MAUI COUNTY CODE, RELATING TO VARIANCES IN THE WAILUKU REDEVELOPMENT AREA." The purpose of the proposed bill is to reduce regulatory barriers to business

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

September 16, 2021

creation and investment within the Wailuku Redevelopment Area by providing flexible zoning, building, public works, and fire code standards, and by encouraging mixed-use development, including for residential, retail, office, entertainment, hotel, specialty restaurants, outdoor dining, street vendors, and other similar uses. The Committee may consider whether to recommend passage of the proposed bill on first reading, with or without further revisions. The Committee may also consider the filing of County Communication 21-156 and other related action. So as I mentioned to the one testifier we had, the recommendation from our attorney is to pass the bill through Committee once we complete our review of the 99-page bill. But the advice is to pass it out as is, and take the time to draft the ASFs that we can discuss today. And...oh, no marriage license here. Anyway, so...so we can go over proposed ASFs, and then we can take the time and draft them, and amend at first reading. Does anyone have any questions as to that course of action? Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: So the plan is to take up Committee work on the Council floor regarding this because of the Charter-mandated clock?

CHAIR PALTIN: I don't think it's because of the Charter-mandated clock.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, so it's...it's because of the...the lawsuit?

CHAIR PALTIN: I believe so. I can have our attorney explain it better than I can.

COUNCILMEMBER LEE: Yeah.

CHAIR PALTIN: If you'd like.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR PALTIN: Attorney Mitchell, can you answer Member Rawlins-Fernandez's question?

MR. MITCHELL: Good morning, Chair Paltin. Is my camera on?

CHAIR PALTIN: Yes, it is, and we can hear you.

MR. MITCHELL: Yeah. The reason I recommend its moving forward was in large part because Corporation Counsel has asked that we take action for strategic reasons. They believe this will help with the lawsuits. And so if we wish to go into the details of those reasons, I would defer it to them to...to respond on that topic. So it is unusual that we would plan to take Committee action, or to do Committee work during the Council meeting, but we have a number of last-minute proposals for changes that we saw, I guess, last night, and maybe some coming up today. And if those consume quite a bit of time, I guess the concern is it might affect the trajectory of the case. So taking action now doesn't prevent the ability to make changes through ASF at first reading at Council.

CHAIR PALTIN: Questions on the response? Follow up, Member Rawlins-Fernandez?

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

September 16, 2021

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. So can we hear from Corporation Counsel, as Mr. Mitchell recommended?

CHAIR PALTIN: I don't see why not. Deputy...or Corporation...Deputy Corporation Counsel Mr. Hopper? Any comment --

MR. HOPPER: Thank you, Chair.

CHAIR PALTIN: -- to the last exchange?

MR. HOPPER: Yes. Thank you, Chair. No, I don't. It sounds like the advice is based on an effort to try to get the...to not consume excessive time in the review. I...I think that if you want to consider amendments, you...you can, just like any other bill. With the issue that I had raised previously was, you were looking at changing a building height, which I thought that the public notice that went out for this item didn't really cover that potential change. Now, as far as doing amendments to this...to this bill, I don't see anything legally that would prevent you from doing that. It sounds like Mr. Mitchell, and I think we would be in agreement, would be that based on our...our litigation counsel's advice, that if this could move on to...to Council, that would assist in...in the lawsuit, which is seeking to sort of...to...to make these determinations without the Council making its decision. So I think that if you want to...to make amendments, and there are certain ones I think you could, and certain ones, like the height change...the substantive height change that I...I did have an issue with when it was brought up at the Planning Commission, because I didn't believe the public notice on that item was...was really giving property owners notice that their...their building heights could be...could be changed. So I...I don't have an issue with...with amendments...with the idea of amendments at this meeting, you know, to be done here, but I...I would say the recommendation from our litigation counsel is to move the bill on as it...as it generally...generally adopts what's in the current Code, with a few changes like the MRA...or MRA no longer hearing variances and things like that. So I...I think you can...you can do amendments if you like. I don't think there's anything legal that...that would prevent you from doing that. But I...I...it sounds like the...the discussion from OCS was along the lines of not...in effect, it's to try not to have it delayed again, because that...if...if you're comfortable with the...the content of the...of the ordinance, because that could...could potentially adversely affect the lawsuit.

CHAIR PALTIN: Okay, so your advice was not to...not to pass it out, as is, specifically.

MR. HOPPER: Oh, no, I...I have no problem...I think...I think you could consider certain amendments. I mean, I think that...that some are within your purview. But right now, I think what the bill does is take what's currently being enforced in the Wailuku Redevelopment Area, which are already being enforced, with a couple exceptions, the most important being that the BVA now hears variances, not the MRA anymore. Which is, I think, one of the...one of the claims in the lawsuit was that the MRA shouldn't be hearing them, it should be the BVA hearing them. And the MRA unanimously voted to...to make that change, Planning Commission voted to make that change, and that's before you now. I think that's the most significant one. The other ones are, you know,

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

September 16, 2021

to keep what's currently in the Zoning and Development Code, which if you were a property owner in Wailuku Town, that's...that's...those are the standards that would be applied to you now. So I think there...there could be some amendments you...you...you could make. I haven't seen any of the summary forms. And...and again, there was some discussion at the Planning Commission of...of lowering the maximum height, and I did raise concerns with that because this went out to a Public Hearing Notice. It was reviewed by the Commission and, you know, changing the building heights for existing property owners was, I...I thought was a bit different than what was in the...what was in...in the notice form, and had advised that to do that, it would be...you know, after adoption, you could certainly do bills that would make any...any number of substantive changes to...to that, once it's in the Code. So I...I think that was the discussion there.

CHAIR PALTIN: Okay. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I have two follow-up questions, and then I'll...I'll yield the floor, because I...I saw other hands with questions. My...my first question is in response to what Mr. Hopper mentioned about, you know, like, substantial amendments and going back. So I...I guess I...what...what I'm hearing, is that we would...we would like to expedite it so that we can circumvent this lawsuit that we've been...the County has been accused of wrongdoing. And if we make substantial amendments to the bill before us, then it would need to go back to the Planning Commission, which would take time, which would not be expeditious and therefore not serve the purpose of circumventing this lawsuit so that we can change the law, clearing us of what the petitioners are claiming, that we have not followed the law. And that's why we would be changing the law, because we didn't follow the law. And then the second question I have is regarding the pleadings. So in the court briefs, what are the...the claims for relief? I...I don't think they're suing us for...for damages, for money, I think they just want us to do the right thing. So if you could answer those two questions, and then I'll yield the floor. Mahalo, Chair.

CHAIR PALTIN: Mr. Hopper?

MR. HOPPER: I'll try to answer both of those. The first question, I think I'm in general agreement. I...I wouldn't necessarily use the word circumvent the lawsuit. I think it actually would resolve, you know, the lawsuit by...by doing...if...basically, if the Council believes that the zoning standards for Wailuku Town should be in the County Code, rather than in Administrative rules adopted by the MRA, then this would do that. And I think similarly, that's what the plaintiffs have claimed, is that the zoning standards for Wailuku Town should be in the County Code, and not in the...not in...in the Administrative rules. And so I think you, as the Council, would certainly have the purview to adopt those standards in the County Code, rather than the...rather than in the Administrative rules, if that's what...what you want as...as the Council. And I think with the...with the rest of what you said, I think is essentially correct. The...the other...the other question was...what was the other? I'm sorry, what was the other...the second...the second question? I had it, and I just...

COUNCILMEMBER RAWLINS-FERNANDEZ: Regarding claims for relief.

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

September 16, 2021

MR. HOPPER: Yes. I...I have not been as directly...I'm not Litigation Counsel, and I know Ms. Kawasaki is...is...has been in communication with the Committee. I...I don't want to fully speak for them, but I...I do believe they're...they're seeking relief, basically saying that the...among other things, that the MRA does not have the authority to hear variances that would...that would allow, you know, essentially that. And of course, one thing that the...the law would do, if passed, this law, would be that the variances for properties in Wailuku Town would be heard by the Board of Variances and Appeals, which is where, you know, generally other...other properties, if they wanted a variance, that's where they would go. They wouldn't go to the MRA, they'd go to the Board of Variances and Appeals. And so that's one of the things that the...probably the most significant new thing that this proposed ordinance would do.

COUNCILMEMBER RAWLINS-FERNANDEZ: Right. So not damages, they're not...the petitioners or plaintiffs aren't seeking damages?

MR. HOPPER: Well, I...I'll double...I'll double check the complaint. I don't want to necessarily say it...say that offhand. But I...I can double check the complaint and see. In...in either case, even if there was no lawsuit, I would say if the Council wants to have these zoning standards as part of the County Code, rather than as Administrative Rules, I think it's something the Council could decide to do. And so even if there was no lawsuit, I think this would be something that the Council, you know, would...would potentially want...want to consider as far as bringing the rest of...if...if it would like, bringing the Wailuku Town in line with sort of the rest of...how the rest of Title 19 is administered.

COUNCILMEMBER RAWLINS-FERNANDEZ: I have follow ups, but I'll...I'll yield the floor. Mahalo, Chair.

CHAIR PALTIN: Okay, I did see Mr. Mitchell pop up. Did he have something to add to the last two questions?

MR. MITCHELL: Thank you, Chair. I was just going to supplement what Mr. Hopper was discussing, and respond directly to Member Rawlins-Fernandez's question. The plaintiffs are requesting a restraining order as relief, preliminary injunction, and attorneys' fees. No, there is not a request for damages.

CHAIR PALTIN: Thank you --

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo.

CHAIR PALTIN: -- Mr. Mitchell. Okay, who was next? Was it Committee Vice-Chair King?

VICE-CHAIR KING: Thank you, Chair. Yeah, those are good questions, and some of them were mine, but I have one follow-up question to, I think, Mr. Hopper. So regarding having to go back to the Planning Commission, you know, my understanding is that the...the...going to...changing the rule to the Board...Boards and Variances [sic], or the Board of Variances for approval was part of it. But also, the bill had originally sought

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

September 16, 2021

to make the...the...the guidance for variances for MRA different than...than for other projects. It seemed like it was asking for more leniency for the MRA variances. So if we do...and I don't think that's what Maui Tomorrow wants. So if we take that piece out, and we just shift it over to the Board of Variances and Appeals, without the additional language of allowing them more leniency, does that need to go back to the Planning Commissions as a substantive change?

MR. HOPPER: Thank you, Chair. I...I don't think that would, because that...that criteria was something the Planning Commission did...did review, and they could have recommended to delete that. I would advise talking with maybe Planning Department, because we did have...I...I had...I had drafted this, and...and I think what...what was kept...brought forward was the MRA variances had that...had that third...I think it was sort of a third prong. I can get you the citation that talked about, I think you had said, additional leniency. It's sort of like that. It basically says as part of the criteria, the project will further the elimination of slum and blight, and forward the vision, principles, and objectives of this Wailuku Redevelopment Plan. You know, that was the extra language that was carried forward from the MRA Zoning and Development Code to that...to these...to the...to the BVA rules here, or the BVA Code section here. And if you...you wanted to delete that, and...and I...I don't think that that would have to go back to the Commission, because that is something the Commission reviewed and could fully consider.

VICE-CHAIR KING: Okay. All right. Thank you, Chair.

CHAIR PALTIN: Okay. Chair Lee?

COUNCILMEMBER LEE: Mike, who's the attorney for Maui Tomorrow?

MR. HOPPER: I believe Lance Collins represents them.

COUNCILMEMBER LEE: The Chair of the Charter Commission?

MR. HOPPER: Yes.

COUNCILMEMBER LEE: Thank you.

CHAIR PALTIN: Okay, any further questions? Member Rawlins-Fernandez, followed by Member Sugimura.

COUNCILMEMBER RAWLINS-FERNANDEZ: I'll...I'll yield to the Members who haven't asked questions. Mahalo, Chair.

CHAIR PALTIN: Okay. Member Sugimura? You're muted.

COUNCILMEMBER SUGIMURA: One of the things that...yeah, one of the things that was provided by the Department are the minute...were the minutes from the Planning Commission meeting, and I did read that. And I wondered if Mr. Hopper would explain

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

September 16, 2021

to us the significance of why we got here. And I think he even...he even submitted for us the resolution that adopted the Wailuku Redevelopment Plan and HRS 53, kind of the history, which I thought was really important as to why we're here --

COUNCILMEMBER LEE: *(audio interference)*

COUNCILMEMBER SUGIMURA: -- and how we can move forward in the powers of the Council.

CHAIR PALTIN: Oh, Chair Lee....oh, thank you. Okay, Mr. Hopper?

