

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

MINUTES

January 25, 2022

Online Only Via BlueJeans

CONVENE: 11:02 a.m.

PRESENT: Councilmember Tamara Paltin, Chair
Councilmember Kelly Takaya King, Vice-Chair (out 1:55 p.m.; in 2:30 p.m.)
Councilmember Gabe Johnson, Member (in 11:12 a.m.)
Councilmember Tasha Kama, Member
Councilmember Alice L. Lee, Member
Councilmember Michael J. Molina, Member
Councilmember Keani N.W. Rawlins-Fernandez, Member
Councilmember Shane M. Sinenci, Member
Councilmember Yuki Lei K. Sugimura, Member (in 11:22 a.m.)

STAFF: Wilton Leauanae, Legislative Analyst
Alison Stewart, Legislative Analyst
Brittney Sunderland, Legislative Analyst
Shelly Espeleta, Supervising Legislative Analyst
Geoffrey Henderson, Communications Specialist
Richard Mitchell, Legislative Attorney
David Raatz, Deputy Director
Clarita Balala, Committee Secretary
Lenora Dineen, Council Services Assistant Clerk

Kate Griffiths, Executive Assistant to Councilmember Gabe Johnson
Stacey Moniz, Executive Assistant to Councilmember Gabe Johnson
Roxanne Morita, Executive Assistant to Councilmember Gabe Johnson
Evan Dust, Executive Assistant to Councilmember Tasha Kama
Davideane Kama-Sickels, Executive Assistant to Councilmember Tasha Kama
Ellen McKinley, Executive Assistant to Councilmember Kelly Takaya King

ADMIN.: Michael Hopper, Deputy Corporation Counsel, Department of the Corporation
Counsel
Michele McLean, Director, Department of Planning
Paul Fasi, Planner, Department of Planning
Gail Davis, Zoning Inspector, Department of Planning

OTHERS: Trip Lynch
Debbie Lynch
Livit Callentine
Josh Jerman
Ruby Wong

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Raymond Cabebe, Vice President, Chris Hart & Partners, Inc.
Jeffrey Eisenberg, Owner, Lumeria Maui
Norm Santos, Owner/Manager, Lumeria Maui
Candice Parcher, Manager, Lumeria Maui

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

CHAIR PALTIN: . . .*(gavel)*. . . Will the Planning and Sustainable Land Use Committee meeting of January 25th come to order. The time is 11:02. And if I can ask everyone to please silence their cell phones or any noise-making devices, that will help our cause. This online meeting is being conducted in accordance with the Governor's most recent Emergency Proclamation on Sunshine Law and in-person meetings, which has suspended the use of in-person testimony and viewing locations due to the recent COVID-19 surge. The revised Sunshine Law mandates that each Member must state who, if anyone, is present at the non-public workspace location with the Member. Also, please see the last page of the agenda for information on meeting connectivity. My name is Tamara Paltin, and I'll be your Chair for today. I'm here at the Lāhainā District Office, here in sunny Lāhainā Town, broadcasting live and direct. We have no courtesy testifiers here, but I am more than six feet away from my EA Angela. And with us also today...oh. Aloha awakea and wilujeng enjing from Java, Committee Vice-Chair Kelly King.

VICE-CHAIR KING: All right. Aloha awakea and wilujeng enjing. I already had my java earlier so I'm all set. And I'm here broadcasting from my house in a spare bedroom with nobody else in the room, and I will be here...I do have a meeting I have to get onto by 2:00, so I'll probably have to log off a little before that if...I think we only have one item on the agenda, Chair?

CHAIR PALTIN: Yeah, one item. We're doing the site visit before lunch, and then the deliberations after lunch.

VICE-CHAIR KING: Okay.

CHAIR PALTIN: Okay. And from...oh, I don't see Member Johnson. From the neighborhood, we have Member Tasha Kama. Wilujeng enjing and aloha awakea.

COUNCILMEMBER KAMA: Wilujeng enjing and aloha awakea to you, Chair. I am in my home in my workspace, and I am alone. I'm looking forward to a very interesting meeting today. Thank you, Chair.

CHAIR PALTIN: Thank you. And we have Chair Lee. Wilujeng enjing and aloha awakea to you.

COUNCILMEMBER LEE: Aloha awakea, Madam Chair, wilujeng enjing. I am here alone with my little trusty dog. I can't wait to visit the place that rhymes with Plumeria. Okay.

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CHAIR PALTIN: Send Koa our love.

COUNCILMEMBER LEE: Okay.

CHAIR PALTIN: And from the District Office, it looks like we have Councilmember Mike Molina with the very first courtesy testifiers. Woo-hoo.

COUNCILMEMBER MOLINA: Yeah, woo-hoo, Madam Chair. That's right. Wilujeng enjing and aloha to you, my colleagues and everyone else tuning in for today's PSLU meeting. I'm transmitting live from our District Office in Pā'ia, along with my Executive Assistant Ana Lillis, and we...yes, we do have two courtesy testifiers, the first ever for the Pā'ia District Office. Mr. and Mrs. Lynch will be testifying on the Lumeria issue. Mahalo.

CHAIR PALTIN: Exciting. Okay. And next up from Moloka'i, we have Councilmember Keani Rawlins-Fernandez, wilujeng enjing and aloha awakea.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha awakea, Chair. Mai Moloka'i Nui Ahina. I'm at the Moloka'i District Office by myself on this side of the office. Wilujeng enjing kākou.

CHAIR PALTIN: And from East Maui we have Councilmember Shane Sinenci. Wilujeng enjing and aloha awakea to you.

COUNCILMEMBER SINENCI: Wilujeng enjing, Chair, and aloha awakea makahikina. We are here at the Hāna Cultural Center with my Staff members, Avis Medeiros and Dawn Lono. Aloha.

CHAIR PALTIN: Aloha. Okay. And I'm sure Member Johnson and Member Sugimura didn't forget, they'll probably be joining us shortly or rewatch the virtual tour after...we'll see. From the Administration, we have Planning Director Michele McLean, Zoning Inspector Gail Davis, Staff Planner Paul Fasi, and Deputy Corporation Counsel Michael Hopper. Other resources we have for this item: Raymond Cabebe, VP Chris Hart and Partners and Consultant for this project; Jerry [sic] Eisenberg, the Owner; Norm Santos, the Owner/Manager; Candice Parcher, the Manager; and Ingrid Summerfield, Owner. Committee Staff with us today, we have Committee Secretary Clarita Balala; Legislative Analysts Wilton Leauanae, Alison Stewart, and Brittney Sunderland; and Legislative Attorney Richard Mitchell, as well as Assistant Clerk Lei Dineen. One item on today's agenda, PSLU-15 Change in Zoning for Lumeria Maui Dormitory and School Makawao. So the plan for today's meeting, as noted on the agenda, this meeting is held virtually. It changed from an in-person site visit due to the surge in COVID cases and safety concerns. There was also a press release on 1/21/22 regarding this change in the meeting. So first thing we'd like to do is take public testimony. Testifiers wanting to provide video testimony should have joined the online meeting via the BlueJeans link as noted on today's agenda. Testifiers wanting to provide audio testimony should call 408-915-6290 and enter meeting code 149341846, also noted on today's agenda. Written testimony is encouraged, and can be sent via the eComment link at mauicounty.us/agendas. Oral testimony is limited to three minutes per agenda item.

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When your name is called, please unmute yourself by clicking the video and microphone icons, or if calling in, press star four to unmute yourself. Please be courteous to others, muting video and audio while waiting for your time. 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 may continue viewing on *Akakū* Channel 53, Facebook Live, or mauicounty.us. Once oral testimony concludes, only Councilmembers, Staff and designated resources will remain online, and all others will be dropped from the BlueJeans connection. A link to the list of testifiers is posted in chat. Please be mindful that chat should not be used to provide testimony or chat with other...with others during the meeting. Okay. With that read, let's start with our first two testifiers at the District Office. Woo, exciting. Deb and Trip Lynch, you're up, three minutes...three minutes each or combined, I'll leave it to you folks.

. . . BEGIN PUBLIC TESTIMONY . . .

MR. LYNCH: I'm live now?

CHAIR PALTIN: Yes. You're live, and we can see and hear you.

MR. LYNCH: Wonderful. Good morning, everyone. My name is Trip Lynch and I'm testifying as a neighbor. And I just want to give a little bit of background as to why my wife and I are here this morning to speak in favor of the change in zoning for Lumeria. My wife and I were married about 24 years ago on Maui, and after several visits we made Maui our permanent home back in 2006. We're both very active in the local community. I'm deeply involved in the St. John's Church in Keokea, also in the Episcopal Diocese of Hawai'i, and I've been the Treasurer of Maui Tomorrow Foundation for the last 15 years. My wife is the President of A Cup of Cold Water, and is also on the new Police Chief's Task Force to increase community involvement, specifically relating to the homeless. I have testified twice against Lumeria when it was being developed by the original owner. The original owner, to be candid, was a very poor neighbor. I'm reminded of some testimony that Don Couch made the last time this issue was discussed a month or so ago back in December, and Don Couch made a comment that he thought the Lumeria developer mislead Maui County, mislead the Council, actually made some false promises, and Don Couch was absolutely right. I think the developer seriously misled Maui County in asking for a dormitory for a so-called metaphysical university, which never actually happened. His secret agenda was to have a luxury boutique hotel, and he put a veneer on it of this metaphysical university, and he got away with it. He sold it to the current owners and left town with a large amount of money, and that was the end of him. The good news is that was the end of him. The new owners who have taken over seven or so years ago have really turned this into a world class wellness retreat along the lines of Esalen Institute or a place called Skylonda, both in California. And the first general manager was actually hired away from Esalen Institute to turn Lumeria into the world class resort that it is now. And I'm just here to ask Council to give the

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current owners a fair hearing. I don't think it's fair to punish the current owners for all of the misdeeds of the original developer. He's gone. We are the only residential neighbors. There's a County facility on one side, and Mahi Pono large fields on the other two sides. We are the only residential neighbors, and they are excellent neighbors. That's really all I have to say. My wife will elaborate a little bit on the good neighbors that Lumeria has been . . . *(timer sounds)* . . . since they took over seven or so years ago. This is all I have to say. Thank you for listening.

CHAIR PALTIN: Thank you, Mr. Lynch. We do have a question for you from Committee Vice-Chair King. Go ahead, Member King.

VICE-CHAIR KING: Thank you, Chair. Aloha, Mr. Lynch. Thank you for being our first remote testifier since COVID started. I just wanted to clarify that you...I know you said your neighbors...that you don't have any financial interest in Lumeria personally...you or your wife?

MR. LYNCH: Good question. We don't. No.

VICE-CHAIR KING: Okay. And then you've been there since they've had the same footprint that they have now as far as the number of people that they can...the number of guests that they can accommodate.

MR. LYNCH: It was...actually it was a dormitory for Maui Land and Pine when we moved in in 2006, and there were a hundred or so field workers living there. And we lived through the construction, which was a nightmare. All of the dust fence was not put up, and many rules and regulations were broken during construction. At the end of construction they operated by the previous developer for a while, and then we've been there from day one with the current owners. And as I said, they've been great neighbors.

VICE-CHAIR KING: Okay. And do you know what their capacity is?

MR. LYNCH: I was told they have 26 rooms.

VICE-CHAIR KING: 26 rooms. Okay, and that hasn't changed?

MR. LYNCH: That has not changed. No, no. To your original point, no. The footprint has not changed.

VICE-CHAIR KING: Okay.

MR. LYNCH: Actually it can't, because it's a national historic registered building, I believe.

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

MR. LYNCH: Thank you, Kelly.

CHAIR PALTIN: Thank you, Member King. Member Kama also has a question for you,

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Mr. Lynch. Go ahead, Member Kama.

COUNCILMEMBER KAMA: Thank you, Chair. Thank you, Mr. Lynch, for being here. I just have just one question. Have you ever been a client of the wellness retreat? Have you ever experienced what they are offering and, you know, when they talk about the wellness retreat?

MR. LYNCH: I have not personally taken advantage of any of their services. I have used the restaurant several times for lunches. It's the most convenient restaurant in town to me in terms of location.

COUNCILMEMBER KAMA: Yes, right next door. Yeah.

MR. LYNCH: Yeah. But all I can tell you, they are very, very quiet. I mean, during the entire time they've been there, I've often thought they were closed because they are so quiet. They tend to have groups, affinity groups. Their demographics are sort of...they skew a little female in 40 to 50. Quiet people. Really, really quiet.

COUNCILMEMBER KAMA: So in comparison to the first owner, who probably wasn't a good neighbor, this new wellness retreat seems to be a better fit for what you're saying in terms of being a part of the community, and as well as being a good neighbor.

MR. LYNCH: They are a very good neighbor. When they have had events, it's been very rare. When they've had events they've given us a heads up. And all the ones I'm aware of were fundraisers for local charities. I remember there was one for Surfrider Foundation, all very community-oriented events. I mean, they're mindful of their impact in the community, and I think they're doing a great job.

COUNCILMEMBER KAMA: Well, thank you for sharing, you know, your perspective of what you think a good neighbor is, and that you do...are very supportive of them. So thank you very much. Thank you, Chair.

CHAIR PALTIN: Thank you, Member Kama. I'd like to take this opportunity to recognize our Councilmember who just arrived on Lānaʻi. Wilujeng enjing from Java, and aloha awakea from Maui.

COUNCILMEMBER JOHNSON: Aloha, Chair and my fellow Councilmembers. Wilujeng enjing I guess is the greeting of the day. I am home alone on the Island of Lānaʻi in my office. I just got off the ferry so it was whale soup in the crossing...a lot of whales out there.

CHAIR PALTIN: Welcome, welcome. We're on our second testifier now, I believe. If there is no further questions for Mr. Lynch, we'll move on to Mrs. Lynch. We're ready for your three minutes.

MS. LYNCH: Thank you very much for listening to us. Yes, I am also in support of changing the zoning to Public/Quasi-Public. As my husband Trip said, they've been very excellent neighbors. And I know that during the COVID pandemic, they haven't been able to offer

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as many classes, but that's been true I think of a lot of places and situations...they have been so limited. They are definitely a wellness center, and they don't act as a hotel. People go to Lumeria on purpose, it's not like they are sitting at a hotel, near the beach, going oh, I know, I'll drink a mai tai and go get a facial. They are very dedicated to creating retreats and places to heal our health, heal our hearts, and I know our community needs this. I am definitely in support of it. They are very, very good neighbors. And thank you.

CHAIR PALTIN: Thank you, Mrs. Lynch. Any questions for Mrs. Lynch? Seeing none. Thank you so much for being our first and second courtesy site testifiers. That's really exciting for us all, I know. Next up I think on the list we have Livit Callentine. Livit, if you want to go ahead and unmute your video and your audio, we'll hear from you. Oh, here, let me unmute your...oh, you're unmuted.

MS. CALLENTINE: It's my video. Good morning, Chair. My video doesn't seem to be unmuted. I don't know why, my camera looks like it's functional.

CHAIR PALTIN: Did you press the little camera button?

MS. CALLENTINE: Uh-huh.

CHAIR PALTIN: Oh, okay. Well, we can hear you, and that's the main thing.

MS. CALLENTINE: Okay, okay. Thank you. Aloha kākou, Chair Paltin and Committee Members. My name is Livit Callentine, and I am testifying on my own behalf. In 2010, applications to develop the college of yoga and metaphysics were submitted to the Planning Department for a district boundary amendment, a community plan amendment, and a change in zoning. I was then working as a planner for the Department, and I was assigned to review and process the applications. And I thought maybe I could just give you a little of my view from that time frame. After reviewing the applications, meeting with the applicant, and conducting visits to the site, I became concerned with the assertion that the development would primarily function as a college. For example, early on I requested the applicant identify the accrediting body under which the proposed college would operate. This question seemed to be a new consideration for the applicant, and to my knowledge, the college was never accredited. My personal view at the time was that this project was primarily about providing luxury lodging and dining. The classes seemed to be optional for the most part. I also questioned the assertion that the proposal met the requirements to be rezoned Public/Quasi-Public as education, general and specialized. This was a reference to Maui County Code, Section 19.31.020. Finally, I support the Planning Department's recommendation at this time that the change in zoning be denied for noncompliance with the existing conditions approval and for the Public/Quasi-Public uses. I fully support the Department's recommendation that the applicant be given one year to submit applications for change in zoning and community plan amendment applications for hotel use, as I believe this is properly...the proper classification for this property and for this use. Thank you very much for allowing me to testify.

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CHAIR PALTIN: Thank you, Ms. Callentine, and welcome back to the County. Before we get into questions...

MS. CALLENTINE: Woo-hoo. I said that because you can't see me waving my hands.

CHAIR PALTIN: I'd like to welcome Councilmember Sugimura from jacaranda country. Wilujeng enjing and aloha awakea to you.

COUNCILMEMBER SUGIMURA: Oh, wow, ditto to you and good morning everybody. I was at a site visit at the landfill. Thank you.

CHAIR PALTIN: Thank you. And you are alone someplace? Alone?

COUNCILMEMBER SUGIMURA: Yeah, I'm in Kula, and I am alone on the first floor. Yes.

CHAIR PALTIN: Thank you. It looks like we briefly saw Ms. Callentine, and Committee Vice-Chair King had a question for you, Ms. Callentine.

VICE-CHAIR KING: Thank you, Chair. There you are. Hi, Livit.

MS. CALLENTINE: Hi.

VICE-CHAIR KING: You keep popping in and out for some reason. We see you and then you disappear. So I just had a quick question. So for the Public/Quasi-Public zoning, in order to be an educational institute, do you have to be accredited, or can there be other types of...

MS. CALLENTINE: I, I...you...the zoning code does not specify anything about accreditation for any educational facilities or institutions. No, it does not.

VICE-CHAIR KING: Okay. So if you wanted to be like an art school, you wouldn't have to necessarily be accredited.

MS. CALLENTINE: Yes, you wouldn't.

VICE-CHAIR KING: Okay.

MS. CALLENTINE: But if you...but when you do call yourself a college, then you would have kind of entered into a different realm. And I can't talk to you about any legalities of that, but what I'm saying, what I want to convey to you is that at the time, because they presented themselves as a college, I wanted to know would there be diplomas given, is there a curriculum? So I actually asked them to go back and develop a curriculum that wasn't really included in the first applications. So it just...it made me really wonder if this was being properly presented for what the uses were going to be.

VICE-CHAIR KING: All right. Thank you. Thanks for being here.

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MS. CALLENTINE: You're welcome.

VICE-CHAIR KING: You look great, by the way. Good to see you.

MS. CALLENTINE: Thank you.

CHAIR PALTIN: We have another question for you from Member Sugimura, Ms. Callentine. Go ahead, Member Sugimura.

COUNCILMEMBER SUGIMURA: Yeah, thank you. So this is actually I think I heard the tail end of the discussion. So are you back at the County, Livit?

MS. CALLENTINE: No, I am not. I am not back at the County. Well, I never left the County, but I'm not working for the Planning Department anymore.

COUNCILMEMBER SUGIMURA: Oh, I see. So you're testifying today...

MS. CALLENTINE: What I mean by I never left the County is I'm a fully involved resident of the County.

COUNCILMEMBER SUGIMURA: Oh, okay. So you're still retired and you're not...you're not taking on this project as part of your responsibility as a planner.

MS. CALLENTINE: Oh, no.

COUNCILMEMBER SUGIMURA: Were you the planner before? Were you the planner that took in this project when you were working?

MS. CALLENTINE: Yes, I was.

COUNCILMEMBER SUGIMURA: Okay. Thank you.

MS. CALLENTINE: You're welcome.

CHAIR PALTIN: Any further questions for Ms. Callentine, Members? Seeing none. Thank you so much for your testimony, and good to see you again, Ms. Callentine.

MS. CALLENTINE: Thank you, Chair. It's really good to see you too.

CHAIR PALTIN: Next up we have Josh Jerman, Jerman? It's your turn to testify. If you can unmute yourself, we're ready for your three minutes.

MR. JERMAN: Good morning. I'm just here primarily as an observer, but I do support the existence and presence of Lumeria in the community. I grew up Upcountry, and I feel that it's a nice complement to the area, and that they do an exceptional job of having a low profile and organizing programming for their guests. And I think that it is really an asset to our community here when you have travelers who do seek out to not be in big

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concrete hotels, and also seek out education and full educational experiences that are there. And so I really, you know, do see it as an asset, and I hope that it's approved with the zoning change. Thank you.

CHAIR PALTIN: Thank you, Members, any questions for the testifier? Seeing none. Thank you for your testimony. Next up we have Ruby Wong. Ruby Wong, we're ready for your testimony. Oh, just a moment, I think you might be muted.

MS. WONG: Now can you hear me?

CHAIR PALTIN: Yes, we can. Go ahead, we're ready for your testimony.