MR. HOPPER: I...I'm going to try to be as brief as possible, because there's a very lengthy history with this. I...I...and I wasn't here for...for all of that, but I...I did get the documents. And I think one of the more significant documents was...I...I did provide to the Committee. And it was...it's...there was a...by resolution in 2000, the County Council adopted something called the Wailuku Redevelopment Plan, and that plan was adopted pursuant to HRS 53 as a redevelopment plan. And within that plan, there were several...there were a...a variety of actions. It wasn't the first redevelopment plan. Erin Wade may be able to give you even more history than me, because she's worked very directly with that. But to give you, hopefully, the short version, there were...there were provisions of that plan that basically stated that the MRA should...the Maui Redevelopment Agency should adopt a Small Town Development Code that was more lenient, and...and would give some relief to property owners in Wailuku from regular Code standards, because...because those Code standards were often difficult to work with in Wailuku Town because there were so many, you know, substandard older buildings, and it made it hard for property owners to...to develop their property. And that was an item for the MRA specifically to do. So the MRA went and adopted a Zoning and Development Code a couple of years later. The...and so that...that...there's the history there. Now...now...right now, there's a legal challenge to the authority of the MRA to continue to administer zoning standards, which is why the...the ordinance before you would take those standards, which are...which are the current standards applied, and...and...and in most cases, the same standards as the Zoning and Development Code, which again, were adopted, I think, to be more lenient than regular County Code standards. Those are...those are proposed to be adopted by the County Council and the...and be under the Council's purview. So rather than being Administrative Rules, where the MRA would have the authority to change them and amend them, it would be part of the County Code, so the County Council would have the authority to change and amend them, and administer them. And the BVA would have the authority to grant variances from them, rather than the MRA. And so that's what the...the proposal is. But that's some of the background. And you...you may frankly know more than I...than I would about that...that particular history, but I was...I pieced that together by reading those documents and provided to...to you, you know, for your background information.

COUNCILMEMBER SUGIMURA: Thank you, Mr. Hopper. And I...and I thought that by reading the minutes, that one of the significant reasons I think that we're in this lawsuit is because the actions that were taken with that resolution--and thank you for providing it to us, Mr. Hopper--is that the Council gave...if I get this correct, the Council gave the

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

September 16, 2021

authority to the MRA to develop, through Administrative Rules, the Small Town Development Code. And so the action before us today is to take what the...adopt the...the rules of the MRA, which was Administrative...Administrative Rules, which are being guided by this through the MRA, and moving this to Title 19. So it becomes Maui County Code Title 19, codifies it, as well as to allow the BVA then to become the...to grant variances versus MRA; is that correct?

MR. HOPPER: Yes.

COUNCILMEMBER SUGIMURA: Okay. So that's the two actions that is before us today, and...and...and that's the history. I thought the history was important, because I didn't realize that that resolution that you provided to us was that significant, because it created the authority for MRA to take action versus the Council, which is the rest of the...what the rest of the...you know, usually what happens through BVA. So thank you for that. And I guess I'll listen to Keani, but thank you for explaining that to me.

CHAIR PALTIN: I had a clarification question on Member Sugimura's question. This action that we're taking, could we have taken it right after they came up with the small...small code thing that Ms. Sugimura talked about, rather than now, like, however many years later? Like, we're kind of late on the pickup, and is that kind of part of the reason why we're getting sued? We should have...as soon as they came up with that Code, we probably should have adopted it by ordinance or whatever, because that's the only way that zoning can be changed, is by ordinance. So we're just really, really behind, basically. Is that in a nutshell?

MR. HOPPER: Well, I...I don't know if I would say that, because at...at the time, the MRA, and I think Council, fully believed that the MRA has the authority to continue to adopt zoning standards and grant variances from them...and in fact, has done that for a substantial amount of time. That's called...being called into question right now, and I think the...you know, part of the approach is, if the Council...because it was the Council that adopted that plan under HRS 53, and said, MRA, you can adopt this...this Code. If the Council is not satisfied with that, and the Council wants that in the Code instead, I think it has the authority to do that. I wouldn't necessarily say that without adoption by Council, then the MRA's actions in the Code are...are illegal or...or anything like that, or...or have not been. So, you know, I mean, because in the lawsuit, we...we are...we don't agree with the plaintiffs, but I...I think that this is...this action would resolve that by saying even if we disagree on that, the Council...the Council has purview over this, and can decide if it wants to have that...if it wants to have that as part of the Code and administer it.

CHAIR PALTIN: Okay. Thank you. Member Molina.

COUNCILMEMBER MOLINA: Yeah. Thank you, Madam Chair. The discussion we're having, you know, we're referencing the lawsuit. I mean, maybe Mr. Hopper can tell us at what point should we maybe kind of stop this conversation in open session about the lawsuit, and maybe consider Executive Session? I guess it may have to depend on our questions because I know, Chair, you're...you're looking at deleting the Section D...Subsection D,

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

September 16, 2021

and you know, one of my questions was what...you know, any legal concerns with that? And so I'm just kind of...sorry, I'm just getting a little uneasy, you know, talking about the lawsuit in open session and, you know, what the Council or County is...could be on the hook for, and yadda, yadda, yadda. So can I get some thoughts from Mr. Hopper as far as how the parameters for continuing this conversation in open session? Because we have a lawsuit, yeah? Mr. Hopper?

CHAIR PALTIN: Sure thing. Mr. Hopper.

MR. HOPPER: Thank you, Chair. Now, I...I think those are...those are good points. I think everything I've said about the lawsuit right now is...is sort of...is publicly available. If you want to get into the merits of the lawsuit, I...I...that's something that I think I would want to discuss in Executive Session, and probably with litigation counsel as well. So if there's questions that I believe need to go to Executive Session or need to be answered by litigation counsel, I...I would flag that. As far as deleting Subsection D, at least the portion that deals with the broader authority of the BVA to grant variances, I...I would not believe that would have any implications for the lawsuit in particular. I...I would imagine the plaintiffs would probably be happy to see that go. But the...the problem with...the other issue is that you may want to listen to the Planning Department and Erin Wade on that, because I think that that was something that was seen as important for properties in Wailuku, to have more flexibility with...with variances, because of how difficult it is to develop in Wailuku. I believe that's why that was retained. So as far as deleting that, I think that's a policy issue. I don't think that's necessarily a...a...an issue dealing directly with the lawsuit. I think in...in general, I think what changes you want to make, like...like that, I think those are policy issues, rather than lawsuit issues, at least with that one.

COUNCILMEMBER MOLINA: Okay. Thank you, Mr. Hopper. And as far as any updates on the lawsuit, is that something we may need to go into Executive Session for, or can you disclose any information about that openly?

MR. HOPPER: I mean, I don't think there's any particular updates, other than I think from litigation counsel, they have said the faster this...this moves on, the more likely it is to resolve the lawsuit. If...if there's not forward movement, the concern is that a court could make a decision...I mean, the court could decide to dismiss the lawsuit, the court could decide to grant relief, you know, and...and basically...I mean, honestly, if relief is granted, I think that something like this is likely to happen anyway, that...that these standards would have to be adopted as part of the County Code. It's just the County would be, you know, forced to do it by a court order, rather than doing it through...through this process. So there's...there's a variety of potential outcomes of...of the lawsuit. But you know, rather than deal with that, I think the thought was, if we control that ourselves, then you could...you could consider whether you want to adopt this. And I think that would resolve those...those claims in the lawsuit, because the...the claims that were made would no longer be applicable if this is part of the Code, and the BVA hears variances, rather than the MRA.

COUNCILMEMBER MOLINA: Yeah, okay. All right. Thank you very much, Mr. Hopper. Thank

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

September 16, 2021

you, Madam Chair.

CHAIR PALTIN: Thank you, Member Molina. And just to clarify, I have different amendments to propose than eliminating that D. I did correspond with Ms. Martin on some of her preferences, but at the appropriate time, we can discuss that. Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair, and mahalo for this discussion. I just had a clarification. You know, we were talking about Subsection D under 2, but it looks like Item 2, there's...is this the entire...before us today is entire number 2 under C? Subset...in Section 19.520.050, Variance Procedure and Standards. So is it the entire 2 that is before us, then A, B, C?

CHAIR PALTIN: The entire, like, I think 99 pages of the bill is before --

COUNCILMEMBER SINENCI: Oh, okay.

CHAIR PALTIN: -- us today. It's 19.39, as well as 19.52.

COUNCILMEMBER SINENCI: Okay. All right. Thank you. Thank you, Chair.

CHAIR PALTIN: Sure. Any further questions, first round? Seeing none...oh, second round we'll go Rawlins-Fernandez, then Chair Lee.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I'll yield to Chair Lee.

CHAIR PALTIN: Okay, Chair Lee.

COUNCILMEMBER LEE: I was just going to ask if Erin was going to give us a summary.

CHAIR PALTIN: Would you like Erin to give us a summary?

COUNCILMEMBER LEE: Well, I...I feel like we're kind of jumping from one item to another item, rather...wouldn't it be better that we just go in order? Like, if we have five things to consider, let's go one, two, three, four, five?

CHAIR PALTIN: Yeah, yeah. Once we start our review of the bill, we're definitely going in order page by page.

COUNCILMEMBER LEE: Oh, okay.

CHAIR PALTIN: But this is just to get understanding of the situation as a whole before we start to review the bill.

COUNCILMEMBER LEE: Okay.

CHAIR PALTIN: Because there were different proposals as to how to move forward, so we're...we're just getting everybody's questions answered before we start reviewing the

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

September 16, 2021

bill itself.

COUNCILMEMBER LEE: Thank you.

CHAIR PALTIN: And then once we start bill review, we'll go in order. Okay, second round questions. Rawlins-Fernandez, then Sugimura.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Okay, question for Mr. Hopper. Just clarification on some of the responses. Okay. So previously, you mentioned that Council gave MRA authority to change the zoning, and that was never an authority that the...that the Council could give the MRA pursuant to the Charter. And so I...I guess I don't understand when you say that now we...we trying to make that amendment and give them that authority.

CHAIR PALTIN: Mr. Hopper.

MR. HOPPER: I...I...I didn't quite...I didn't quite catch the last part. Make what...make the amendment to the Code now?

COUNCILMEMBER RAWLINS-FERNANDEZ: Right, this...

MR. HOPPER: Yeah, the...I mean, this is...this is a Code amendment to put in the County Code...right now, if you would go in the County Code, you wouldn't find any zoning standards for Wailuku Town, they'd be in the Zoning and Development Code. These would adopt the zoning standards as part of Title 19, and make...make zoning standards part of the Code to...to make clear that those are the standards that apply. And they would be in Title 19, like the rest of...of the zoning. That's...that's what this would do.

COUNCILMEMBER RAWLINS-FERNANDEZ: But the Code...but the Charter trumps the Code. Code is supposed to be consistent with the Charter, not conflict, and it seems that this would be conflicting with the Charter.

MR. HOPPER: Well, what...what aspect would the particular Code conflict with the Charter on? I'm...I'm unclear on that.

COUNCILMEMBER RAWLINS-FERNANDEZ: Giving the *(audio interference)* of zoning change.

CHAIR PALTIN: Zoning change should be made by ordinance, and only the Council can pass ordinance.

MR. HOPPER: Oh, you're talking about the...the...you're talking about in 2000, the adoption of the Wailuku Redevelopment Plan being inconsistent with the Charter? Or you're talking about this current ordinance having a problem with the Charter? Because --

CHAIR PALTIN: That was in --

COUNCILMEMBER RAWLINS-FERNANDEZ: The current bill. Well, and the previous. So

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

September 16, 2021

you're saying that previously, the Council...and the advice, the legal advice that the Council probably received was erroneous in thinking that they were able to give that zoning change authority to the MRA under the Charter, when that was not correct.

MR. HOPPER: I...I'm not willing to say that was erroneous. This goes directly to the lawsuit. And so if we want to get into the details of...of this argument, I do think that's something that should be done in Executive Session. As of now, this bill...I don't know of any reason why this bill would have a Charter...a conflict with the Charter, this establishes zoning as part of the County Code, and gives zoning authority to the Council. There are...there are areas where the MRA decides certain permits, which again, since the Council is...is...just like it would do with the Planning Commission, saying in this case, you decide a permit in this situation, under this criteria, I think that that's allowed. But I...I don't know of any reason why this current bill would be in conflict with the Charter. So I...I...I don't believe it is, and I think that this is a bill that you could...could pass, if you were satisfied with the content.

COUNCILMEMBER RAWLINS-FERNANDEZ: So this bill would take MRA zoning permit decisions away from the Maui Planning Commission and the Council, which conflicts with the Charter.

MR. HOPPER: I would say in certain cases, the MRA can decide use permits, which it currently does now. I don't know of any reason why the Charter would...would prohibit that. The...the Council is making that decision. The Council is saying, this body...we would like this body that we created to make this decision, and I think the Council can do that in...in the Code. And I don't see a problem with the Council doing that. If...if you don't want the MRA to...to hear those, I suppose that's something you can consider, but I don't think it's a Charter conflict to...to have them as a permitting...or to...to make a decision on a permit if, in the Code, you put that in there, and say they make a decision based on that criteria.

COUNCILMEMBER RAWLINS-FERNANDEZ: So I...I guess, you know, that goes to the...the rush of this bill, and it...just like with 201H projects, you know, I...I really don't like feeling like we're against the clock. And so this lawsuit is...is forcing us to rush something, rush a bill when, you know, perhaps the most prudent thing to do would be to...to kind of take a step back and really examine whether that...that the MRA has achieved what it set out to do 50, 60 years ago. And if we're truly getting the return on investment...and not just financial-wise, but in purpose of everyone's...everyone's time and energy for...for 68 acres. And I...I...I don't...I don't like feeling rushed, I think it's...it's a bad precedent for us to, you know, rush the passage of a bill, to not fully address the concerns that the lawsuit brings up...that this lawsuit brings up. And so...and as we heard in testimony, the community hasn't even been able to fully look through this bill so that they can provide informed feedback for the Council to consider before making this decision and making this lawsuit go away. And so I...I...I would be against passing this out of Committee. I...I understand the rush that we're hearing from Corporation Counsel, but I just...I just don't think that it's good...good policy for us. Mahalo, Chair.