MS. WONG: I teach...I've been teaching wellness for a long time, and I myself, also a realtor. But I remember walking the land before it was even built, you know, by the original owner. And when the...when Xorin first created it, he's not doing it just to make the money, he's doing it to give...you know, to share with the community that, you know, how important our health is to everybody. I mean, you can make a lot of money, or you can go to all the luxurious hotels if you want, but if you don't feel good about yourself, and have other people also feel the same and promote and help you to have both knowledge and wisdom and physical and mental positivity. And I think Lumeria has it. And I've been teaching doing retreat in Europe, and also at Lumeria. We have tea parties from the oil, from the natural oil that we have created here. Everything that, you know, Lumeria people who works there, we used to have Christmas parties, and they really doing it because it's for the people who come in and they can relax. They don't have to like...you know, they don't have to feel like they stay at the hotel and people screaming, running, yelling. They just want the peace and the quiet with...you know, with Hawaiiana, and I think they did it. Whatever they need, I think we should all, you know, say yes to them, yeah.

CHAIR PALTIN: Thank you, Ms. Wong. Members, any questions for the testifier? Seeing none. Thank you for your testimony.

MS. WONG: Okay. Thanks.

CHAIR PALTIN: There are no more names on the list. Is there anyone else that at this time would like to provide testimony, please let us know in the chat or unmute yourself if you are on a phone and give us a holler. We'll continue on as I don't see anybody waving their hands frantically or yelling or chatting or anything. So without objection, I will now close oral testimony and accept written testimony into the record.

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR PALTIN: Okay. All done.

. . . END OF PUBLIC TESTIMONY . . .

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

**PSLU-15: CHANGE IN ZONING FOR LUMERIA MAUI DORMITORY & SCHOOL
(MAKAWAO) (CC 14-162)**

CHAIR PALTIN: Our item for today is PS LU-15, and we will begin the virtual site tour. The virtual tour of the property at Lumeria with Raymond Cabebe and Lumeria representatives, our OCS Staff Geoff Henderson is at the site. If we encounter connectivity problems, there is a pre-recorded video of property tour; however, I don't think we...I don't think...hopefully we won't need it. Raymond Cabebe is online under the handle Norm Santos. OCS Staff is on site with Norm and Candice Parcher. So let's see, first time doing a virtual tour on a virtual meeting with virtual testifiers at our courtesy site. We're breaking all sorts of records. Mr. Henderson, are you on? Can you show us your video? Oh, Mr. Henderson, can you hear us? There you are. We cannot see or hear you at this time. Member Kama, you had a question?

COUNCILMEMBER KAMA: I do, Chair. I just wanted to know, you know, as the virtual tour is being done, would you rather have us ask questions after that virtual tour is all done?

CHAIR PALTIN: It depends if we're able to do the live or the pre-recorded. I think if we have to switch to the pre-recorded, maybe hold your questions until after. If we're able to pull off the live with the connectivity, then we can ask questions as we go.

COUNCILMEMBER KAMA: Okay. Thank you.

CHAIR PALTIN: Oh, Mr. Henderson, we can see you or something. We see a big bamboo...bush of bamboo. Can you hear us?

COUNCILMEMBER LEE: He's muted.

CHAIR PALTIN: Oh, you're muted. And we may need to let him talk and mute ourselves and switch to speaker view, or people view. But it looks like we're running into some connectivity. Mr. Henderson, can you hear us? Geoff? Okay.

COUNCILMEMBER JOHNSON: On my screen he has four bars, but he looks like he's muted.

CHAIR PALTIN: Oh, he's muted. Mr. Henderson, can you unmute yourself? If you're talking, we can't hear you. My picture is blocking his picture to see if he's muted. Thanks for pointing that out.

COUNCILMEMBER JOHNSON: And now it says he's unmuted. But I don't hear anything.

CHAIR PALTIN: Oh, Mr. Henderson, can you hear us?

VICE-CHAIR KING: He's got a poor network.

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CHAIR PALTIN: Okay. Mr. Leauanae, we might need to play the pre-recorded video at this point.

MR. HENDERSON: Yes, we can hear you now, barely.

CHAIR PALTIN: Okay, we can't see anything. Do you think it's going to be conducive to the site tour? Can we play the pre-recorded virtual tour? With a share screen maybe?

MR. LEAUANAE: I apologize, Chair. We had...we ran into technical difficulties with the video, but we are...we can...it's a short eight-minute video, and it can be uploaded to Granicus later today and made a part of PSLU-15 public file. The Wi-Fi connection was weak, and we weren't able to upload that video. I apologize. But it can be made available later today.

CHAIR PALTIN: Okay. Mr. Henderson, I see you're back on the call. Can you hear us?

COUNCILMEMBER LEE: You want to take a short recess to get connected, reconnected, Chair?

CHAIR PALTIN: Okay. What I got from Mr. Chivo Ching Johnson is to ask Geoff to go to a router --

VICE-CHAIR KING: He's on now. It looks like there is something on, it looks like still pictures.

CHAIR PALTIN: -- and then stream. Go to a router and then stream. Okay, yeah. Let's take a recess because --

COUNCILMEMBER LEE: Okay.

CHAIR PALTIN: -- it's not working out. Should I say ten minutes, come back at 11:45?

COUNCILMEMBER LEE: That's fine.

CHAIR PALTIN: Okay. We'll go in recess until 11:45. . . .*(gavel)*. . .

RECESS: 11:36 a.m.

RECONVENE: 11:45 a.m.

CHAIR PALTIN: . . .*(gavel)*. . . Will the PSLU meeting of January 25th return to order. The time is 11:45, and we've somewhat ironed out our technical difficulties. To be safe, Members, let's write down our questions because it's windy and they may not be able to hear us well. So if everybody can mute their selves, then they will show up as the featured video. And the staff of Lumeria will begin our virtual tour. Thank you so much.

MR. HENDERSON: Hey, come on.

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CHAIR PALTIN: Go ahead.

MR. HENDERSON: We're ready. Okay, can you guys hear us?

CHAIR PALTIN: Yes, we can hear you. Go ahead.

MS. PARCHER: Thank you, Chair. My name is Candice Parcher, I'm the manager here. And so I'll lead you on a tour. As you know, Lumeria Maui is an educational retreat center. We're here at our main area. We have a registration office here to the left where students check in with us. And then leading this way, we have our lobby. So this is one of the three unlocked areas that we have under . . .(inaudible). . . for our students. . . .(inaudible). . . We have our . . .(inaudible). . .

CHAIR PALTIN: I'm just clarifying that that was the lobby, correct?

MR. HENDERSON: That is our main building lobby area, correct.

MS. PARCHER: So here we have our . . .(inaudible). . . here in our . . .(inaudible). . . building overlooking our meditation lawn where several of our classes take place. . . .(inaudible). . . Hi, Earl.

UNIDENTIFIED SPEAKER: Aloha, Earl.

UNIDENTIFIED SPEAKER: Hi. Aloha, aloha. Oh, my gosh . . .(inaudible). . . yeah. I appreciate that. Okay, the music was just like....it was just like . . .(inaudible). . .

UNIDENTIFIED SPEAKER: Great to hear. Well, you got the best teacher on the island. Aloha, Earl. Thank you.

MR. HENDERSON: You can still hear and see, Council?

CHAIR PALTIN: Yeah, we didn't really hear what Earl said, but we can still see and somewhat hear.

MS. PARCHER: This is another one of our unlocked spaces back here.

CHAIR PALTIN: It might help if when you do the talking you look at the camera, or get close to the camera.

MS. PARCHER: Wonderful. So this is another one of our unlocked spaces that our students can access anytime. We have a big studio space here. We . . .(inaudible). . . And we're going to head down this way. This is the meditation lawn, this entire area here. Behind the . . .(inaudible). . . we have a . . .(inaudible). . . another teaching area, which has been highly utilized during COVID with . . .(inaudible). . . I'll take you to . . .(inaudible). . . Okay. Straight this way. So come on in please. This is one of our courtyard . . .(inaudible). . . They come equipped with complimentary tools for the classes; class

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schedule, map, class descriptions, and a desk here. Right this way. . . .*(inaudible)*. . .
Okay. Just step this way.

MR. HENDERSON: So far so good.

VICE-CHAIR KING: We can't hear you.

MS. PARCHER: So this is another area that we utilize here, as well as the green space behind, underneath the trees. We've got a walk in labyrinth, and we'll head down there shortly. So we have another class here in session. This is a tea ceremony. And we will go back.

MR. HENDERSON: Candice, am I allowed to show the class with people in it? Can we show the pool area or...can we see the pool?

MS. PARCHER: We do have our grove of plants back here that is utilized in our horticulture class. So we have figs, we have a bunch of citrus here in one of our areas that classes take place. All right. And then we'll head back up this way.

CHAIR PALTIN: Oh, you froze for a sec, but it looks like it's moving again. Are we going to see the restaurant too?

MR. HENDERSON: Now we're at the restaurant.

MS. PARCHER: This is our restaurant, The Wooden Crate.

CHAIR PALTIN: I guess we can't...we can't really see...oh. The connectivity is not that great.

MS. PARCHER: The restaurant . . .*(inaudible)*. . . We would like to show you our farm and our shala, which is the third space that we keep unlocked to all of our students. We're going to try to walk up there, but we don't know if we're going to lose the connection. So we'll head that way.

COUNCILMEMBER LEE: Tamara...Tamara, can we see at least one room...guest room where the people sleep?

CHAIR PALTIN: Okay. They did show us the one, but we can ask to see another one. Was the room that you showed us is the nicest room? Can we see the nicest one?

MS. PARCHER: That is one of our nicest rooms...that's the courtyard. We're going to check and see what other room types we have available, and we can show another one.

CHAIR PALTIN: Thank you so much.

MS. PARCHER: Of course.

COUNCILMEMBER KAMA: Tam, what is this area used for?

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CHAIR PALTIN: She just called it the third unlocked area. I'm not sure what that means.

MS. PARCHER: So this is like a lobby space...office space for our guests that they can access 24/7. So we have desk areas, Wi-Fi, and just a communal space that they can access and utilize. Another room and there are desk areas here. We have used this space for classes as well, but with COVID we like to keep most of our classes outside as much as possible.

COUNCILMEMBER LEE: Do they have doors to the rooms?

MS. PARCHER: Yes, doors to the rooms? Yes. All rooms have a door on them. They are all attached by one main building, so they do share walls, but all has a private entrance.

CHAIR PALTIN: Does each hotel room have its own bathroom?

MS. PARCHER: Yes. Each room does have its own private bathroom. So I've got a room here we can show you. So this is . . .*(inaudible)*. . . All right. So we'll try to head up to this . . .*(inaudible)*. . .

CHAIR PALTIN: It looks like we might have froze up again.

MR. HENDERSON: Yeah, it looks like...yeah.

CHAIR PALTIN: Oh, we see...now we're moving. Now we got it.

MS. PARCHER: Okay. So this is our shala classroom they're able to utilize.

CHAIR PALTIN: Can you repeat what kind of a class?

MR. HENDERSON: Can you please repeat that?

MS. PARCHER: Yes. Yes, so this is our shala classroom, so it's a large indoor space that we do utilize for classes. So it has double doors that we do open for ventilation. . . .*(inaudible)*. . .

CHAIR PALTIN: That last part after double doors, everything came in all robotic. Maybe if you go back to where you were standing for the double doors part?

MS. PARCHER: . . .*(inaudible)*. . . But this is available.

MR. HENDERSON: Network issue. Can you still hear us?

CHAIR PALTIN: We didn't hear much after she said double doors.

MR. HENDERSON: Okay.

MS. PARCHER: Can you hear us?

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CHAIR PALTIN: Yes.

MS. PARCHER: Okay. . . .*(inaudible)*. . . that is our . . .*(inaudible)*. . .

CHAIR PALTIN: Sorry, we can no longer hear you. Okay, now we're back on. We're back on.

MS. PARCHER: Okay, perfect. So that will . . .*(inaudible)*. . .

CHAIR PALTIN: We can't hear anymore.

MS. PARCHER: The shala classroom is a large indoor room that we utilize for classes, groups, and retreats. All right, are we back on?

CHAIR PALTIN: We can hear like the first words you say, and then the rest of the words come out robotic. Can you hear us?

MR. HENDERSON: Yes.

MS. PARCHER: We can, yes. All right. Is that better, is it resolved?

CHAIR PALTIN: Yes, it's better now on the audio.

MS. PARCHER: Okay, wonderful. So the space that I showed you was our yoga shala. It's a large classroom area that we use for yoga, meditation, classes, a lot of our groups and retreats hold that space as well.

CHAIR PALTIN: Thank you. Was that the entire tour?

MS. PARCHER: We have a farm space that we'd love to show you, but it's just beyond that area that we were in, and it keeps dropping. So hopefully we can share a video of that?

MR. HENDERSON: It is included in the video.

MS. PARCHER: It is included in the video, I'm told.

CHAIR PALTIN: Okay. I'll see if the Members have any burning questions. If not, we'll recess for lunch and then we'll upload the pre-recorded video. Members, any burning questions right at this moment?

COUNCILMEMBER KAMA: Nothing burning.

CHAIR PALTIN: Okay. Okay, I don't see any questions. So let's take a recess for lunch, and then we can get that pre-recorded video uploaded, and we can come back for deliberations at 1:30. Okay.

MS. PARCHER: Okay. Thank you, Chair.

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COUNCILMEMBER KAMA: Okay. Thank you.

CHAIR PALTIN: So the time is 12:07, and we'll recess and come back at 1:30. And just to let you folks know there is two items already uploaded to Granicus. One is an ASF summary sheet from Member Molina, and one is from Mr. Cabebe, a little about...like a fact sheet. So...and then probably when Mr. Henderson is able to get back to the County building he can upload the pre-recorded video so it's...that should be better connectivity. Okay, any questions? Everybody got it? Break, five, four, three, two, one, recess, 12:07. . . .*(gavel)*. . .

RECESS: 12:07 p.m.

RECONVENE: 1:30 p.m.

CHAIR PALTIN: . . .*(gavel)*. . . Will the Planning and Sustainable Land Use Committee meeting return to order. The time is 1:30, and welcome back, everyone. I trust you had a great lunch. Mr. Leauanae, are you there?

MR. LEAUANAE: Yes, Chair.

CHAIR PALTIN: Was the link able to be uploaded for the virtual tour for the Members?

MR. LEAUANAE: We're checking on if it could be uploaded, but we do have it available to show if you wanted me to screen share as well.

CHAIR PALTIN: Yeah, maybe screen share, it's just an eight-minute tour, so let's do that.

VICE-CHAIR KING: Didn't we just take that tour live?

CHAIR PALTIN: We did, but it was very difficult to follow. There was a request for the video version. Mr. Leauanae, can you screen share?

MR. LEAUANAE: Oh, yes, Chair. I will.

CHAIR PALTIN: Okay, it looks like this is the parking lot, gravel parking lot. This is the walkway from the parking lot to registration. This is the registration and check-in building. This is the front of the Baldwin house. This is the rear of the Baldwin house. This is the meditation area.

COUNCILMEMBER LEE: That's my favorite place.

CHAIR PALTIN: And here are the guest rooms. It looks like this side is more guest rooms and the restaurant. Restaurant, yoga studio, and guest rooms. This is the restaurant. Yoga studio. Guest rooms and meditation areas. Outdoor yoga platform and meditation area. Looks like a sunbathing area as well. Outdoor yoga platform. Labyrinth. Relaxation and training area. Lumeria Wellness Center. Wellness area. The swimming pool...no

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glass at the pool. Guest rooms and somebody's finger.

COUNCILMEMBER LEE: Okay.

CHAIR PALTIN: This is what Chair Lee's been waiting for, I think.

COUNCILMEMBER LEE: Yeah, the end.

CHAIR PALTIN: I thought you were waiting for the guest rooms.

COUNCILMEMBER LEE: This is a nice place, I mean, geez.

CHAIR PALTIN: Yeah, beautiful landscaping.

COUNCILMEMBER LEE: Yeah. Mike, is this right off Baldwin Avenue?

COUNCILMEMBER MOLINA: Yeah, as you come down...where you go past the Job Corps --

COUNCILMEMBER LEE: Yeah.

COUNCILMEMBER MOLINA: -- the Maui Farm area, as you go past down there, just past there, and it's on the right-hand side.

COUNCILMEMBER LEE: Going toward Pā'ia, or away from?

COUNCILMEMBER MOLINA: Going towards Pā'ia, if you're coming down from Makawao. You remember Maunaolu College?

COUNCILMEMBER LEE: Oh, yeah. I used to go there all the time.

COUNCILMEMBER MOLINA: Yeah, the same site. Yeah.

COUNCILMEMBER KAMA: That's what it is, the...like Maunaolu.

COUNCILMEMBER MOLINA: Maunaolu College.

COUNCILMEMBER LEE: That's the site?

COUNCILMEMBER MOLINA: That's the site. The old Maunaolu College.

COUNCILMEMBER SUGIMURA: I thought it was Maui Pine.

COUNCILMEMBER MOLINA: And then it became Maui Pine later on after they moved the college, yeah.

COUNCILMEMBER SUGIMURA: Oh.

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COUNCILMEMBER LEE: Because Aloha House is over there, and I used to go there all the time. I never saw this place. Must be up on the hill.

COUNCILMEMBER KAMA: Yeah, but Aloha House is adjacent to the Job Corps, you know, when you go Job Corps.

COUNCILMEMBER LEE: The Job Corps is on top the hill, and Aloha House is at the bottom.

COUNCILMEMBER KAMA: . . .*(inaudible)*. . . right? Yeah.

CHAIR PALTIN: These guys are just off the road. It has like a gate. Maybe that's why you didn't see it, like a wooden gate. So it could be anybody's residence, you know --

COUNCILMEMBER MOLINA: Yeah, if you go past Ike Drive.

CHAIR PALTIN: -- with a wooden gate. I guess that's...that is the end of the tour. So that was the tour.

COUNCILMEMBER KAMA: Okay, Chair. So how do you want to do this?

CHAIR PALTIN: Okay, let's see. All right. So did everybody see Mr. Cabebe's uploaded correspondence dated 1/25/22? That should be a written summary of the...a fact sheet of the place. Mr. Cabebe, are you on the line? I heard that he was on as Norm Santos.

COUNCILMEMBER LEE: Yeah, he's there.

CHAIR PALTIN: Okay. Hi, Mr. Cabebe. Was there anything else that you wanted to let us know at this time, or if Members had any questions on the virtual tour, we can jump right into that if you didn't have any opening in addition to the fact sheet that you provided us.

MR. CABEBE: Yeah, basically it's just, you know, what's on the fact sheet is what...you know, the historical background behind it. And I think...you know, other people touched on it, like Livit touched on what happened earlier with the earlier permits and the applicant. Just a little bit more background is that, you know, this used to be the Fred Baldwin Memorial Home, and it was a convalescent home originally, and then it turned into the dorms, and it was military housing actually before that, and then it was Maui Land and Pine. And so that use is what has been continued, and the Planning Department did determine that that use, you know, which turned into the short-term use that's here now, that's...that it still can continue as long as it's an accessory to a use that's allowed, which is an educational and retreat program here. So that's basically it, I wanted to emphasize that. Thank you.

CHAIR PALTIN: Okay. So in the testimony of Ms. Callentine, she referred to it as a college. Is that still what you guys are referring it to, a college?

MR. CABEBE: Not really. It's...I know it was...in the original application, it says a college of

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metaphysics or something like that but, you know, in the representations through the Maui Planning Commission and through Council, you know, it was more a nontraditional type of education, not dealing with diplomas or grades per se, so that was the idea behind it. And, you know, I know it seems like the original applicant was not a popular guy, but he sells his vision and, you know, the current owners, that's the vision they bought into, and so that's what they're trying to promote here now.

CHAIR PALTIN: Okay. Thank you. Before we get into questions, I'd like to bring up Director McLean, just to refresh us and see if she is...still has her recommendation...it remains the same. Maybe like a quick intro.

MS. MCLEAN: Thank you, Chair. Yeah, when this whole project first came forward, it did seem like a legitimate educational retreat type facility that was proposed. Now, whether that was just a good sales job or not, but we believed in what that vision was, as did the Planning Commission and the Council, and moving this toward the Public/Quasi-Public direction of being a school, albeit not your typical, you know, college or high school. With different changes in ownership, it definitely veered much more toward a hotel. The existing conditions from the District Boundary Amendment, it's questionable whether those are being complied with. We don't believe they are being complied with. I understand Councilmember Molina has put forward some recommendations on how to still move forward in the Public/Quasi-Public direction, but confine it more, so I don't want to say too much to direct your discussion today. But we do have concerns with how it has been operating. A typical wellness retreat is not going to advertise on Hotels.com, so we do have concerns that, you know, they've pushed the boundaries, or gone over the boundaries, but I don't think it's impossible to figure out a way to get them in balance, and keep them in balance, so it doesn't continue to be this ongoing enforcement issue for us. Thank you, Chair.