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

September 16, 2021

CHAIR PALTIN: Thank you. Member Sugimura?

COUNCILMEMBER SUGIMURA: Thank you very much. So I wonder, you know, also if Mr. Hopper could speak about HRS 53, which is the State Urban Renewal Law, which created the MRA. And I think that's another part of the history, which is the beginning part, that created...that allowed the MRA to kind of have the actions or the authority that it does. So Mr. Hopper, could you explain to us HRS 53, which we...we know State always preempts us, and it created this State Urban Renewal Law, which allows the counties to create the agency, the Maui Redevelopment Agency, from what I read, and then to...to take action, as it was described with that resolution, which was adopted in 2000, the Wailuku Redevelopment Area Plan, or Wailuku Redevelopment Plan that the Council adopted, and gave the MRA the ability to develop the Administrative Rules, which is what it was operated by. But I wonder if Mr. Hopper could explain to the Council, and the years if you got it, that it was enacted, HRS 53, before the 2000 Wailuku Redevelopment Plan.

CHAIR PALTIN: Mr. Hopper, can you give a brief summary of HRS 53?

MR. HOPPER: That's a bit beyond my purview. I...I haven't looked at that for a while. It...it was...it was an urban renewal law. It gave broad powers and authority to redevelopment agencies that could be created. Redevelopment agencies could own property, they could develop property, they could, you know, find ways to finance that development. And they...they were given pretty broad authority, which is part of the basis for why the MRA was able to adopt a Small Town Development Code that provided regulation for the Wailuku Redevelopment Area. Again, none of this...none of that background particularly...here...here, if you don't want the MRA to continue to make these decisions in the permits, I...I think that you can take them out of there if you like. I don't have...I mean, that's up to the Council who makes those decisions, whether it's the MRA, or you want to make the Planning Commission do it. I think that's up to the Council too. I...I think that's fine. But that was the background under the...the Urban Renewal Law. That...that's part of that background. Again, there's a lot of detail, and based on the lawsuit, a lot of debate as to whether, you know, those actions were proper or should continue. But that was...that was the background.

COUNCILMEMBER SUGIMURA: Okay. Thank you very much.

CHAIR PALTIN: Thank you, Mr. Hopper. Okay, shall we begin our review of the bill? Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. So two things. One, we are going to be making amendments today?

CHAIR PALTIN: It sounds like Corp. Counsel is okay with that. Mr. Mitchell, is that what you heard, and you're okay with it, hearing that Corp. Counsel is okay with us making amendments today?

MR. MITCHELL: Well, if Mr. Hopper is still on the line, I would...I would confirm with him, but

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

September 16, 2021

I would remind the Committee Members that I do believe Corporation Counsel has asked us to move this along. So we're hearing urgency on the one hand from Corporation Counsel, and...and then not as much urgency on the other hand from Mr. Hopper. So I think it's...instead of me answering that question, it would be preferable if Mr. Hopper addressed that question.

CHAIR PALTIN: Okay, Mr. Hopper?

MR. HOPPER: As...as your attorney, I have to advise that you...you are not legally prohibited from making amendments. I believe that that's true. That's what I'd advise. I...I am also saying, though, that...that our litigation counsel and our advice is to move this along as...as expeditiously as possible because of the lawsuit. I think that's also advice that we have to give based on, you know, dealing with the lawsuit. So I think both of those are...are true. I can't say, oh, you have no authority to make any amendments, because I believe that you do have authority to make amendments to this. However, I would advise to move this on as expeditiously as possible.

CHAIR PALTIN: Okay. Thank you. So I guess, you know, expeditiously doesn't mean recklessly, and if we have amendments to propose, we might as well do it in the Committee if Mr. Hopper is okay with that. Does that answer your question?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. It does. The second thing is what I mentioned earlier, and then Member Sugimura dovetailed off it a bit, which is the...the State statute. And I...I think as a Council, you know, instead of just like staying in the weeds of this, it would be better for us to...to really, again, look at this broad picture, and not just, you know, slap Band-Aids on these things. And see if HRS 53, the purpose of it, was really achieved through the MRA. Because if it...if it hasn't, then perhaps instead of, you know, continuing to, you know, do patchwork on...you know, on the sinking ship that, you know, we be responsible and look at this holistically to see if perhaps another system would serve the area better. Because I'm...I'm not convinced that...that the legislative purpose of HRS 53 was achieved through the MRA. And I...I don't see a...a difference in what the other commissions can do, so...you know, instead of having this special commission. And so I...I just...I...I don't know if all the Members are on board with, you know, doing this work because they believe in passing this bill. If the majority of the Members, like, want to pass this bill out, I do have amendments. But I just...I...I think, again, it would just be more prudent of this Council to, you know, take a step back and not feel that pressure that is being placed on us right now to rush this along to remove culpability. Mahalo, Chair.

CHAIR PALTIN: Thank you. So what is before us right now is the bill. If somebody wanted to put a PAF to address the bigger picture, I think they're welcome to. And I don't feel pressure to move this along, I just feel...feel pressure to address it. You know, it's been one month since the first time we brought it up, so I'm not, like, hurrying it. I did say that we have the next Outlook calendar agenda also agendized for this item. And we're going to go through it page by page. So, I mean, I don't know how much more cautious we can be about it. I...you know, it was referred to us like 100 days ago, and...and I think a little bit is, you know, just...I mean, myself included, procrastination. Like, you

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

September 16, 2021

know, if...if any...the first time we heard the Wailuku Redevelopment Area, I reached out to a lot of folks that were, you know, against the hotel and like that, and the only one that showed up was Mahina Martin. And not saying that putting the blame on them or anything, but we can't force people to learn about or participate in this. It's kind of really complex. Like we've been doing this...or I've been doing this for like three years now, and still don't understand everything to do with zoning and planning, and like that. So I don't blame the folks for not coming forward and participating in the process because it's tricky and complex. But I...I don't think that giving it another month or two months is going to spur more participation, or...I mean, because if it were, then after the first time, a month ago, when I requested participation, there would be more participation. So I mean, I don't think time and the rush is what's preventing people from participating. I don't know if it's...you know, everybody's really busy with COVID and things like that, but we've got to start doing it. You know, I mean, if we...if we're going to file it, we're going to file it. If we're going to pass it, we're going to pass it. But we got to start doing the work. I mean, if you have amendments to make, let's start the work. Member Sugimura.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair, and I just wanted to be clear that I...I wasn't accusing you of rushing it, and...and not getting enough testimony, just what...what I was saying is that it's...it's not about this bill, it's about taking an overall, you know, broad look at what it is that we're doing. And then perhaps the community would be able to follow along if they understood the broad, you know, bird's-eye view picture, and not just...this...the...this bill is like in the weeds. And so yeah, it...it is more complex when we're talking about zoning and different kind of powers that different entities have. So mahalo, Chair.

CHAIR PALTIN: And...and like I said, you know, nothing's preventing any Member from addressing it from a macro standpoint. We can introduce bills or...or whatever, you know, to try and do that. Member Sugimura, did you have your hand up?

COUNCILMEMBER SUGIMURA: Yeah, I did. So thank you very much for what you just shared, and Keani's feelings also about this. And...and I wondered if you could ask maybe Erin Wade, right, because she's been kind of the...at the forefront of moving the MRA forward, and she's a planner, and she understands zoning, and she understands what the MRA has done in terms of community outreach. And I wonder if she has any input that can ease us, or...or this discussion, to know that community outreach was done, and this has been...I mean, this document has been around for a while, you are correct. So I wondered if she could, you know, shed some light on it, if you would allow.

CHAIR PALTIN: Ms. Wade, do you have a quick, brief comment as to Member Sugimura's question?

MS. WADE: Thank you, Chair. Good morning. Thank you. I've been listening to the dialogue, and am in agreement with Mr. Hopper about just the content of the changes. There's not a lot of substantive content that was changed in the ordinance, just because this was a procedural recommendation. I also agree with Councilmember Rawlins-Fernandez, that I think the...some community sentiment has changed around

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

September 16, 2021

what is permissible in the Code, and how to move forward in the redevelopment area. And I do think that warrants a larger conversation. But procedurally, you know, we're kind of...it...the way and the moment that we're in, kind of requires this one step, two step, because, you know, the...there is an importance to be able to direct people to understand, if I want to apply to renovate my building, to repair something, who am I applying to and where am I getting those permits from. And by kind of keeping this on hold, that...there's some question about who are...who's responsible. So the sooner that that can get resolved the better, both for preservation of historic buildings and for new investment. And then I think moving forward, it's absolutely true that a conversation is needed about what is desirable in the redevelopment area, who and how should building happen, and what does the quality of that building look like? It's time. It's time to have that conversation. But procedurally, it's...there's...there's a huge question mark. So folks that need to make urgent repairs are kind of going to be in limbo as long as we leave this procedurally unanswered. So that...that's my perspective.

CHAIR PALTIN: Thank you, Ms. Wade, especially for keeping it brief. Member Kama.

COUNCILMEMBER KAMA: Thank you, Chair. I just wanted to say that in listening to all the conversations this morning, I have certainly learned so much in my absence, but more so that I am ready right now to support you in moving forward, and going page by page if we have to, to get into a deeper dive as to how we move forward. So thank you, Chair.

CHAIR PALTIN: Thank you Member Kama, I appreciate your support. Okay, so I'm on the transmittal from the Mayor dated March 2nd, 2021, approved for a transmittal March 3rd, 2021. Subject: "BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE RELATING TO THE WAILUKU REDEVELOPMENT AREA." And if you can scroll down to Chapter 19.39, Wailuku Redevelopment Area. And so we'll start out with 19.39.010, which goes to purpose and intent. Any proposal for amendments for 19.39.010 Purpose and Intent? No proposal? Everyone's good with 19.39.010?

COUNCILMEMBER RAWLINS-FERNANDEZ: Sorry, Chair, I'm just trying to catch up.

CHAIR PALTIN: Okay. One amendment that I think we discussed previously was 19.39.010D, striking boutique hotel. If anyone would care to propose that?

VICE-CHAIR KING: Chair, which...which...we're looking at a letter from the Mayor? I don't see that on Granicus.

CHAIR PALTIN: Staff, do you know which number this was on Granicus? Was it the first one?

MS. STEWART: Chair, yes. It's the first County Communication 21-156.

CHAIR PALTIN: Thank you, Ms. Stewart. It's the first County Communication, and then I guess, scroll down to the actual bill. Do you have it, Member King?

VICE-CHAIR KING: Try...it's downloading. It's very long.

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

September 16, 2021

CHAIR PALTIN: Oh, okay. All right.

VICE-CHAIR KING: But I did find the number 1. I was looking for a letter from the Mayor, but it was not described that way in Granicus.

CHAIR PALTIN: Sorry about that, my bad. Okay, Member Sugimura, did you have a question... your hand up?

COUNCILMEMBER SUGIMURA: Yeah. I think in line with your...your question. In the document, it's on page 2, where you're talking about 19.39.010, Purpose and Intent, and alphabet D. I think some of the questions is just a definition of what is a boutique hotel.

CHAIR PALTIN: Yeah, that was my question in the first round when we came to it, and there was no definition, and then there was some pretty strong community feedback on that proposal made by folks. And so I was thinking we just strike it from the Purpose and Intent, that the purpose of this Wailuku Redevelopment Area has boutique intent...boutique hotel in the Purpose and Intent section.

COUNCILMEMBER SUGIMURA: I wonder what difference that would make. So what if you had a...I mean, I understand that a lot of this was because of the proposed hotel, that the discussion from Mahina Martin that we heard today and others came up, and it even brought light to that lawsuit. So what if a hotel wants to come up? We take this...okay, let's say we do what you're proposing, boutique hotel is eliminated. And if there is an organization that wants to put a hotel in Wailuku Town, how would that happen? Or could that happen?

CHAIR PALTIN: I'm not sure, but the last time we discussed this in Committee, I thought the Planning Department and everyone was okay with striking that. So it's within our purview to strike.

COUNCILMEMBER SUGIMURA: Okay. I mean, would that...would that eliminate the possibility of a hotel being built? I think that was the whole uproar, right, that brought a lot of the concern forward, and I just...I just wondered.

CHAIR PALTIN: Yeah, I don't think it eliminates --

COUNCILMEMBER SUGIMURA: But we can eliminate . . . *(inaudible)*. . . --

CHAIR PALTIN: -- the possibility, but it takes it out of the Purpose and Intent of this section, which is...

COUNCILMEMBER SUGIMURA: Okay.

CHAIR PALTIN: Okay. Chair Lee.

COUNCILMEMBER LEE: I don't think it prohibits it, you know. Because D says, "encourage

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

September 16, 2021

a mixture of uses.” So it doesn’t talk about prohibition. I think we can strike it, but I...I think...right...right...I want to remind you guys, that we’re not planning for today and tomorrow. We’re planning for 20, 30, 40 years from now. And before you folks were born, there was two hotels in Wailuku; the Wailuku Hotel and the Grand Hotel. So let’s not preclude opportunities for something in the...in the distant future, just because we hate hotels right now, okay. So just want to make that clear. So as far as striking boutique hotel, I think that’s...that’s...that’s something we can do and should do, if that’s what the body wants. And then...because it doesn’t totally preclude it in the future. Thank you.