CHAIR PALTIN: Thank you, Director. I guess...can you run down for us...my original before I received Member Molina's ASF was...my recommendation would have probably have been to file it. And the reason for that is if they are doing educational usage, and that's an allowed usage in Interim, I didn't see the need to change the zoning per se. I was wondering if you could explain to us what the path forward would be if we were to file it, what would the next steps be?

MS. MCLEAN: If you were to file it, and then it would be...remain zoned Interim, the Interim district does allow--I'm reading from Chapter 19.02 of the County Code--hospitals and/or sanitariums, and/or convalescent homes, daycare facilities, museums, churches, libraries, kindergartens, elementary schools, intermediate schools, high schools, universities, publicly owned buildings, public utility uses, and tower structures in support of the utility. So this would have to fall under university. It doesn't quite fit, so that would be even more challenging to regulate them with...as being a university, and also complying with the conditions of the District Boundary Amendment.

CHAIR PALTIN: Okay. All right. I think that gives us a good base to work from, and I'll open it up to Members. First round, three minutes. If you have questions, our resources are...I wanted to designate as resource persons, if there is no objections, Members can

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ask questions to: Raymond Cabebe, Consultant for Lumeria, VP of Chris Hart and Partners; Jeffrey Eisenberg, Owner; Norm Santos, Owner/Manager; Candice Parcher, Manager; and Ingrid Summerfield, Owner. I'd like to designate these folks in accordance with Rule 18(A), Rules of the Council, as resource people. Any objection?

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR PALTIN: And then we also have Zoning Inspector Gail Davis, and Staff Planner Paul Fasi, in addition to Director McLean. So Mr. Leauanae, if you could put three minutes on the clock? Let's let Member King go first since she has to leave shortly. Go ahead, Member King.

VICE-CHAIR KING: Chair, I appreciate that. I wanted to ask one of the owners, I'm not sure which one, what...they had a bunch of them on here, but what's your position on calling this a university or a college at this point, if somebody could answer that?

CHAIR PALTIN: Either Mr. Eisenberg or Ms. Parcher.

MR. EISENBERG: Yeah, I'll answer it. We don't think we're a university or a college. That...you know, I think there is probably consensus on this call as to what people would expect at a university or a college, and we're, you know, new age learning where we think the world is going, and in fact, there are colleges that are exploring the programming that we're doing, as well as other facilities like us because they see how people are...

VICE-CHAIR KING: Okay, I don't have a whole lot of time, so...

MR. EISENBERG: Oh, sorry. I don't know how the process works. So, no...

VICE-CHAIR KING: Yeah, but you answered my question, the first question. And then I guess my second question, maybe you could answer, Mr. Eisenberg, but is this facility accessible to the public? Do you have kama'aina rates where local people are able to come, take classes and stay at your retreat?

MR. EISENBERG: Yeah, it's quite accessible. I'll let Norm talk about that in detail.

VICE-CHAIR KING: Okay. Is it affordable to local people? I guess if it's an . . . *(inaudible)*. . .

MR. SANTOS: Aloha, everyone. Thank you for your time today. Can everyone hear me okay?

VICE-CHAIR KING: Yeah.

CHAIR PALTIN: Yeah.

MR. SANTOS: Okay, thank you. So to answer your question, absolutely do we offer our rooms, our classes to kama'aina locals and to the community, and we offer a wide variety of day classes. We offer some specialty classes...

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VICE-CHAIR KING: Okay, I just wanted to know if it was affordable for the community. If it's supposed to be a retreat, it should be, you know, not just for the upper echelon people that come here.

MR. SANTOS: Yes.

VICE-CHAIR KING: So I think I guess it is. Then my last question is, you know, we heard from your neighbor that it was more of a hotel, and now they see it as more of a retreat, but then we're hearing from the Department that it was started out to be a retreat, now it's more like a hotel. So can you speak to that?

MR. SANTOS: Jeffrey, did you want to go first, or do you want me to go?

MR. EISENBERG: Yeah, yeah, I'll speak to that.

MR. SANTOS: Okay.

MR. EISENBERG: If we wanted to be a hotel, we wouldn't have bought Lumeria. When we bought Lumeria we met with Paul Mancini, we met with Jordan Hart to understand the restrictions, and we were attracted to a wellness center because we think this is where the opportunity is in the world. We don't want to be a hotel, and if someone comes here expecting a hotel and hotel services, they're going to be disappointed. We don't have TVs, we don't have heat, we don't have air conditioning. When we do offer dinner, it's a set menu, you don't get to choose, it's a set menu . . . *(timer sounds)*. . . for what we offer. So if someone is expecting a hotel, there's so many other places to stay that they would be more comfortable. I don't know why they would pick to stay here.

VICE-CHAIR KING: Okay. Thank you. I think my time is up. Thank you, Chair. I appreciate it. I'll hang on as long as I...probably another five minutes.

CHAIR PALTIN: Thank you, Member King. Member Sinenci, your opportunity?

COUNCILMEMBER SINENCI: Oh, thank you, Chair. Yeah, my first question was for Director McLean. Director, so does the Planning support the zone change from Interim to Public/Quasi-Public? I mean, knowing that they are operating as a . . . *(inaudible)*. . .

CHAIR PALTIN: Director?

MS. MCLEAN: Thank you for the question. In our last written communication to the Committee we said no, that they should apply for a change in zoning to Hotel. However, having discussed it briefly with Councilmember Molina, and seeing his approach to conditions in zoning on a Public/Quasi-Public, it could be workable to approach it that way. So I wouldn't...I'm sorry.

COUNCILMEMBER SINENCI: Okay. And then the Hotel zone...oh, sorry. The Hotel zone would be a different zoning, or would remain Interim?

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MS. MCLEAN: No, it's...right now it's Interim, they are asking for a change to Public/Quasi-Public, which we don't support unconditioned. We could support that with conditions. Initially we had said it should be changed to Hotel, but that...

COUNCILMEMBER SINENCI: And that zoning would be...what is the...just a Hotel zoning is a separate category?

MS. MCLEAN: A different zoning district, yes.

COUNCILMEMBER SINENCI: Okay, because it looks like their tax class right now is under short-term rental. So under a different zoning, their tax would be under Hotel, yeah?

MS. MCLEAN: If it were Hotel zoned and the uses were opened up a little bit more, then yes, I would think they would be taxed at Hotel.

COUNCILMEMBER SINENCI: Oh, okay. Okay. Thank you. Thanks...oh, one more. Weddings are not permitted under...or are weddings permitted under Public/Quasi-Public?

MS. MCLEAN: Well, one of the uses allowed in Public/Quasi-Public is a church, and churches typically hold weddings, but I wouldn't see a wedding as a typical subordinate use for a wellness retreat. That could be a condition that you would add.

COUNCILMEMBER SINENCI: Okay. And are the owners using it for weddings at this time?

MR. SANTOS: I can add to that. Was that a question to the owners, I'm sorry, Councilmember?

COUNCILMEMBER SINENCI: Can, yeah.

MR. SANTOS: Yeah, I've been involved with Lumeria for several years, and we've made it a point to not have weddings here. We do not have wedding ceremonies here, it's not part of our brand, it's not part of our school, it's not something that we conduct here.

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

CHAIR PALTIN: Member Sugimura, followed by Member Molina.

COUNCILMEMBER SUGIMURA: I believe Mr. Molina had his hand up first, so I'll, you know, turn the floor over to him, and I'll go next if you would allow me too.

CHAIR PALTIN: How kind. Go ahead, Member Molina.

COUNCILMEMBER MOLINA: Oh, okay. Thank you, Member Sugimura. Thank you, Madam Chair. I guess first for the applicant, so what I wanted to ask is to get your take, you know, I've proposed some conditions, and I wanted to kind of get your take on it and to ensure also to kind of help resolve some of your enforcement issues that you're having with the Department. So basically my question is, would you agree to applying for a conditional permit to operate as a wellness retreat, education center, and dormitory,

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okay? But of course it's up to you guys if you want to sign the Unilateral Agreement. So can I get your take on this proposal, that I'm making?

MR. EISENBERG: I'm not...I apologize, I don't understand what your proposal...

COUNCILMEMBER MOLINA: Okay. Has your representative, I guess Mr. Cabebe, made you aware that I'm proposing some conditions?

MR. EISENBERG: I'm not aware of that.

COUNCILMEMBER MOLINA: Okay. Well, I think you need to talk to your consultant, okay, and...because this was in there. So I would recommend you review it, maybe if Mr. Cabebe can bring those out and share them with you?

MR. EISENBERG: Sure.

COUNCILMEMBER MOLINA: Okay. And my other question is for you, Mr. Eisenberg, I think I...by the way, Members, I did a site visit on my own a couple of weeks ago, and got to see the place up close and personal. And I think one of the things I believe Mr. Eisenberg had mentioned to me, and I guess a concern was brought up about how Lumeria is being advertised as a hotel. And you mentioned a lot of these agencies like Trivago, and Hotel.com [sic] are marketing your place as a hotel, which you said is...they shouldn't be doing. Can you further explain that to the Committee?

MR. EISENBERG: I think Norm probably would be the best person to explain this.

MR. SANTOS: Yes, I can. Thank you. So I'd just like to remind everybody what the condition is that we have to abide by. And that is, the current owner is not allowed to advertise as a short-term rental or as a hotel, which we have not, we never have. The issue is...and this actually was brought up in 2012 by Councilmember, at the time, Victorino, he showed some concerns on how are we going to hold the previous owner accountable for any marketing beyond his control. So it was decided actually to only hold the owner accountable for any marketing or advertising for short-term rentals or as a hotel. We do not do that. What currently is happening is, you have rogue sites that pull data from our website, from other websites, and they are in the business to sell hotel rooms. We have no control over what they do or what they say. It's the Internet. So they pull this information, and they try to...they're in the business of selling hotel rooms to guests. And however they do that, whether they reduce the rate and not show any of the fees that they include, and then when they actually come in and register for their room, their stay here, then they find out, well, that's not what was shared with me, that's not what I booked, and that's just the third party on a rogue website trying to sell hotel rooms. We don't do that. If you look on our website, it's clearly defined what we're all about. We have never marketed ourselves as short-term rental or as a hotel. I hope that answered your question.