CHAIR PALTIN: Okay. Is that a motion? I think Member Sinenci --

COUNCILMEMBER LEE: So moved.

CHAIR PALTIN: -- *(audio interference)*

COUNCILMEMBER LEE: So moved.

COUNCILMEMBER SUGIMURA: Okay.

CHAIR PALTIN: Okay, moved by Chair Lee, seconded by Member Sinenci. Any discussion by the movant or the seconder, or was that your discussion?

COUNCILMEMBER LEE: That was my discussion.

CHAIR PALTIN: Okay, Member Sinenci, no discussion? Okay. Member Rawlins-Fernandez, followed by Member Sugimura.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I agree with Chair Lee. It...it does say encourage a mix...a mixture of...of the items. I think there’s currently like...like a hostel, yeah, in the area?

CHAIR PALTIN: That bungalow one, I think?

COUNCILMEMBER RAWLINS-FERNANDEZ: Something like that, yeah. So it...it just says to encourage these things, so I guess it just wouldn’t encourage hostels or any kind of, like --

CHAIR PALTIN: A boutique hotel.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- smaller accommodations. Yeah, whatever a boutique hotel is, since it’s not defined anywhere. But I...I support the motion. I just wanted to acknowledge that there...there is a small visitor accommodation area...company in the area. Mahalo, Chair.

CHAIR PALTIN: Okay. Member Sugimura, did you have your hand up? Followed by Member Kama, followed by Member Sinenci.

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

September 16, 2021

COUNCILMEMBER SUGIMURA: Sorry, I was trying to make the motion, and you called on Chair Lee, that's fine. I think she said exactly what I was going to talk about. Us old people can talk about things that...the way it was and the hotel, and the town that we remember. So thank you.

CHAIR PALTIN: Okay, perfect. Member Kama, followed by Member Sinenci.

COUNCILMEMBER KAMA: Thank you, Chair. As I'm reading Item D, to encourage a mixture of retail shops, restaurants, offices, personal and professional services, boutique hotel. I don't know what a boutique hotel is. I know what a boutique is, I know what a hotel is, but when you put the two words together, my mind draws a blank. I also want to be able to preserve the history of Wailuku, and I'm glad that Chair Lee brought it up that yes, there used to be two great hotels in Wailuku. But if somebody doesn't remember that, how do we capture that...that...that history, if we don't keep it in this item D, the word...I can delete boutique and keep the word hotel. But unless we're all going to be alive in 30 or 40 years, are we going to remember how great the Grand Hotel in Wailuku was?

COUNCILMEMBER LEE: Yeah.

COUNCILMEMBER KAMA: That's my comment, Chair. Thank you.

CHAIR PALTIN: Thank you. Member Sinenci for his first time, followed by Chair Lee.

COUNCILMEMBER SINENCI: I can let Chair Lee go. I think she just wants to add to this conversation.

COUNCILMEMBER LEE: Thank you.

CHAIR PALTIN: Thank you, Member Sinenci. Chair Lee?

COUNCILMEMBER LEE: Yes, thank you, Mr. Sinenci.

CHAIR PALTIN: You guys are all so polite.

COUNCILMEMBER LEE: Member Kama, I will be here 30 years from now, and still on the Council. And I will remind the people at that time that there were hotels in Wailuku. And this D, Section D, does not preclude the...the development of a hotel. So if it...you know, if the body feels more comfortable taking that out for now, you know, now, why not? Thank you.

CHAIR PALTIN: Thank you, Chair Lee. Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. I just wanted the Members' consideration to add cultural district in our sustainable tourism TIG group. We did bring up about having cultural districts and...and for Wailuku Town, this was the old, you know,

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

September 16, 2021

Capitol, or Kahekili was, up...further up. And then...so we see a lot of the cultural paintings and murals that are going up there. And so we did want to include some of the...like if there were any visitors, that there...they could go throughout Wailuku and see some of the cultural sites within the district. So I would want to add a cultural district, or cultural area, something like.

CHAIR PALTIN: Is that a motion to amend the amendment made by Member Sinenci, to not only strike boutique hotel, but add cultural district, and seconded by Member Rawlins-Fernandez? So right now, we're on the amendment to the amendment, and we cannot do anything more, amending until we act on this one, because you can only amend one amendment at a time. Okay, so any discussion on adding cultural district to Section D? All of those in favor...oh, Member King.

VICE-CHAIR KING: So wait, my question, do we have a definition of a cultural district?

CHAIR PALTIN: Director McLean? Or...

MS. MCLEAN: I've been in this meeting all morning, and this is the question that I get? You want to make sure I'm paying attention.

CHAIR PALTIN: Everyone's . . . *(inaudible)* . . .

MS. MCLEAN: I do...I'm not aware that there's an existing definition of a cultural district or cultural overlay district, so Councilmember Sinenci's office is working on that, and I think we have a meeting coming up with them. But currently, I'm not aware that there is a definition.

CHAIR PALTIN: Okay. So then, Mr. Hopper, is it okay to add cultural district with us working on the definition of a cultural overlay district?

MR. HOPPER: I...I suppose it is. Again, the purpose of this...this ordinance was to get the current Code or what's currently in the MRA being applied, adopted in the Code. And then if you...certainly once it's in the Code, you can make any changes you...you would like. So I understand you can make amendments, but just the request would be, you know, if there's something glaring or a...or a problem, you know, certainly address it. But the intent was to have this adopted as is currently in the Code. If you're looking at creating a cultural district, well, I think that's probably something that you may want to take some time to look at and consider what it would be, where it would be--because there's different MRA zoning districts--and...and how it would apply. So I...I suppose you can put in cultural district, I think it's correct, I think you're going down the right line of thinking, what are you going to do and how is it going to apply. But again, the purpose of this, and how it was drafted, was to take what was there, copy it, and try to keep it there. So that's...that's...that's where the...the...the ordinance was originally coming from. But I...it...it...I think you can make that change if you would like. It just, I think, would require some additional work down the line to define that, and I don't know if that's what you want to do as part of this review.

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

September 16, 2021

VICE-CHAIR KING: Okay, but since we're --

CHAIR PALTIN: Thank you, Mr. Hopper.

VICE-CHAIR KING: -- can I follow up, Chair? Just since we're...since we're...we're working on it in another Committee...and really, this just says encourage, so we're encouraging the cultural district that is being worked on right now basically so that's okay to just put that in there, I guess is what he's saying. He laughed, so I'm assuming he agrees.

CHAIR PALTIN: Okay. Was it Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. So I think for Member Sinenci's consideration, I understand that we'll create a future definition of what a cultural district is. So two considerations for Member Sinenci. First, perhaps instead of adding it to D, because it doesn't seem like it really flows in that section, that perhaps it can be its own section. So that's the first consideration for Member Sinenci. And the second consideration is instead of calling it a cultural district that is undefined at this moment, to create a new section. So a new section, I, that says something like promote, you know, cultural education or whatever the cultural district is intended to achieve. And then that way, there's no question about definitions, and intentions, and goals of what you're trying to explain, Member Sinenci. Mahalo, Chair.

CHAIR PALTIN: Okay. So is that a friendly amendment, or a proposal to withdraw the amendment to the amendment and re-amend? Like herding cats.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yes.

CHAIR PALTIN: Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. And thank you, Member Rawlins-Fernandez. Yes, so in response to Mr. Hopper, districts are not zoning, so cultural districts would encourage the establishment of walking tours, museums, erect statues and educational placards, cultural art, and other types of mediums to share educational information for residents and visitors.

CHAIR PALTIN: Oh, that's great. So would you like to friendly amend your amendment to create a Section I to establish all of those things that you just said?

COUNCILMEMBER SINENCI: So moved, Chair. And I'll write it in the chat.

CHAIR PALTIN: Thank you so much. And so that's...we're considering that as a friendly amendment to the second amendment. Member Lee?

COUNCILMEMBER LEE: Yeah. Are we saying establish or promote?

CHAIR PALTIN: I think encourage.

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

September 16, 2021

COUNCILMEMBER LEE: Encourage. Okay, sounds good.

CHAIR PALTIN: Okay. And Member Sinenci is getting it in the chat. Staff, do you have the legislative intent there for the friendly amendment --

MS. STEWART: Yes, Chair.

CHAIR PALTIN: -- to the second amendment, once he types it in?

MS. STEWART: Yes, Chair.

CHAIR PALTIN: Thank you so much. Okay, are we ready to vote on the friendly amended amendment to the amendment? Okay. All those in favor, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: And measure passes unanimously.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

ACTION: APPROVED AMENDMENT TO AMENDMENT.

CHAIR PALTIN: Okay, now we're back to the first amendment about striking boutique hotels from Section D. All those in favor of that amendment, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Okay, measure passes unanimously.

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

September 16, 2021

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

NOES: **None.**

ABSTAIN: **None.**

ABSENT: **None.**

EXC.: **None.**

MOTION CARRIED.

ACTION: **APPROVED AMENDMENT, AS AMENDED.**

CHAIR PALTIN: Good job, gang. I think we're through 19.39.010, unless anyone had any further amendments.

COUNCILMEMBER LEE: No, but I just wanted to say that Robert's Rules is probably turning over in his grave, because we're doing all kinds of new things. Go ahead.

CHAIR PALTIN: I'm not even a millennial and then...okay. All right. Okay, so moving on to Section 19.39.020, Definitions and Types of Uses. I'll give Members a moment to read through this. We...we did have some questions in the first time about eating and drinking establishments, and being establishment fast food, but I think they kind of went over that already.

COUNCILMEMBER LEE: What's the Chair's recommendation on this section?

CHAIR PALTIN: I don't have any proposal for amendment. Does anyone else have a proposal for amendment? Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. First a question, and I guess this would be for Director McLean. If there's an example of the kind of...okay, so under...on page 3, the definition of Administrative Review Permit where it...the last part of that, where it says to mitigate the potential impacts of that use at the proposed location, on adjacent uses, the physical setting, and public services. Would you be able to provide the Committee an example of the kind of potential impacts, and how the Department could mitigate those impacts? And what does the public review process look like for an Administrative Review Permit?

CHAIR PALTIN: Thank you, Member Rawlins-Fernandez. Director McLean?

MS. MCLEAN: Thank you, Chair. The Administrative Review Permit does not have a public review process. In terms of assessing impacts, typically we refer permit applications to

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

September 16, 2021

agencies that might have concerns or comments on the particular application. So if there would be traffic impacts, or water or wastewater impacts, we would want to hear what Public Works, Water, Environmental Management would have to say. And then those impacts could be assessed with conditions on the permit, and whether that be for traffic improvements or water line upgrades. That's the nature of...of potential impact in the...in the Redevelopment Area. If I could, our planner, Scott Forsythe, is also on the call. He was Erin's...or is Erin's successor in processing these permits. So I don't know if Scott has anything to add to that, because I don't want to overlook anything.

CHAIR PALTIN: Mr. Forsythe, would you like to add anything to the Director's definition for Administrative Review Permit?

MR. FORSYTHE: I don't...Scott Forsythe, Department of Planning planner. And I don't have anything to add to that particular definition, but I could provide maybe an example how it's applicable within the Code. And for instance, if you turn to page 14, this is within the commercial mixed-use district. It provides, you know, what uses are allowed. And then on page 14, it gets into Administrative Review Permits. So if somebody comes in for a proposal that involves one of those uses, then we, as the Department, assess this and provide the conditions, as Michele did explain.

CHAIR PALTIN: Thank you, Mr. Forsythe. I'm imagining Member Rawlins-Fernandez would also like you to give a definition for Maui Redevelopment Agency Use Permit, if you have one.

MR. FORSYTHE: If it is not provided...when this Code was written back in 2002, not all the definitions were included, and so I need to look through it myself.

MS. MCLEAN: There...there is a definition for that in the proposed bill, and...and --

MR. FORSYTHE: Correct.

MS. MCLEAN: -- that's a permit that requires review by the Maui Redevelopment Agency.

MR. FORSYTHE: On page 7.

MS. MCLEAN: That would have...that would have a public review process.

CHAIR PALTIN: Okay. And I guess it would be a hypothetical question, but if we were to prefer the current practices of Conditional Permits or Special Use Permits over Administrative Review Permit or a Maui Redevelopment Agency permit, would that be within our scope and authority to make amendments to during this process? Question for Mr. Hopper.

MR. HOPPER: I...I think...I think you could. Again, I think the intent was to have it adopted as is, and then you can carte blanche make any changes you like once it's in the Code. But...but I think who...who makes those decisions? I think you can...you can consider changing...the problem that I had was with the height...height changing or the substantive standards that apply to property owners. But I think that if you want a

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

September 16, 2021

different body to decide those, you can consider that. But again, that...this... this was written, and so if we did that, we'd want to go through all of the Code and check all those references, and make sure all those are...are changed. So it was written as is, so that...that...that's what's currently throughout the Code right now.

CHAIR PALTIN: Okay. And so if, when we get to that point about making...or when we get to that point in the bill about who makes the decisions, what kind of permits are used, amending these definitions could be considered a nonsubstantive revision. If there is no use for a Maui Redevelopment Permit...or Maui Development Agency Use Permit, or there is no use for an Administrative Review Permit, it would be a nonsubstantive change to remove that definition, right, Mr. Hopper?

MR. HOPPER: Well, I think if you're changing who does the review, I do think it's a substantive change. I think it's one you can make, because it was within the purview of what the Planning Commission reviewed. But it would still be substantive changes to delete...to...to change who makes the decisions, I...I think. I think those would still be substantive, because it would change the authority of, you know, who makes...who makes those decisions.

CHAIR PALTIN: It's a substantive change, but we're allowed to do it as part of this process?

MR. HOPPER: Yeah, you're...you're...the Planning Commission concerns was, was that something within the purview of the Planning Commission based on the notice that it sent out in its...its discussion. Just because they didn't actually make the change doesn't necessarily mean you can't do it. But I do think it's substantive to say that the MRA would currently decide these under the law now, to make somebody else decide them. So I...I think you could do that, but again, there would be a substantial amount of, I think, work that would need to be done on the ordinances to...to make those changes.

CHAIR PALTIN: Okay. I just was thinking that if Administrative Review permit or Maui Redevelopment Agency use permit doesn't come into effect in the entirety of the bill, removing that from the definitions section would be nonsubstantive because it's not applicable anymore. But you're saying, no.

MR. HOPPER: Well, I think the change...if you're talking about a change, it would be to amend the...or change the proposed bill by deleting...I guess, changing all the references to certain permits to Planning Commission Review and establishing a criteria for the Planning Commission to review it. Again, the Planning Commission, you know, did look over that, but may...may also want to...they...they may want to take a look at what standards you're going to give to them, and everything like that too. So that might be, you know, something good to...to look at. But again, that's...I think you would take the definition out with making those other changes. And so as a group of changes, I think that would all be, you know, a comprehensive, substantive change. I mean, again, if this is the approach you want to take with the...the...the ordinance, I...I...I suppose you could. But again, the idea was to have it adopted as is currently in the law, and then, you know, make whatever comprehensive changes are...are...are necessary. So a lot of

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

September 16, 2021

those things, I don't think were considered or...or, you know, by the Department or others in...in when it...when it looked at this.

CHAIR PALTIN: Okay. Thank you. So any proposals for amendments to this section, Members, at this time? Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. It...it wasn't a proposal yet. I'm still trying to understand. And then you jumped in to ask about the MRA permit, which is good, because that was one of my questions. So first, I just wanted to comment on Mr. Hopper's comment about the intention was to pass this carte blanche, which is very scary. I don't know if he's been watching Council try to amend our Council Rules or 2.96, but it's not easy. And so to pass a 91-page [sic] bill like this, and then go back and try to amend, I imagine would be a nightmare. So I think, again, it's prudent for us to pass something that, you know, we don't intend to go back and change again, because I...it would take a lot of time, like, just like this. This is taking a lot of time now. So my question is for Director McLean, and that is two things. One, so the MRA permit and the Administrative Review Permit are both...are they both new permits? And two, what...will you explain to us what the current process looks like without this...without this bill, how it works now?

MS. MCLEAN: Yes.

CHAIR PALTIN: Director McLean.

MS. MCLEAN: Thank you, Chair. This is...I'm taking a big step back. Everything that's in this bill that was forwarded to the Council is what is being done now, is contained in the existing Wailuku Redevelopment Area Zoning and Development Code, except for variances. That's the one big difference. So there really isn't anything new in this. These are the processes that have been going on for decades. But rather than it being in a separately adopted MRA Code, it would be incorporated into Title 19. The way that these permits are processed now is similar to how certain permits that aren't in the redevelopment area are processed. There are many permits that the Department administers administratively; bed and breakfast homes that don't trigger a Planning Commission review, special management area minor permits. Things like that get handled administratively, that's similar to the Administrative Permit. Permits that go to the MRA are similar in a way to those that go to the Planning Commission, like State Land Use Commission special permits, County special permits, SMA major permits. But these go to the MRA instead. The MRA is not as high profile a board as the Planning Commissions are, but nonetheless, there is...there is public testimony, there's a public review. So applications are submitted, processed when they're complete and ready, they can either be decided upon at the administrative level, or they're scheduled for hearing (*audio interference*).

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Director McLean. And just to clarify, so the two permits that are named here, and are in the Wailuku Redevelopment Area Zone and Development Code are called MRA Permit and Admin Review Permit?

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

September 16, 2021

CHAIR PALTIN: Director McLean.

MS. MCLEAN: I believe so. I don't think Mr. Hopper changed the name of those in his drafting of the ordinance. Mr. Hopper, can you confirm that?

CHAIR PALTIN: Mr. Hopper?

MR. HOPPER: You know, the Chair attached the Zoning and Development Code. Let me just find that, and...yeah, here it is. And then definition of...was MRA use permit, you said? Let's see. Maui Redevelopment Area Use Permit. The...the current Zoning and Development Code says, required for uses which meet the general purpose and intent of the zoning district, but which would require review by the MRA to mitigate the potential impacts of that use at the proposed location, on adjacent uses, the physical setting, and public services. So that appears to be the same. And what was the other definition? The Agency Review or Administrative Review? I'll double check that, that's on page 4 --

MS. MCLEAN: The Maui...the MRA use permit...MRA use permit.

MR. HOPPER: Yeah, Maui Redevelopment Agency use permit. That's what...that's what...that's the one I just read.

MS. MCLEAN: Oh, then the other is Administrative Review.

MR. HOPPER: Right. Yeah, and that is on page 4 of the Zoning and Development Code, and required for uses which meet the general purpose and intent of the zoning district, which...which requires administrative review by the Planning Director or authorized representative, to mitigate the potential impacts of that use at the proposed location, on adjacent uses, the physical setting, and public services. So yeah, it looks like those definitions...and again, the Chair did put the Zoning and Development Code in Granicus, and so it looks like those were...those were not changed. Some of the changes I made were like Wailuku Redevelopment Area, instead of Maui Redevelopment Area, and a few others. But for the most part, things like this were...are...are currently in the law, and so they weren't changed.

CHAIR PALTIN: Thank you. Does that address your question, Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yes. Mahalo, Chair.

CHAIR PALTIN: Okay. Does anyone have any amendments to 19.39.020? Any proposals for amendments? Member Molina?

COUNCILMEMBER MOLINA: Yeah. Thank you, Madam Chair. You know the definitions, as far as, like, you know, eating establishments or...you know, nowadays you have all these like Internet cafes and all of that stuff. I don't know if there's something that references those types of establishments in this ordinance. I don't know if it's something that we should include, because...kind of food for thought. Maybe I'm just digging into the

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

September 16, 2021

weeds here. Want to borrow that word from my colleague from Moloka'i this morning. But should we include something like that? Because, you know, that seems to...you know, you have these kinds of establishments in other communities now. You stop in, do your Internet work, and they promote that as well, so. Or is something like that already covered in the definitions?

CHAIR PALTIN: Question...maybe Mr. Forsythe, can you say if what Member Molina is suggesting is covered by eating establishment, fast food definition? They're one, two, three or four. Or Director McLean. Go ahead, Mr. Forsythe. I see you.

MR. FORSYTHE: Yeah. So, you know, that's a good question, and there is some flexibility in interpreting these sometimes. I don't think, you know, Internet cafe is specifically written or mentioned within it.

COUNCILMEMBER MOLINA: So...so we have...Madam Chair, I wonder if we should include that? If it's something that's necessary, or is it just something that we just leave it alone? Because, you know, you never know in the future, somebody may want to put an establishment like that, and just to make sure it's, you know, referenced in the Code, so there's no debate, I guess. But if, you know, Department feels it's okay to just leave it as is, then I'm fine.

CHAIR PALTIN: Okay. Mr. Forsythe --

COUNCILMEMBER MOLINA: . . .*(inaudible)*. . .

CHAIR PALTIN: -- do you think that there is sufficient flexibility for Internet cafes in the existing definition of eating establishments, fast food, without specifically naming it, it would be allowed?

MR. FORSYTHE: Without specifically naming it, I...I think the...the way to easily describe this as being able to include it, would be...once again, going back to the Uses section and the Administrative Review Permit uses that are allowed. And there is a clause in there for other uses, and that allows the Department or the Director to make kind of a discretionary call on whether or not that use fits within that definition.

CHAIR PALTIN: Okay. So then given that answer, Member Molina, would you like to include Internet cafe into the eating establishment, fast food, means an establishment other than a bakery, bake shop, candy or ice cream store, which provides...like make it a example? Like fast food restaurant?

COUNCILMEMBER MOLINA: Sure, why not? Yeah. You know, Wailuku's a walking town and, you know, I...I can see a type of establishment like that potentially in the...in that area in the future, so --

CHAIR PALTIN: Okay.

COUNCILMEMBER MOLINA: -- if there's no objections.

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

September 16, 2021

CHAIR PALTIN: So you need to make a motion to include Internet cafe as an example of an eating establishment, fast food.

COUNCILMEMBER MOLINA: So moved.

CHAIR PALTIN: Okay, is there a second? Seconded by Member Sugimura. Any discussion on this? Seeing none, all those in favor, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Okay, we've got seven ayes and two excused.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Johnson and Kama.

MOTION CARRIED.

ACTION: APPROVED AMENDMENT.

CHAIR PALTIN: Anyone else have any...oh, Member Sinenci? Motion passes.

COUNCILMEMBER SINENCI: Thank you, Chair. Yeah, if...if the Members are open, I could include, for cultural district, some of the items listed under State historic preservation. Cultural district is an area that has religious significance and established traditions of the Hawaiian culture. It retains components of a traditional lifestyle, and is widely recognized as important in maintaining the cultural identity of the community.

CHAIR PALTIN: Okay. So you're proposing an amendment to add in a definition for cultural districts, as you just described.

COUNCILMEMBER SINENCI: Yes, so moved.

CHAIR PALTIN: Okay, seconded by Member Rawlins-Fernandez. Any discussion? Member Sinenci.

COUNCILMEMBER SINENCI: No. Thank you, Chair.

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

September 16, 2021

CHAIR PALTIN: Okay. Member Sugimura. Are you voting, or...

COUNCILMEMBER SUGIMURA: Just trying to second the motion.

CHAIR PALTIN: Oh, okay. So it was moved by Member Sinenci, seconded by Member Rawlins-Fernandez. All of those in favor of adding cultural district with the definition as read by Member Sinenci, and he will put in the chat, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: That's six "ayes," three excused, Member King, Johnson, and Kama. And in the last motion, Member Johnson and Member Kama were excused as well.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

**EXC.: Vice-Chair King, and Councilmembers Johnson and
 Kama.**

MOTION CARRIED.

ACTION: APPROVED AMENDMENT.

CHAIR PALTIN: So we're losing Members. We might as well take our morning break. We'll be back at 11:00. Meeting in recess. . . .(gavel). . .

RECESS: 10:50 a.m.

RECONVENE: 11:03 a.m.

CHAIR PALTIN: . . .(gavel). . . Will the Planning and Sustainable Land Use Committee of September 16 return to order. The time is 11:03, the jackets come off, so we're ready to get down to business. I just had a...a message from our Staff for Member Molina's consideration. They wanted to nonsubstantively change your definition from eating establishment, fast food, into the eating and drinking establishments section, your addition. So they thought it would fit --

COUNCILMEMBER MOLINA: No objection.

CHAIR PALTIN: -- better there. Okay. All right. So no objection. That's a friendly amendment

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

September 16, 2021

by our Staff, nonsubstantive. And then Mr. Hopper did want to make a brief statement as well.

MR. HOPPER: Just first on that change you just made, are you saying that the Internet cafe reference is only going to be in fast food now? Or what...what was that? Because --

CHAIR PALTIN: We were taking it out of fast food, and putting it to eating and drinking establishment. The one right above of it.

MR. HOPPER: Okay, just a couple of things. One is I didn't want my legal advice to be misconstrued at all at the beginning of the meeting. I know you had consulted with Mr. Mitchell on the issue of bringing up amendments. I...I do...our advice, I think, is consistent with Mr. Mitchell's, that we are...have...have requested, for purposes of the lawsuit, that this...the current bill, is intended to take what's in the current law right now, and pass it, and...and put that into the County Code, with the major change being the amendments going to the BVA. While I cannot advise that you are unable to make amendments, our advice is...is to look at doing that...I...I did get a note from Erin Wade that there is a comprehensive Title 19 update that would...that would look at updates to all of Title 19, that could look at a lot of these...these issues, as far as the...the section in general. But that if we...you know, if...if the advice to attempt to limit amendments from the standpoint of that being more beneficial to the litigation, meaning that the quicker this gets moved on, the better for that litigation, I think we're consistent with Mr. Mitchell on that advice, is to...to look at adopting this with...you know, as...as quickly as possible. And the other issue is that the more changes that are made, this bill was not drafted...this bill was drafted as trying to take what's currently there and adopt it. With...if there are going to be these substantive changes made, well, you know, in some cases, those would be allowed, you may want to consider whether the Planning Department or Erin Wade, or others have had a chance to review that, how it may affect the...the, you know, the Wailuku Redevelopment Area if they're adopted, and other issues such as that. So I didn't want to...to have the advice that, yes, you can make amendments, that's legal, construed as contradicting the advice that we...we...though...though you can do that, we would still advise moving it on as expeditiously as possible, based on the lawsuit. So I just wanted to clarify that, to make sure that there wasn't any misunderstanding there.