COUNCILMEMBER MOLINA: Thank you, Mr. Santos. I guess, Madam Chair, if I still have time, I'd like to ask one question of the Planning Department or Planning Director. So

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if the Council decides to...or the Committee decides to file this matter, then will Lumeria still be allowed to operate as a school and dormitory if, you know, the proposal for zoning change is denied or what have you? But if that is so, then wouldn't this...you know, if we deny it or file it, wouldn't this, I guess lack of a better term, enforcement nightmare continue for the Department that's already eight years old in lieu of the proposal that I'm asking the Committee to consider?

MS. MCLEAN: The enforcement nightmare would be worse, and I think it would be...you know, we're already struggling to fit the square peg in the round hole, and this would...we would be trying to fit a square peg in a...I don't know, a star-shaped hole. It would...it fits even less into the standards of Interim than it does with Public/Quasi-Public, and I think they're making stride toward meeting Public/Quasi-Public standards.

COUNCILMEMBER MOLINA: Okay. And then so how can the Council assist you to ensure the applicant, you know, operates in harmony with the neighborhood? Because we've heard from the residents, they seem to have no problem with the new ownership. And granted, the previous ownership committed a lot of sins, if you will. Some might say pulled a fast one on the County, and that may be true. But again, this is a new ownership group. Anything that the Council could possibly do if the Committee decides to go the other way and place the conditions?

MS. MCLEAN: Well, I think the first question that the Council needs to ask itself is, do you support what is going on there now? And it seems like there really isn't objection to it. There is some support for it. So then if you do support that, the question is well, what's the best way to entitle it, you know. What should we call it? And to me, calling it hotel is very clean and very...very open. It leaves a lot of flexibility. But I understand that there might be opposition from the community in putting Hotel in that area. So then we're back to the original approach is calling it Public/Quasi-Public really getting them to commit to that original vision of a wellness center and retreat center, and then requiring, as you've proposed, Councilmember Molina, for them to get the conditional permit for the uses that are in the gray area. So you have Public/Quasi-Public zoning, and then a little bit of leeway for some other activities that don't quite fit Public/Quasi-Public.

COUNCILMEMBER MOLINA: And the conditions would hold them way more accountable too, yeah.

MS. MCLEAN: Well, there are DBA conditions now that are sound, but then yes, zoning conditions. And if a conditional permit is followed up on, that would have conditions too. So all of those would be binding and enforceable.

COUNCILMEMBER MOLINA: Of course the caveat, too, is the applicant has to agree to it as well. So...okay. Thank you, Madam Director. Thank you, Madam Chair.

CHAIR PALTIN: Thank you, Member Molina. We are having a little issue with the timer sound, so that was a little extra time, but you know, area representative and whatnot, so there's that. I'll start the timer on my end so that we are better where we're going. And Member

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Sugimura, before you start, I wanted to mention for Mr. Cabebe, I'm not sure if he's able to pull it up, but on Granicus, Mr. Molina's Amendment Summary Form is item number 12. So if you go to mauicounty.us\agendas, pull up today's meeting details, it will be number 12 on the meeting details for today. Go ahead, Member Sugimura.

COUNCILMEMBER SUGIMURA: Yeah, I just wanted to say that during the lunch break I did read Member Molina's Amendment Summary Form, and thank you very much for doing that. I think he kind of clarified some of the things that may be of question, and that...I just want to say that I was looking through my email and back in August, I think I said that when this came up, I did see the site. I did speak to a group called Fund Her, and if you remember Alec Wagner, he was OCS researcher, and it was his nonprofit that he went to, but I was a speaker, and there were like I think eight women...well, entrepreneurs, business people. And so if you want to say that are they, you know, fulfilling the mission of doing something of that learning capacity, they...that's what that was about. So...and a very beautiful site. So that was back in August. I do believe that I like the site and what they're doing, and I understand the power of Internet and what Mr. Santos said about they not having control over their advertising, I believe that's happening. It's happening all around us. And even in our search for the consultant that does our research for our short-term vacation rentals, they come across these...you know, these situations. So I think it's not something that's unfamiliar to us. If it makes more sense for them to be Public/Quasi-Public, because they're not going to be a new university, I'm glad they're honest about that, then, you know, I would like to keep them doing what they're doing, and that I believe this new owner is trying to do the best...they're trying to fit into, you know, what the community wants, and I support this. So thank you, Mr. Molina. And I hope that the owners have a chance to look at what Mr. Cabebe...the new conditions that you proposed to us today. Thank you.

CHAIR PALTIN: We haven't yet heard from Member Lee, Member Kama, Member Johnson or Member Rawlins-Fernandez. Any of you folks ready for your opportunity? Member Johnson, go ahead.

COUNCILMEMBER JOHNSON: Sure, I'll go. Some of my questions might have been answered already so I'm going to skip through a few of them. And this is just a clarifying question for Director McLean. So you...if I heard you correctly, you support the Public/Quasi-Public...that...and with the conditions that Councilmember Molina put forward; is that correct? You support that?

MS. MCLEAN: I can support it. I'm still a little skeptical, but I'm willing to give it a try.

COUNCILMEMBER JOHNSON: Wonderful. Okay. Thank you for that. So my next question is for the ownership, I think maybe either Mr. Santos or someone over there can answer these next questions. And I know it's been stated before, but I was trying to do the math now, I was looking it up. So real basic questions is, how many people can occupy your rooms? Do you have a total limit of room occupation?

MR. SANTOS: Yes, and I can do the quick math. There are...and it was stated that there was 26 student rooms here, there's actually 24. And so there are 13 king bedded rooms, or

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13 double bedded rooms and 11 single bedded rooms. So 13 times two, 26...that's 37.

COUNCILMEMBER JOHNSON: So now the next question to follow up is how many students does your classroom hold, if you can add up your classroom occupancy? Do you have those numbers?

MR. SANTOS: I don't, but I can give you a little scenario. Pre-pandemic, we were utilizing the shala, the big room, for most of our classes, and we would utilize the yoga room simultaneously if the yoga shala was being used. Currently, we have unlimited space because all of our classes are outside, for safety reasons, COVID reasons, and so forth. So all of our classes in the meantime, they are all outside.

COUNCILMEMBER JOHNSON: I understand that, but COVID isn't going to last forever, knock on wood. But the point is, is how about when you go back to normalcy, do you have enough space that if everybody was required to take a class, they would...you know, the concern is if you're sold out, and you're like oh, I'm required to take a class, but the classrooms are full. That's where I'm going with this line of question.

MR. SANTOS: Got it. So I understand, thank you for the clarity, Councilmember Johnson. So to answer your question, we have plenty of space to accommodate our students, the local community, and anybody from...that's local that would like to join our classes. We've never had an issue with that.

COUNCILMEMBER JOHNSON: You've never had an issue, but you don't know the number of occupancy.

MR. SANTOS: I can tell you that we've held classes upward towards 50, 75 indoor and outdoor. We've done plenty on the meditation lawn higher than those numbers.

COUNCILMEMBER JOHNSON: Okay. Thank you, Mr. Santos for answering my questions. Thank you, Chair. I have no further questions.

MR. SANTOS: You're welcome.

CHAIR PALTIN: Member Lee.

COUNCILMEMBER LEE: Mr. Santos, can you tell me what's the average . . .(inaudible). . .

MR. SANTOS: I'm sorry, the connection dropped off a little bit. I only caught part of that.

COUNCILMEMBER LEE: What's the average length of stay at your facility?

MR. SANTOS: So currently the average length of stay is a little over three days.

COUNCILMEMBER LEE: And the rate, your daily rate?

MR. SANTOS: Well, it varies, depending on seasonality and so forth. But I can give you a

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range if that's what you would like.

COUNCILMEMBER LEE: Sure, sure, a range.

MR. SANTOS: Sure, our kama'aina rates range anywhere from 249 all the way up to 299, and we have rates anywhere from the kama'aina rate up to 499.

COUNCILMEMBER LEE: So it ranges...the beginning was...the bottom of the range is \$249 per day?

MR. SANTOS: For the most part. There's a little bit of wiggle room on each side, but yeah, that's the rates that we currently offer off of the top of my head.

COUNCILMEMBER LEE: And the rates are dependent on how many classes one picks?

MR. SANTOS: No. Thank you for that question. All of our classes for all our students are included in their rates. So they don't pay anything additional to attend the class.

COUNCILMEMBER LEE: I see. Okay. So without COVID, what was your occupancy rate?

MR. SANTOS: Without COVID, I can give you an educated guess. It was...the kama'aina rate was definitely higher, and our rates fluctuated depending on day of week, the month, and demand. So it would fluctuate between 295 to 375...at highest 450.

COUNCILMEMBER LEE: Okay, one last question.

MR. SANTOS: Yes, ma'am.

COUNCILMEMBER LEE: How do you market your program?

MR. SANTOS: Which program?

COUNCILMEMBER LEE: The wellness program that you have.

MR. SANTOS: In totality?

COUNCILMEMBER LEE: In totality.

MR. SANTOS: So there's a couple different methods that we use. We do have a person who calls on previous retreat leaders, and we use that method. We call people, we email, we just do some outreach...

COUNCILMEMBER LEE: Okay, one last question. One last question. How many employees do you have?

MR. SANTOS: Pre-COVID, we had on our roster, 50.

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COUNCILMEMBER LEE: 50?

MR. SANTOS: 50, right around that number. And during the pandemic it went down to one. The General Manager was the only one on property. And currently we have 25 people on our roster, and we're struggling like everyone else to find faculty, staff, employees.

COUNCILMEMBER LEE: Okay. Thank you very much. Thank you, Chair.

MR. SANTOS: You're welcome.

CHAIR PALTIN: Thank you. Stop the timer. Okay. Member Kama, go ahead.

COUNCILMEMBER KAMA: Thank you, Chair. So I guess this question might be for Mr. Santos, it's about your services. So you said earlier that the charge...that you charge your customers or your clients or whatever that that's just their basic charge and that doesn't include the class fee because the classes are free. So basically what services are people being charged for if not just for the room itself?

MR. SANTOS: If you're asking me what are all the charges that someone pays to stay here with us during their stay, so what they're being charged is for their...the room that they are occupying, they get charged...we at the wellness educational retreat center are classified in the Finance Department as a hotel. So we pay TAT taxes. We pay the 3 percent County of Maui additional tax, because it was deemed back in 2012 that we would pay the highest and best use for the property. So even though we are not a hotel, we pay hotel taxes. So we pass that on to all of our students, so they pay the appropriate TAT tax, GET tax and the retreat fee as well. So that's the only thing that they pay for with the exception of, you know, any treatments or dining that they incur or utilize during their stay with us.