CHAIR PALTIN: Thank you. Yeah. And like...like I said previously, expeditiously doesn't mean recklessly, right? I mean, we still can do our thorough review.

MR. HOPPER: Yes, you can certainly do --

CHAIR PALTIN: *(Audio interference)*

MR. HOPPER: -- yeah, you can certainly do a review, but because...I mean, this isn't necessarily establishing a new district, though, is what I think the point was. So if we're going to look at more extensive changes, I think the advice would be that there's a Title 19 update coming with that, and...you know, normally, yes, take as much time as you would feel comfortable with. But we've just got the lawsuit issue with this...this one in

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

September 16, 2021

particular, so that's why I think as...in representing the County on that, that's why we would, you know, advise on that. Certainly not recklessly, but again, keep in mind that what's there, almost all of it is currently being applied to property owners in Wailuku Town right now, which I think is important to...to understand, and I think the Planning Director had reiterated.

CHAIR PALTIN: Thank you. And since we are on a Charter deadline on this, maybe the compromise, if folks are not happy with the speed that we're going through this, and we can schedule an off-week meeting to get through this a little bit more expeditiously, because it fits the criteria of Charter deadline item as well. So that could be a compromise. All right, so there was no objection to the Internet cafe being moved from fast food, to just eating and drinking establishment. Okay. Moving along, any further amendments to 19.39.020? Seeing none. Okay, we can move on to 19.39.030. And I believe there was a proposal at the start of this transmittal about an amendment to remove first, second, third, and fourth-story references in...in favor of 15-foot increments; is that correct? Director McLean? That's for C...Item (C)(B)(3).

MS. MCLEAN: Sorry, Chair, what page is that?

CHAIR PALTIN: Oh, that's what I was going to ask you.

MS. MCLEAN: Oh.

CHAIR PALTIN: But...but the beginning part, I think the letter from you, suggested an amendment of 19.39.030(C)(B)(3)

MS. MCLEAN: Yeah.

CHAIR PALTIN: To remove first, second, third, and fourth-story references for a fifteen-foot measurement.

MS. MCLEAN: *(Audio interference)*

COUNCILMEMBER SUGIMURA: Sixteen.

MS. MCLEAN: Right. Because as...as you know, stories do not have a...a clear definitions, or can be subject to interpretation if there are lofts or mezzanines. So the zone...the...most of the Zoning Code has been amended to refer to feet, rather than stories. And so the setback, building height . . .*(inaudible)*. . . farther as the building gets taller, it can be done by increments of 15 feet, rather than by stories. So for example, you have a 6-foot setback for a single-story, or 15 feet, a 10-foot setback for two stories or 30 feet. That's...that's what that relates to.

CHAIR PALTIN: Okay. And was the letter saying that that change has already been made for us, or is that something that we need to do?

MS. MCLEAN: That's something that the Committee needs to do, because that was after the

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

September 16, 2021

Commission's review.

CHAIR PALTIN: Okay. And is Member Sugimura correct, that's on page 16 of the bill?

COUNCILMEMBER LEE: (B)(3)?

CHAIR PALTIN: (C)(B)(3), because I don't see reference to first, second, third, and fourth stories.

COUNCILMEMBER SUGIMURA: It's minimum standard for minimum setbacks.

CHAIR PALTIN: Because your letter...I think your letter said reference to --

MS. MCLEAN: Yes, Councilmember Sugimura is correct. On page 16, letter C starts development standards. And then under letter B, commercial and multi-family structures, the setbacks right now are not tiered.

CHAIR PALTIN: Okay. So basically, this has...the change has been made for the Committee. We don't need to propose the change, accepting it as is would make the change that you suggested? Oh, that was a question for Director McLean.

MS. MCLEAN: Yeah, I'm...

CHAIR PALTIN: Because it seems, by reading it, the change has already been made for us, because there is no reference to stories. And I guess my other question is, like, you know, for the Nāpili Bay Civic Improvement District, we did both; referenced story and feet. Would that be a possibility here?

MS. MCLEAN: You're...you're correct. The change was made in the ordinance that you have in front of you.

CHAIR PALTIN: Okay, great.

MS. MCLEAN: Yeah.

CHAIR PALTIN: And do you see a problem with including...reincluding the reference to story along with feet?

MS. MCLEAN: I don't know, we might have taken story out of the bill that's in front of you for that reason.

CHAIR PALTIN: Yeah, so what if we made...like, if 45 feet...or height...maximum height is 30 feet, 45 feet, or 65...60 feet...for 30 feet, we would say maximum height is two stories and...no more than two stories, no more than 30 feet; or no more than three stories, no more than 45 feet; no more than four stories, no more than 60 feet; just including reference to both. Are you... have any issue with doing that? Like how we did for Nāpili Bay Civic Improvement District?

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

September 16, 2021

MS. MCLEAN: I don't think we have any issues with that, no. But it...it --

CHAIR PALTIN: Okay, because --

MS. MCLEAN: -- changes the way we administer it, but I don't have an issue with that change.

CHAIR PALTIN: Okay. Motion by Member Sinenci to include reference to story as well as feet, seconded by Member Lee. Any discussion? Just to be clear, you know, sometimes you can do a ten-foot story, and then make six stories when the intention was four stories, you know. So just keeping it for clear. All those in favor, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: One, two, three, four, five, six. Six "ayes." Motion passes, with three excused; Member Johnson, Member King, and Member Rawlins-Fernandez.

VOTE: AYES: Chair Paltin, Councilmembers Kama, Lee, Molina, Sinenci, and Sugimura.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Vice-Chair King, and Councilmembers Johnson and Rawlins-Fernandez.

MOTION CARRIED.

ACTION: APPROVED AMENDMENT.

CHAIR PALTIN: I wonder if they're all testifying at the same time? Okay. Any other concern for Section 19.39...19.39.030, which is about the Wailuku Redevelopment Area, commercial mixed-use district, kind of about uses and performance standards, permitted uses? Number 5, I...I did have a question on, for number 5...(A)(5)...(B)(A)(5), yes. It says bed and breakfast, up to six bedrooms. More than six bedrooms shall require a Maui Redevelopment Agency use permit. I think what we do for all other areas, six...six bedrooms is the standard for B&B. For some of those with more than six bedrooms, like we recently heard, the Banyan Tree, which had, I think seven bedrooms, and they got a conditional permit. For me, I would entertain changing this to more than six bedrooms shall require a conditional permit, just to keep it consistent across the board of how we do things.

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

September 16, 2021

COUNCILMEMBER SUGIMURA: So moved, Chair.

CHAIR PALTIN: Okay. Moved by Member Sugimura, seconded by Member Sinenci. So that, you know, people aren't like, oh, if we're here, we got to do this. So if we're here, we do this. Just to simplify and streamline. Mr. Hopper.

MR. HOPPER: I...I know we discussed having a different agency do a review that's already required. But if we're going to require a new level of review...I'm trying to understand this. We're going to require a new level of review. So previously, more than six bedrooms...let me just double check. Which...which section were you on here?

CHAIR PALTIN: I'm on 19.39.030(B)(A)(5).

MS. MCLEAN: On page 12.

CHAIR PALTIN: Sorry, page 12. Thanks.

MR. HOPPER: Page 12, that's --

CHAIR PALTIN: At the top of page 12.

MR. HOPPER: Bed and Breakfast. Oh, okay. So just changing the current requirement of an MRA use permit to the...yeah, that...that's okay, as long as that's a requirement already, I think changing the agency isn't necessarily an issue. It's...it would require a...you're saying a conditional use permit?

CHAIR PALTIN: Yeah, that's like the standard practice Countywide. Just streamlining and simplifying things that, you know, folks don't have to say, like, oh, well, if I'm in this 68 acres, I go through them, but if I'm outside of it, then I would need a conditional permit. Just trying to simplify it, so that it's one standard across the board. I don't...it's confusing enough --

MR. HOPPER: I mean saying --

CHAIR PALTIN: -- for folks as it is.

MR. HOPPER: I mean saying there's a conditional permit is essentially saying it's not allowed. Because you can get a conditional permit for anything that's not in the Code. So just to note that. I also am not sure if that's consistent with other commercial districts, but yeah, for bed and breakfast homes, that would be...I guess under 19.64, that would be, you know, something you'd have to get. So just to note that, that that's, you know, essentially saying conditional permit. So that would be sort of the equivalent to saying you would not...it...it wouldn't be allowed. So I think that's okay though, because you're just changing the agency. But I just wanted to clarify.

CHAIR PALTIN: Yeah. Just want to go through the normal process. I think it's easier for our residents to know, like, if I have more than six bedrooms, then I'll get a conditional

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

September 16, 2021

permit, regardless of where in the County we are. So it's been moved by Member Sugimura, seconded by Member Sinenci. Any further discussion, Members? Just standardizing things for our residents, so they know the...the general process. Director McLean, yes?

MS. MCLEAN: Yes, I apologize, Chair, I know you have a motion on the floor. I just wanted to point out that in the B-2 community business district, transient vacation rentals are a permitted use, up to 20 bedrooms. So I understand...

CHAIR PALTIN: Commercial district...

MS. MCLEAN: In the B-2 community business. Which I know you might go, oh, we need to change that, but...but in order to be consistent, I just wanted you to be aware that there was another zoning district that had a different requirement. So that --

CHAIR PALTIN: Oh, you're right.

MS. MCLEAN: -- was all I tried to point out.

CHAIR PALTIN: You're right. We do need to change that. I'll make a note. Thank you. B-2 business district.

MS. MCLEAN: Yeah, that's Chapter 19.18.

CHAIR PALTIN: 19.18. Okay, we'll get started on a PAF there. Thank you. Okay. All those in favor of the motion to amend, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: One, two, three, four, five, six. Okay, motion to amend passes, six in favor and three excused; Member Rawlins-Fernandez, Member Johnson, and Member King.

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

September 16, 2021

VOTE: **AYES:** **Chair Paltin, Councilmembers Kama, Lee, Molina, Sinenci, and Sugimura.**

NOES: **None.**

ABSTAIN: **None.**

ABSENT: **None.**

EXC.: **Vice-Chair King, and Councilmembers Johnson and Rawlins-Fernandez.**

MOTION CARRIED.

ACTION: **APPROVED AMENDMENT.**

CHAIR PALTIN: Okay, moving along. An administrative review permit required for entertainment uses on lots that front Maluhia Drive. I don't really have a problem with that. Does anyone have a problem with that one? Kiosks located on public property, or along a public site shall...administrate, that's good. *(Audio interference)* up to...okay, number 20 on page 13. Hotel, up to 20 rooms, more than 20 rooms shall require a Maui Redevelopment Agency use permit. So this one, I...I kind of feel like conditional permit as well might be justified, because of the whole...what does Member Johnson say, kerfluffle [sic] with the last hotel? So I'll entertain a motion to changing the Maui Redevelopment Agency use permit to conditional permit. Moved by Member Sinenci, seconded by Member Lee. Similar reasoning to number 5 with the B&B. Just trying to avoid the kerfluffle [sic]. Any further discussion? Seeing none, all those in favor, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Okay, six ayes, three excused; that would be Member Johnson, King, and Rawlins-Fernandez.

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

September 16, 2021

VOTE: **AYES:** **Chair Paltin, Councilmembers Kama, Lee, Molina, Sinenci, and Sugimura.**

NOES: **None.**

ABSTAIN: **None.**

ABSENT: **None.**

EXC.: **Vice-Chair King, and Councilmembers Johnson and Rawlins-Fernandez.**

MOTION CARRIED.

ACTION: **APPROVED AMENDMENT.**

CHAIR PALTIN: Is everyone okay with the...number 17, which talks about general merchandise being limited to 20,000 square feet of gross floor area on the subject lot? Over 20,000 square feet of gross floor area shall require the issuance of a Maui Redevelopment Agency use permit. So 20,000 square feet is almost like a big box store, which I can't imagine Wailuku...that...I can't imagine that preserving Wailuku. But I'm open to thoughts from other Members about, like, a...a big box store. Yes, Member Sugimura?

COUNCILMEMBER SUGIMURA: So that's talking about the places, existing buildings, that were National Dollar, Kress Store, which is on the corner of Market and Main Street. There's that...the building that's above the Everett Dowling building used to be National Dollar. If you look at that, it's a big box...it's now the Maui Performing Arts building. And then if you go further up, there's the big...used to be Kress Store, and that is now individual law offices, and I think there's a drug court in there...a drug court rehabilitation. Not the court, but the rehabilitation, so it's being used by unemployment, but it's...it's...it's broken up into various businesses. But that's...that's the rationale, I believe. And across the street, right, there's all these...what used to be, is why you can talk about such large floor spaces, because that's what it used to be.

CHAIR PALTIN: Okay, so you're saying that...or let me see if I understand, either Director McLean or Mr. Forsythe, so it...the National Dollar Store, the Kress Store, is over 20,000 square foot building, but it's broken up into little units now. And, say, in the future, somebody wants to remove the partitions and sell stuff out of the general merchandizing store, would that need a MRA use permit because it's an existing building, or because it's a new use? I think the question is for Director McLean. Would this apply --

MS. MCLEAN: These are --

CHAIR PALTIN: -- to the old building?

MS. MCLEAN: -- the kinds of questions that keep us busy every day. Yeah, if...if...we would

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

September 16, 2021

have to give that some thought. Whether it would be...I don't think we could consider it to be grandfathered as an existing building, because it has changed. So yeah, it would probably need an MRA permit if it was going to be used as one large --

CHAIR PALTIN: General merchandise.

MS. MCLEAN: -- general merchandising business in the future. I see Scott --

CHAIR PALTIN: Okay, I see...Mr. Forsythe, did you have something to add on to the Director's comments on this question? But we can't hear you.

MR. FORSYTHE: Okay, sorry about that. So I did receive a message from Erin, and that the National Dollar Store building is 17,000 square feet, and that the intent of this standard is to prevent big box stores.

CHAIR PALTIN: Oh, okay. So there's currently no stores that are over 20,000 square feet right now in the 68-acre district?

MR. FORSYTHE: Correct.

CHAIR PALTIN: Okay, all right. So do we want to make this also a conditional...oh, I'm sorry, Member Sinenci, you had your hand up?

COUNCILMEMBER SINENCI: Yeah, move to also a conditional permit to keep consistency with the other ones.

CHAIR PALTIN: Okay, seconded by Member Lee, I believe, unless that was a question. Was that a second or a question, Member Lee? Okay. Second. All right. So it's been moved by Member Sinenci and seconded by Chair Lee, to make this be a conditional permit, if a new building wants to be over 20,000 square feet of gross floor area to sell general merchandise. Any further discussion on this? Member Lee.

COUNCILMEMBER LEE: Yes. As Member Johnson would say, this would be to avert any possible kerfuffles. Okay. It's kerfuffle, not kerfluffle.

CHAIR PALTIN: Oh. Kerfuffle. Sorry, Member Johnson, I was misquoting you in your absence. Okay, so all those...any further discussion on the kerfuffle? Member King.

VICE-CHAIR KING: Okay, so...I'm so sorry, I stepped out to testify at the Charter Commission, and I just got back. So can you just direct me to what section of the bill you're on?

CHAIR PALTIN: Sure thing. We're on 19.39...I just looked at something else, and now...I think number 17, which is on the bottom of page 12.

VICE-CHAIR KING: Okay. General merchandise.

CHAIR PALTIN: We're changing Maui Redevelopment Agency use permit to a conditional

September 16, 2021

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

September 16, 2021

be conditional permits. But that may be a nonsubstantive revision; is that correct, Ms. Stewart?

MS. STEWART: I believe so, Chair. It just makes it consistent with the decisions you just made.

CHAIR PALTIN: Thank you. And then for number 5 on page 16, the top of page 16, and the bottom of page 15, I think it might be prudent to change the word shall to must. That's what our legislation drafting team tells us a lot. Must be assessed for its mauka and makai visual impacts, and special consideration given to the visual impacts towards ʻĪao Valley. Someone, if they agree with that, want to entertain a motion on that? Changing shall to must?

COUNCILMEMBER SUGIMURA: So moved.

CHAIR PALTIN: Moved by Member Sugimura, seconded by Member Molina. Any further discussion, just, you know, policy of shall and must. Okay. All those in favor raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Motion passes. Eight "ayes," one excused; Member Rawlins-Fernandez.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Rawlins-Fernandez.

MOTION CARRIED.

ACTION: APPROVED AMENDMENT.

CHAIR PALTIN: And then I think we already discussed this, (C)(B)(3). And we...just for your information, Member King, we decided to add story in addition to foot. So no more than, like, three stories or 45 feet kind of thing.

VICE-CHAIR KING: Okay, so both...not either/or, it's both.

CHAIR PALTIN: Yes.

September 16, 2021

VICE-CHAIR KING: Okay.

CHAIR PALTIN: Okay, moving down. I think that brings us to the conclusion of things for 19.39.030. Did anyone have any further amendments to 19.39.030 that they'd like? Seeing none, we can move ahead to 19.39.040, and this is another one where the Director had made an amendment to 19.39.040(C)(B)(3), but we can get to that when we get to it because it's like Chair Lee said, she doesn't want to jump around. So we'll save that. Looking at Wailuku Redevelopment Area business and multi-family district, I think we want to be consistent on number (B)(A)(1), and change that to conditional permit as opposed to Maui Redevelopment Agency approval for more than six bedrooms for a bed and breakfast.

COUNCILMEMBER SINENCI: So moved.

CHAIR PALTIN: Moved by Member Sinenci, seconded by Member Sugimura. This is for consistency. Any further discussion? All those in favor, raise your hand and say “aye.”

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Motion passes. Eight “ayes,” one excused; Member Rawlins-Fernandez.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Rawlins-Fernandez.

MOTION CARRIED.

ACTION: APPROVED AMENDMENT.

CHAIR PALTIN: Okay, moving down. So...and I...I'm sorry I didn't bring this up, but just for discussion on the food and beverage and merchandise kiosks on sidewalks and whatnot, shall obtain an Administrative Review permit. I just want to mention that, you know, we have those aggressive cosmetic sales people in Lāhainā Historic District on the sidewalk. So maybe getting it into the record for the Department that I don't think we want to see that in Wailuku. If the...if the Department gives Administrative Review permit, please do not give any to aggressive cosmetic sales. Would we need to put that in the bill, or is just having it in the minutes and the Committee report good enough

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

September 16, 2021

there? Director McLean?

MS. MCLEAN: I don't think it would hurt to be certain, and put language in the bill.

CHAIR PALTIN: Okay. Okay, thank you for that.

MS. MCLEAN: Because we...we all understand that today, but five years from now, ten years from now --

CHAIR PALTIN: Okay.

MS. MCLEAN: -- Planning Department Staff might not go to consult the minutes.

CHAIR PALTIN: Thank you, okay. All right, so then for both this section, and the previous section, where we talk about kiosks on public sidewalks, I'd like to propose...or I'll entertain a motion to propose an amendment that specifically says aggressive cosmetic sales are prohibited for both sections.

COUNCILMEMBER LEE: So moved.

CHAIR PALTIN: Moved by Member Lee, seconded by Member Sugimura. And of course, that's not the exact wording, that's just the legislative intent. And the reason I suggested it is because it's a big issue in Lāhainā. Okay. Mr. Hopper, I see you popping up.

MR. HOPPER: Chair, the...the only concern I'd be giving here is, again, if...if you've got uses or standards that are allowed...I guess this isn't really dealing with property owners directly, but if you're dealing with uses that are currently allowed, I mean, aggressive cosmetics sales, depending on how you define them, may not be currently allowed anyway, depending on how they're conducted. But you know, if there's a use that's allowed consistent with this, consistent with the changing of the height, I...I think restricting the use isn't necessarily something that was discussed at the Commission or part of the original proposals. I...I think for a few of these, you've changed the agency that's going to review them, and I think that that's fine, but taking away a potential use in general, I...I think we...I raise concerns on that with respect to the height issue. Not that that's something you couldn't do at some point, but I just had a concern with it now. And not saying at all that your concern's not...not...not valid, nor that that's something maybe Countywide we'd want to look at that. But I think for this...this one, I would raise that concern, similar to the height change that was proposed at the Commission. I just want to try to be consistent.

CHAIR PALTIN: Okay. Thank you. So even if we were to say no aggressive sales, that still pertains to use?

MR. HOPPER: I...maybe we could come up with something. I mean, not just cosmetic sales, maybe generally --

CHAIR PALTIN: No...no aggressive --

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

September 16, 2021

MR. HOPPER: -- so you're not targeting --

CHAIR PALTIN: -- sales, period. Like --

MR. HOPPER: Well, I'd...I'd want to know...yeah, the hard part is --

CHAIR PALTIN: -- touching --

MR. HOPPER: -- knowing what aggressive sales...sorry, go ahead.

CHAIR PALTIN: Oh, it would be like people touching people walking by, grabbing them, like impeding the flow of sidewalk traffic kind of things. Those are...those are kind of the complaints that we get in Lāhainā. Like, people don't want to be touched. They don't want, like, stuff applied to them without their permission. You know, kind of like negative, like, oh, you don't want to look old, here, have this sample, let me put it on you, or things like that...like kind of insulting.

MR. HOPPER: Yeah, I...I...

CHAIR PALTIN: Okay, Chair Lee, followed by Member Sinenci.

COUNCILMEMBER LEE: Well, would other synonyms be like peddling or hawking?

CHAIR PALTIN: Well, I guess, you know, this part about kiosks on the sidewalk, we're allowing it, but our point is, we don't want people to be aggressive. You know, like if people want to stop on your kiosk and buy something, that's one thing. But if you're stopping somebody who just wants to get from point A to point B, and saying, try this food, or let me put some of this cream on you, or grabbing them in any way, that's...that's not cool. And it's being done --

MR. HOPPER: There's...there's...

CHAIR PALTIN: -- in Lāhainā Historic District.

MR. HOPPER: There's an 080(C) that has additional standards here. I want to just look that up real quick. Yes. So if you look at 19.39.080(C), that has additional requirements. Let's see.

CHAIR PALTIN: Well, Member Sinenci did have a suggestion that the sales would be confined to the kiosk. They can't step outside of the kiosk.

MR. HOPPER: Well, maybe check page 32 of...of the ordinance, Section C. It has standards for food and beverage...food, beverage and merchandise kiosks. And there's a 1 through 6 that has standards. I suppose if you wanted to add something generally to that that would apply, we could look at...you could look at doing that, rather than prohibiting a particular type of...you know, cosmetic sales. But maybe take a look at that. If it's

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

September 16, 2021

adequate, then fine. And if it's not, I suppose you could add additional requirements. It's...it's there. And this is something that I found in the Code, particularly with this, is that a lot of times there's uses that are listed, and then it'll say subject to the requirements of this other section. And then there's another section that has some standards, so as to not break up and have a real lengthy explanation in the section. So it was helpful to go sort of back and forth with these.

CHAIR PALTIN: Yeah, yeah. Thank you, that might be helpful. Member King.

VICE-CHAIR KING: Yeah, Chair, I just wanted to throw an idea out. If we move the whole idea of the kiosks into the conditional use permit, that might solve...that's where we can put conditions on them, rather than trying to make specific requirements for each type of...say, of...of kiosk that might be selling, we could do it through the conditional permit process as they come up.

CHAIR PALTIN: Okay.

VICE-CHAIR KING: And I...I know what you're talking about because I've walked through Ka'ahumanu, and had to do a wide berth around some of those kiosks. So, you know, but if we...if we put it into the purview of the Council like we did with the other things as a conditional permitted use, then we can...you know, we can make sure that those...those conditions are in the...the specific permits for the ones that...that might tend to be aggressive.

CHAIR PALTIN: Okay, so we have two options before us. One is to put it in the standards, page 32, Section C; or instead of Administrative Review permit, we could make it be a conditional permit. I'm open to either one. It's up to the body's preference. Any thoughts on the pluses and minuses of either? Chair Lee, followed by Member King.

COUNCILMEMBER LEE: Although I do like Member King's suggestion, you...you...you realize we all have very busy schedules, and to, you know, set a meeting aside for a kiosk, I know I wouldn't want to be an applicant when...when we're in Budget, because they're going to have to wait, like, three months at least to even get scheduled. So, you know, in the interest of time, I...I'm not sure that Council approval would be feasible. That's my concern.

CHAIR PALTIN: Okay. I guess we could also possibly go the Maui Planning Commission route as well, or we can just put it in the standards for food, beverage and merchandise kiosks. So I guess there's an additional option; one, two, or three. Member King.

VICE-CHAIR KING: Yeah, I...you know, I'm not so worried about scheduling, because I think anybody has to...anybody who's trying to schedule anything around Budget has a hard time. But...but I see...I see Chair Lee's point. I'm...I'm happy with it either way. I wouldn't want to send it to the Planning Commission though, because I think that's...it's...it's kind of a manini thing for them, and then if they get 120 days, then that could take even longer than trying to go through the Council. So...because it still would have to come back to the Council. So I...I'm okay with putting it in the standards, or

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

September 16, 2021

putting it in as a conditional permit. So if we're...I just didn't know how much time we were going to take, you know, trying to develop these standards, and if...if we can do this without, you know, public input.

CHAIR PALTIN: Okay. I'm okay with standards as well. Is anyone vehemently opposed to standards? We can take it up at Standards, if not. No? Okay. All right, so we'll take that up when we get to Standards. Moving back to where we were...shoot, what page were we on? 19.39.040, I believe. I didn't print this out to try and save the trees. Slowing me down a little. Okay. Okay, we were on number 7, Kiosks, and we'll...we'll address that one in the standards for kiosk. General office space. This is another one, over 20,000 square foot of gross floor area. Do we want to make that one be a conditional permit as opposed to Maui Redevelopment Agency use permit?

COUNCILMEMBER SINENCI: So moved.

CHAIR PALTIN: Yes, moved by Member Sinenci. Is there a second for general office space? Member Lee second. Any discussion? We're on number 8, on page 19, and the proposal is to make the permitting agency be a conditional permit, similar like how we did with general merchandising. Member Sugimura, was that a vote, or a comment?

COUNCILMEMBER SUGIMURA: This is...my thought on that, is if it's a general office, what's going to happen across the street from the County building is a new State building. So my question to the Department is, what's going to happen to a situation like that? Because they have to go through, you know, the whole building permit process and...and, I don't know, does that become a conditional permit as part of that review process? That's the only big building, or a big office space I can see coming up in Wailuku Town.