COUNCILMEMBER KAMA: So technically, to me, it sounds like a hotel because if you are going to...you don't have to pay for the classes, but you don't even have to attend the classes if the way you understand how you're being taxed is in that hotel tax.

MR. EISENBERG: So Councilmember, I'd like to jump in here.

COUNCILMEMBER KAMA: Sure, I'm just trying to understand.

MR. EISENBERG: We're trying to stay...we're trying to be good community members and avoid as much grief as we can from different County organizations. We've discussed and said we should really be charging tuition, and charge \$300 for tuition and charge \$50 for a room. And that would save our students a lot of money because then they wouldn't have to pay tax on the tuition. So we'd be happy to turn around and charge less for a room and more for tuition, and there would be a lot less tax being paid by our students. We didn't think that the County would like that, so we stayed away from it. . . .*(timer sounds)*. . . I'd hate to be in a situation that we're, you know, creating a lot of revenue for the County, not trying to avoid getting anyone mad at us and saying, you really should be charging more for the rooms and you shouldn't be charging for tuition, and

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be in a situation where because we're doing that, and not saying it's \$300 a night for your tuition, that we're somehow then being, you know, called a hotel.

COUNCILMEMBER KAMA: Okay, thank you. Thank you, Chair. I heard the timer go off, so thank you.

CHAIR PALTIN: Thank you, Member Kama. Member Rawlins-Fernandez, I'll restart the timer. Go ahead.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. My questions are first for Director McLean. Director commented earlier that the first thing we need to decide is if we support the operation right now. If we do change the zoning, it's not just about what's happening now, it's also about what happens in the future. Just as quickly as the property went from a bad neighbor to what we heard is a good neighbor, it could quickly go back to being held by a bad neighbor. A conditional permit would be nontransferable, right, Director?

MS. MCLEAN: That's typically a condition of a conditional permit, yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: And it would be just the applicant, it would be held by that applicant. If it was held by like a number of people or by the entity, the Board or the owner could change, but it would be that same entity that owns...that is the applicant that has the conditional permit.

MS. MCLEAN: It would be...you know, through the application process and the approval process, it would need to be spelled out who the applicant is and to insure the nontransfer provision that the entity couldn't change ownership or change hands, effectively transferring them. So that could happen through the application process.

COUNCILMEMBER RAWLINS-FERNANDEZ: Exactly. Mahalo, Director, for understanding what my question was. So my next question is regarding the difference between having a conditional permit on Ag zoned land, which it currently is to...

CHAIR PALTIN: Interim.

COUNCILMEMBER RAWLINS-FERNANDEZ: Interim. It's State Ag, County Interim. It was State Ag to Rural.

MS. MCLEAN: Correct.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, and that DBA by the State Land Use Commission put conditions on it. So if was changed from Interim to Public/Quasi-Public, the State Land Use Commission...State LUC's conditions stay with the land --

MS. MCLEAN: Yes.

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COUNCILMEMBER RAWLINS-FERNANDEZ: -- is that correct?

MS. MCLEAN: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Understanding all that they are responsible for. Okay. So, all right. I understand that having a conditional permit on . . . *(timer sounds)* . . . a defined zoning rather than in limbo Interim would be preferred. Okay, mahalo. That's for my first round.

CHAIR PALTIN: We can do another...we can do another round. I'll set my timer for three minutes. I do have some questions as well, and then we can go back around. Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, okay.

CHAIR PALTIN: My first question is for, I guess, Mr. Santos. What is the...your official website name?

MR. SANTOS: The official website is Lumeriamauui.com.

CHAIR PALTIN: Okay, and what is your official telephone number?

MR. SANTOS: 808-579-8877.

CHAIR PALTIN: And if a guest stayed for three days or longer, does their room get cleaned daily, or only when they're done staying there?

MR. SANTOS: So I can answer that procedure question, and that is our current procedure now is that if a guest student stays with us for three days or more, their room gets cleaned on the third day without request, that is our COVID policy. Upon request, if a student requests to have their room cleaned every day, we clean it. So our policy is...try one more time?

CHAIR PALTIN: Is there an additional...is there an additional fee for daily room cleaning?

MR. SANTOS: No.

CHAIR PALTIN: And then when I called, I think last month, for the class schedule, not every single day had classes obviously because of...you know, there was a Christmas holiday and things like that, but there were only two classes per day, I think it was yoga and qigong. Is that...somebody said that that was because of COVID. What is your normal class schedule like and offerings?

MR. SANTOS: So I'm not too sure exactly what date you are speaking about, but I can answer your question with giving you a couple of scenarios. So pre-COVID we were having classes scheduled anywhere in the range of three to five to six to seven a day. During COVID, like everyone else, we were shut down, and as I mentioned previously, we had the General Manager here by herself for almost eight months because we were relatively

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closed because of the restrictions in travel and so forth. So move to present day...

CHAIR PALTIN: The General Manager was doing all the landscaping for eight months?

MR. SANTOS: That's a great question, Chair. She did not do that. We actually...the property was not being utilized, and we did some very minor maintenance with a third party. We have a company that we use to . . . *(timer sounds)*. . . maintain and do landscaping. So to get back to your question, we're currently...we currently have a number of classes available per day for our students. It may range from two if we have difficulties finding faculty and teachers, all the way up to five, six again. So it's slowly ramping up. I will tell you that Omicron has definitely played havoc again, as well as the requirement to have a booster has made things very difficult, but we're trying our best, and it's definitely getting better, and we are ramping up.

CHAIR PALTIN: Thank you. My time was up. Members, second round additional questions. Anyone have questions...oh, Member Sinenci. Go ahead, ready, go.

COUNCILMEMBER SINENCI: Okay, thank you. I guess for Mr. Santos, the name Lumeria, did that come with the sale or with the business operation? Are you guys...I guess are you guys stuck to that name?

MR. SANTOS: So I think Mr. Eisenberg will be able to clarify this a little further, because I wasn't with the current ownership group at the time of the purchase. But I read through the documents, and I'm familiar with what was purchased. And at the time, Soul Space was the previous owner's entity that they were using, which came along Lumeria Maui. I don't know all of the particulars on, you know, the rest of your questions, so maybe Mr. Eisenberg can finish the rest of the response.

MR. EISENBERG: My Internet cut out, so can you repeat the question?

COUNCILMEMBER SINENCI: Oh, the name. Does the name have to come...continuing the Lumeria name, does that come with all the applications for zoning? Is that why you're keeping it, or you're not married to it?

MR. EISENBERG: We're not wedded to it.

COUNCILMEMBER SINENCI: Oh, okay.

MR. EISENBERG: That's what it was, you know, when we purchased it, and so we kept it.

COUNCILMEMBER SINENCI: Okay. Because, you know, I mean, I was just reading what Lumeria means, and it says that it was a continent that existed in ancient times, and it sank beneath the ocean as a result of a cataclysmic change. So I just wanted to share that. Thank you.

MR. EISENBERG: I think I felt that last night at about 12:55.

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CHAIR PALTIN: So did we.

COUNCILMEMBER SINENCI: That's all. Thank you, Chair.

CHAIR PALTIN: Okay. Fun. Member Rawlins-Fernandez, let me restart the clock. Go ahead.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo for that laugh, Member Sinenci. Mahalo, Chair. Okay. So my questions are still with Director McLean. I'm sorry if I missed this earlier. How are they operating now? Do they have some kind of permit, or they are allowed to operate under Interim?

MS. MCLEAN: We've been pushing the boundaries of Interim, you know, as a college. When they first came in and got the district boundary amendment, it was expected at that time that those conditions, plus the confines of Interim, would keep it to what was presented. But they were also required to submit the change in zoning for Public/Quasi-Public to not have to rely on that really narrow component of Interim.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Director. Okay, so that's kind of...that's where the college came in, that representation of a college to try to fit into that square hole or whatever.

MS. MCLEAN: Right. And it's community plan Public/Quasi-Public.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So in...some of the permitted uses include churches, community centers, education facilities, fire, government buildings, hospital, so all of these cemeteries, crematorium, water treatment facilities, wastewater treatment facilities, all of that without any additional conditions on this, if the change in zoning to Public/Quasi-Public would be permissible after we approve a change in zone to Public/Quasi-Public.

MS. MCLEAN: Well, they'd still be bound by the conditions of the district boundary amendment.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, I was...

MS. MCLEAN: Which is limited to the representations made.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo for that clarification. So under Public/Quasi-Public with the DBA conditions, it limits what we deem permissible under that zoning, and it remains in perpetuity until it's changed.

MS. MCLEAN: Right. So the uses allowed in Public/Quasi-Public zoning, plus the restrictions from the DBA, they would have to comply with both. And so that narrows it down quite a bit, the uses allowed by the zoning.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, mahalo for that clarification. Do you know if as a Public/Quasi-Public zone it would continue to pay TAT as they said they do?

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MS. MCLEAN: I don't know. . . .*(timer sounds)*. . . I don't know.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo, Director. Okay, I heard the timer, Chair. Mahalo. I have a few more questions for Member Molina on his proposal, but I guess I can wait until Member Molina proposes his...makes his motion because I have questions on those.

CHAIR PALTIN: Members, does anyone else have additional questions, or are we okay with letting Member Rawlins-Fernandez run out her questions. Nobody has? Okay. Member Rawlins-Fernandez, nobody else has questions, so you can run yours out.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo, Chair. I'll try to make it quick. Okay. So regarding condition 4, do staff stay on the property 24 hours, or after a certain time all staff goes home and just the guests stay at the Lumeria?

MR. EISENBERG: Is that for ownership?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah.

MR. EISENBERG: Staff goes home. I think, you know, Norm lives on the property. So that's unique.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Okay, mahalo for that. Regarding the second proposal...second condition, did you plan to expand?

MR. EISENBERG: We have no current plans to expand.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. All right. And Member Molina, your first condition is that Lumeria must apply for a conditional permit. Did you have an idea of how long the conditional permit would last?

COUNCILMEMBER MOLINA: You know, I would really leave that up to the Department to work with the applicants. I haven't really thought at that time what kind of limitation. Now of course, the Committee could consider putting a term, you know, two years, three years, what have you, so I kind of left that open ended, and maybe even go with a recommendation from the Director.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, mahalo for that response. I think the conditional permits come back to us anyway, yeah?

COUNCILMEMBER MOLINA: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah. Okay. Okay. And then my last question, Director McLean wasn't able to answer, I don't know if we have anyone on that is able to answer my question about whether if zoned PQP, if they...if Lumeria would continue to pay TAT. I don't know if anyone is on that is able to answer that question.