CHAIR PALTIN: Is that within the Wailuku Redevelopment Agency area?

COUNCILMEMBER SUGIMURA: Um-hum.

CHAIR PALTIN: Sorry?

COUNCILMEMBER SUGIMURA: It is.

CHAIR PALTIN: It is? Okay. I don't personally have a problem with them coming to us for a conditional permit, but I guess...who did you want to ask your question to, Member Sugimura?

COUNCILMEMBER SUGIMURA: No, I just wondering, if through the planning process then, would that new State office building then become approved, or do they have to come in for another conditional use permit based upon what we're changing here?

CHAIR PALTIN: Okay. Sorry, Member Sugimura. If I can pause on that one, can we withdraw the previous motion on kiosks? Because we're going to address it at the Standards?

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

September 16, 2021

COUNCILMEMBER SUGIMURA: Yes.

CHAIR PALTIN: I believe it was...okay, withdrawn. All right. Ms. Balala, we withdraw it. Okay, so...and planning process, I would think let's ask Director McLean on that one about the State building having...it's just they would either have to have gone through the Maui Redevelopment Agency, and now we're asking them to go through the Council instead, I believe; is that correct, Director McLean?

MS. MCLEAN: Chair, the...the State building, the Judiciary building, the County building, everything on that side of Main Street is...until you get farther down, is zoned B-3.

CHAIR PALTIN: Oh, so it's not within the business --

MS. MCLEAN: It's not within the redevelopment area.

CHAIR PALTIN: -- multi-family district. Oh, it's not within the redevelopment area.

MS. MCLEAN: Yeah. Just --

CHAIR PALTIN: Okay, so we don't --

MS. MCLEAN: -- when you get down to where the old Bank of Hawai'i was, down on that corner, that's...and then below, is the Wailuku Redevelopment Area.

CHAIR PALTIN: Okay.

MS. MCLEAN: And then on the other side of Main Street, but not the Judiciary or the State building.

CHAIR PALTIN: Okay, all right. So it's been moved by Member Sinenci, seconded by Member Lee. Any further discussion? Seeing none, all those in favor, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Okay. Measure passes unanimously with all Members present.

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

September 16, 2021

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

ACTION: APPROVED AMENDMENT.

CHAIR PALTIN: The next one is...I would recommend similar action that we had taken before on General Merchandise over 20,000 square feet requiring a conditional permit. I'll entertain a motion.

COUNCILMEMBER SINENCI: So moved.

CHAIR PALTIN: Moved by Member Sinenci, seconded by Member Lee. Discussion by Member Molina, or were you seconding? Oh, seconding. Okay, and this is just to remain consistent throughout the bill. All of those in favor, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Okay. Nine "ayes." Measure passes unanimously.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

ACTION: APPROVED AMENDMENT.

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

September 16, 2021

CHAIR PALTIN: Number 11, again, for consistency. Hotels more than 20 rooms shall require a conditional permit. And this was a kerfuffle issue. I'll entertain a motion to change Maui Redevelopment Agency use permit to conditional permit.

COUNCILMEMBER LEE: So moved.

CHAIR PALTIN: Moved by Chair Lee, seconded by Member Sinenci. Any further discussion? Seeing none, all those in favor raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Okay. Measure passes unanimously, moving...with all Members present.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

ACTION: APPROVED AMENDMENT.

CHAIR PALTIN: Moving forward. Food and Beverage Kiosk, then we can change the...the requirements of Subsection 19.39.80(C) when we get there. And then I would say nonsubstantive changes to 2, 3, 4, and 5 on page 20 and 21 for Section D, because we're taking it out of Maui Redevelopment Agency use permit, and changing it to conditional permit. So those would be nonsubstantive changes. Here on Section (C)(B)(3), the action was taken by the Planning Department to put setbacks in 15-foot increment feet. So that's just the kind of an FYI of a change that the Planning Department made in the transmittal from what was passed at the Planning Commission to it coming toward...to us. Would anyone need further explanation for the Planning...from the Planning Department, or are we good with their cover letter statement on why they made the change? We're good. Okay, great. Okay, that concludes what I see for 19.39.040. Does anyone have any further amendment to 19.39.040? No? Great. Okay. Moving forward, we're on 19.39.050, which is Wailuku Redevelopment Agency Maui Multi-family district. Member Molina has to leave, so

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

September 16, 2021

thank you, Member Molina. Okay. All right. Okay, we're in the multi-family district. In this one, the first one talks about bed and breakfast, up to four bedrooms in detached single-family dwellings only. More than four bedrooms shall require a Maui Redevelopment Agency approval. In the past ones, we've changed this to conditional permit. Just checking for consistency, would we like to --

COUNCILMEMBER SINENCI: So moved.

CHAIR PALTIN: Okay, moved by Member Sinenci, seconded by Member Sugimura, to change the approval authority for more than four bedrooms to the conditional permit. All those in favor, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Okay, that's eight "ayes," one excused; Member Molina.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Molina.

MOTION CARRIED.

ACTION: APPROVED AMENDMENT.

CHAIR PALTIN: Boarding Home is next, is uses that meet the definition of hotel or transient vacation rental or timeshare unit are not permitted. Everyone okay with that? Yeah? Okay, great. Eating establishment and beverage. Anyone have any further amendments? It looks like in Section D, would remove 1 as a nonsubstantive revision, because that would now be a conditional permit. Everyone okay with 2, 3, 4, 5, 6, and 7 for Maui Redevelopment Agency use permit? Yeah? Okay, great. And moving along, C. I think this is another one, (C)(B)(6) is a change that was made by the Planning Department, from the Maui Planning Commission version about...is that correct, Director McLean? 19.39.050(C)(B)(6) was changed for multi-family buildings. Any further revision to any of 19.39.050? No? Okay. Next, we have 19.39.060, which is the residential district of the Wailuku Redevelopment Area. I guess I did have a question for Director McLean. If there's products grown on the site, why do we not allow transactions occurring on the premises?

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

September 16, 2021

MS. MCLEAN: Again, Chair, this is taking the existing Code and putting it into the Zoning Code. I don't know what the thinking was back then. I...I don't know why there would be that restriction when they're...it's in that particular district. They wanted to limit that level of commercial activity?

CHAIR PALTIN: Okay. All right, thanks. Member Sinenci?

COUNCILMEMBER SINENCI: Yeah, I...I'd move to strike the second part of that sentence. They shall not be (*audio interference*) --

CHAIR PALTIN: Okay. So everything after the semicolon, we just have a period there. Mr. Hopper, is that an okay thing for us to do in terms of amending?

MR. HOPPER: I think I'm...I'm still trying to follow. You're on 060, which section?

CHAIR PALTIN: Page 27, (B)(A)(1), bottom of page 27. We want to strike after the semicolon and just make that a period.

MR. HOPPER: Yeah, I...I don't...I don't think that's an issue.

CHAIR PALTIN: Okay, moved by Member Sinenci. Is there a second? Seconded by Member Johnson. Any further discussion? We just, you know, trying to promote agriculture here. All those in favor, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Okay, eight "ayes," one excused; Member Molina.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Molina.

MOTION CARRIED.

ACTION: APPROVED AMENDMENT.

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

September 16, 2021

CHAIR PALTIN: So we're at the bottom of page 27, and it's 12:00. We've made some amendments. What's your pleasure, Members? You want to recess? Okay, Member Lee, followed by Member King.

COUNCILMEMBER LEE: I have a meeting at 12:30. I have to leave.

CHAIR PALTIN: Okay, we can recess this meeting. Do we want to poll for an off-week meeting? Charter deadline item. Informal poll on off-week meeting. Who's an "aye" and who is a "no"? One, two --

VICE-CHAIR KING: That was just an "aye."

CHAIR PALTIN: -- three, four, five, six. Okay, we'll poll for an off-week meeting for...and recess this for today. Okay. Is there anything else that I need to do, Ms. Stewart, before recessing this meeting?

MS. STEWART: No, Chair.

CHAIR PALTIN: Okay, great.

COUNCILMEMBER SUGIMURA: Tamara?

CHAIR PALTIN: Yes, Member Sugimura?

COUNCILMEMBER SUGIMURA: I have a question. Do you want to just finish the section before you recess on this exact page? Because I think the next page is 19.39.070. So page...I think we're talking about...well, page 29 is the next section.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR PALTIN: Okay, I...yes, Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: I...I have a meeting too.

CHAIR PALTIN: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: So I'd prefer to stop here.

CHAIR PALTIN: All right. So we're...we're --

MS. STEWART: Oh, Chair?

CHAIR PALTIN: -- at the end of our designated meeting. Yes, Ms. Stewart?

MS. STEWART: Yes, this is Alison. I'm sorry, but you do have to set a recess date and time in order to recess the meeting.

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

September 16, 2021

CHAIR PALTIN: Oh, okay.

VICE-CHAIR KING: That's what I was asking.

CHAIR PALTIN: Oh, okay. So how is September 21st at 9:00 a.m., which is a day available for additional...additional meetings? 9:00 to 12:00, September 21st. Yeah? One, two, three, four --

VICE-CHAIR KING: Chair?

CHAIR PALTIN: Yes?

COUNCILMEMBER SUGIMURA: I'm not available.

VICE-CHAIR KING: I do have a...I have a meeting at 10:00, so I could come and, you know, could...and then I have a Maui Food Alliance at 10:00, so then I can come back after that. Hopefully, you'll have --

CHAIR PALTIN: Okay.

VICE-CHAIR KING: -- a quorum to continue.

CHAIR PALTIN: Okay. So do we have five Members available on the 21st? Oh, a message from Member...Director McLean.

COUNCILMEMBER JOHNSON: What time was that? That we --

VICE-CHAIR KING: 9:00 a.m.

CHAIR PALTIN: 9:00 a.m. on the 21st.

COUNCILMEMBER KAMA: What day is that?

CHAIR PALTIN: So --

COUNCILMEMBER SUGIMURA: Tuesday.

CHAIR PALTIN: -- Member Sugimura's okay, Member Sinenci's okay, Member Kama's okay, Member Lee's okay, and myself is okay. So we do have a quorum. Yes, Member Sugimura?

COUNCILMEMBER SUGIMURA: I have a noon meeting, that'll mean a couple hours, I think. So 1:30-ish it officially starts. It's my Axis deer meetings. It's my first meeting with my committee, so I got to...I got to be there.

CHAIR PALTIN: Okay, if people --

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

September 16, 2021

COUNCILMEMBER SUGIMURA: So I'll join your meeting after.

CHAIR PALTIN: -- *(audio interference)* with their amendments written out, we can get through this a little bit faster...but Member Johnson, yes? You had something?

COUNCILMEMBER JOHNSON: I...I just want to inform you, I have two meetings; one at 10:00 and one right after. So I could do 9:00 a.m. and 10:00, but that's all I really have. Sorry, Chair.

CHAIR PALTIN: Okay. If you do have additional amendments, if you have them in writing, we can take them up in your absence. Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. So we...on the 22nd after the Chair's meeting, I don't know if you want to see if Members are more available during that time?

CHAIR PALTIN: Okay, Members, on the 22nd, how's the availability for that day?

COUNCILMEMBER SUGIMURA: Good.

VICE-CHAIR KING: Instead of the Chair's meeting? I think you better ask the Chair.

COUNCILMEMBER LEE: No, no, no. After. She said after.

VICE-CHAIR KING: After that meeting?

COUNCILMEMBER LEE: Yeah, so after would probably be 1:30.

VICE-CHAIR KING: Yeah, I have two --

COUNCILMEMBER LEE: The Chair's meeting will probably run to 11:00, 12:00. At least 12:00, I would think.

CHAIR PALTIN: So 1:30 to 4:30 on the 22nd?

COUNCILMEMBER LEE: Yeah. Right.

VICE-CHAIR KING: I wouldn't be available.

CHAIR PALTIN: Who's available? Okay, so Member Sugimura, Member Sinenci, Member Lee, Member Johnson, Member Rawlins-Fernandez, Member Kama. Okay, it looks like we have more people available on that date. So shall we set the recess date to September 22nd at 1:30? Member Sinenci, you have your hand up?

COUNCILMEMBER SINENCI: Yeah, I just had a scheduled meeting with Mr. Agawa, but I'll see if I can change it to maybe --

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

September 16, 2021

UNIDENTIFIED SPEAKER: *(Audio interference)*

CHAIR PALTIN: Okay, thank you. That would be awesome. All right, and if anybody can't make it, they can submit their ASF in writing to the Committee, and we can take them up as they come up. All right, so then this meeting will be recessed till September 22nd at 1:30 p.m. Going to bang the gavel. . . .*(gavel)*. . .

COUNCILMEMBER RAWLINS-FERNANDEZ: On the same link?

CHAIR PALTIN: On the same link. Going to bang it again. . . .*(gavel)*. . .

RECESS: 12:06 p.m.

APPROVED:



TAMARA PALTIN, Chair
Planning and Sustainable Land Use Committee

pslu:min:210916:kr

Transcribed by: Kaliko Reed

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

September 16, 2021

CERTIFICATION

I, Kaliko Reed, hereby certify that pages 1 through 60 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 8th day of October 2021, in Wailuku, Hawai'i



Kaliko Reed