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CHAIR PALTIN: Maybe, Mr. Hopper? Do you feel like that's a question you could answer? Or Mitchell...Mr. Mitchell. I see Mr. Hopper is blocked. Are you muted? Oh, there you go.

MR. HOPPER: I think I'm on. Can you hear me okay?

CHAIR PALTIN: Yes. We can hear you, and see you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yes.

MR. HOPPER: Okay, what was that question again? I'm sorry. Just for clarity, it would help to resay it.

COUNCILMEMBER RAWLINS-FERNANDEZ: If we change the zoning from Interim to Public/Quasi-Public, would Lumeria continue to pay TAT as they have been?

MR. HOPPER: I think that would be a good question for Finance. I mean the zoning, you know, hotel uses aren't allowed in Interim, and it's not allowed in Public/Quasi-Public either. It would have to be part of either university or I think they define...there's a definition for Public/Quasi-Public use in the Code that does talk about educational institutions. So in...I don't think the zoning would dictate whether that's the appropriate tax classification. I presume that would be a determination made by the Finance Department based on the reviewing the category. So that should be, I think, you know...yeah, that's a little difficult for me to get into that without knowing what Finance's conclusion was, but I don't think...I think if they got a conditional permit you could maybe look at that as an allowed use over and above what's allowed in the district. But I don't think it allows for hotel use, so I don't know if they look at the...sort of the educational stay as something that does qualify for TAT. And if that type of educational stay is allowed in both districts, then potentially it could still be allowed in both, but I'm not...I don't know, and I don't think that the change would necessarily change the tax classification, but would want clarification from Finance. Sorry I don't have a more brief to the point answer on that, but it's...you know, it's sort of a new question...and a good question.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Hopper. And before you go, mahalo for attempting to answer as best as you can on the fly. Would this be considered a transient accommodation?

MR. HOPPER: I could double check the definition. Again, this would not be a new transient accommodation. So if we're going toward the moratorium, it's an existing use. But as far as the transient accommodation, if we're looking at the definition in the ordinance, we can double check that. But again, if this is limited to what's currently already allowed, then I wouldn't see it as a new transient accommodation for that purpose. I think this would be probably considered something a bit different because of the educational component. It would either be, I would imagine, a Public/Quasi-Public use...or I'm sorry, a Quasi-Public use, or as Director McLean talked about, a school or other type of use under that section. There's two different sections in Interim I think it

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could be classified. So provided they are meeting those restrictions, which there's some debate as to whether they are, I think they could potentially qualify as not a transient accommodation. But even if they were, if they're not new, they're previously allowed, then I don't think there would be an issue. But I think if they're probably, I would imagine, not considered a transient accommodation because they are...they are...as long as they are abiding by the requirements of being either an educational or Quasi-Public institution.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo. And then my last question is, one of the conditions is requiring Lumeria to have their guest register for one educational class per day. Would that then make it even less of a transient accommodation?

CHAIR PALTIN: I would think if they require them to show up. But just registering, anyone can do that, right?

COUNCILMEMBER RAWLINS-FERNANDEZ: I don't know. It just sounds very gray, and we don't have Finance here to help illuminate.

CHAIR PALTIN: Did you want to check with Mr. Eisenberg or one of the owners if they were planning on continuing to pay the transient accommodation tax even if they get the change in zoning?

COUNCILMEMBER RAWLINS-FERNANDEZ: Well, I'm sure if they're not charged TAT, they wouldn't voluntarily pay that.

MR. EISENBERG: Well, let me address that. So we're pretty transparent. I don't think we're taking aggressive positions. I don't think we're taking aggressive positions on how we're reviewing the conditions. I think we're not being cute, we're applying...we're complying with the conditions. I'm really familiar with them. I think if you guys took a look at the word for word of the conditions, you'd sit back and say wow, you know, these guys are doing what they're supposed to be doing. We're not trying to get on anyone's radar. We're not trying to be aggressive. There are...you know, there are other people we know of in town who get very aggressive in terms of the tack they take, and it doesn't lead to good outcomes, and it doesn't make them well liked in the community. We're trying to help the world and help people to be healthy and live good lives and heal and all that sort of stuff. You know, if we wanted to be aggressive, as is today, we think that there is a very, very credible position that we could take that we don't have to pay these taxes, for sure. Especially in light of all the things we're not allowed to do. So we think that there's a credible position that we don't have to pay these things. We've never done that. We're not going to do that. Why? Because there would be someone else in the County that would be upset with us. There would be other people that would say we're not being good citizens, and we should contribute to the community. And they...you know, and they would say that, you know, they are out of towners coming, and they should pay for the services and, you know, if they are not having to pay for that because they're staying at Lumeria, that's not fair. And so we're not doing that...just like we're not taking aggressive positions on the conditions that we're required to live by. We think we don't have to pay those taxes, we've had professionals that tell us we don't have to

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pay those taxes, and we're continuing to pay them. We think it's the right thing to do.

COUNCILMEMBER RAWLINS-FERNANDEZ: Well, you're charged those taxes.

MR. EISENBERG: No. Our students are charged those taxes. We collect those taxes from the students for the benefit of the County. So it doesn't come out of my pocket. It comes out of, you know, the student's pockets. Now, if I wanted to, I could advertise and tell the students, you know, you don't have to pay taxes here, so your net, you know, rate is this. But, you know, we aren't doing that. It's a matter of how you want to live your life. We're not in this to make money. You know, I've owned this since 2014. We've never made any money. We've lost money every year. This is a passion project. You know, in 2011, my mom's kidneys were failing, I donated a kidney to my mom, and I have different health issues because I don't have two kidneys. I can't just go to a doctor and say hey, how do I live a healthy lifestyle? I can go to that doctor if I'm sick. I can go to the doctor if I break an arm. But if I want to learn how to be healthier, where do I go for that? And, you know, Lumeria fell in my lap, and I said, this is what I want to do, and I want to share this with other people. There's a need for this. There's people like me, there's other people that want to be healthier. There's people whose parents passed away young, and they don't want to pass away young. And so this is a passion project. This is not about making money. I've never made money here. I lose money every year, you know, pre-pandemic, and I'm not looking, you know, for every angle and saying, oh, I can make money by not charging, you know, taxes. That's not what we're trying to do. And that's not what this project is for me.

COUNCILMEMBER RAWLINS-FERNANDEZ: That didn't really answer my question. My question is whether you would continue to be charged that tax. Whether you feel that it's a pass-through, which it is, because it goes directly to the units...the 3 percent for County, and then 10.25 percent for the State. I understand how that works. I was just asking if you would continue to pay it, not...and I didn't say that you would voluntarily pay that. I'm asking our Department if they would continue charging you that. So your response didn't really answer my question.

MR. EISENBERG: You're asking me if I think your Department would continue to charge us for that?

COUNCILMEMBER RAWLINS-FERNANDEZ: I'm not asking you, I was asking our County Department.

MR. EISENBERG: I am so sorry, I thought you were addressing that to me. I apologize.

CHAIR PALTIN: I was addressing that to him. Sorry. I would think they would still because zoning doesn't always affect taxation. For example, Greg Brown's house is paying short-term rental, the Nāpili Beach House LLC is paying short-term rental regardless of the zoning. And I think taxation is based upon usage, right, not necessarily zoning or...it's based upon usage. And what we did with the Minatoya list was we said highest and best use. And it kind of sounds like that's what they decided in 2012, highest and best...or the highest possible taxes or something, and that's why they're in...currently

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in the short-term rental category?

MR. EISENBERG: That's our understanding. That it's based on highest and best use. Even though we can't operate as a hotel, it's based on highest and best use, and that's why we get hit with those taxes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Yeah, it's just all of us are just speculating, and I wanted to try to get a definitive answer if possible. And so we're left guessing, and that's fine. I can follow up with Finance later. Mahalo, Chair. Those were all my questions. Mahalo for...mahalo, Members, for allowing me that time.

CHAIR PALTIN: Okay. I did have a few more questions for Member Molina, I think. Your condition number 3, Lumeria Maui LLC must require guests to register for one educational class per day, and sign a class enrollment agreement form to qualify for dormitory room use. I guess it goes a little bit to my earlier comment, is it that you just want them to register, or did you want them to attend?

COUNCILMEMBER MOLINA: If possible both, and I would hope that Lumeria enforces that and maybe come up with a...how shall I put it? If you register for it and you don't attend, and they establish some type of policy to let the guests know, well, if you're not going to attend the classes, then maybe you should seek other accommodations. Something along those lines to kind of reinforce that requirement, or strongly encourage their guests to not only register, but attend the classes. Because if it's going to be...it's going to certainly reflect truly an educational center, a wellness center, I mean that has to be a major stipulation or requirement of your guests. So to me, it doesn't make sense...yeah, anybody can register, but if you don't attend, then it's...you know, it doesn't really reflect what the intent is, you know, of Lumeria, what it stands for. So that would...you know, maybe Mister...I'm sorry, if you could...Mr. Eisenberg, if you could kind of maybe...if you'll allow it, Madam Chair, to ask him for his comments on that, but that would be my hope to not only register, but require them to attend or make some effort. And if they don't, well, ask them to seek some other accommodations. So those are my thoughts. That was sort of the intent for this condition.

CHAIR PALTIN: Okay. Mr. Eisenberg, have you had guests who register for the classes and don't attend due to scheduling conflicts, maybe they had ATV tours, or a bike down Haleakala scheduled for the same time and can't make the class?

MR. EISENBERG: So I'm going to give you some personal experience, and then I'll talk about Lumeria. So I have a stepson who is a freshman at the University of Michigan. He started off in September all excited, and told me how great the classes they were and how easy they were. And a month or so in, we start getting some information about his grades falling off, and then it turns into him not attending any classes for his semester. He totally bombed out, you know, he had to take like a withdrawal for the semester. We were all over him to be attending his classes. This is really important and impactful on his life, and there was nothing we could do, and nothing that his advisor could do to, you know, get him to go to his classes. His head just wasn't in it. Now, it is really difficult running a wellness center. And I don't want guests staying here if they're not

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going to participate in the classes. It hurts the environment if you got some people using us as a bed and breakfast. If they're coming here, and staying here, and then just going out shopping, that takes away from the experience of the other students. You want to have people that are like minded, who are spiritual, who appreciate what we are doing here, and are into it. It throws off an energy. So I want those students. I don't want the people that somehow end up here that aren't a fit. But it is really difficult to operate this facility and at the same time be a policeman, and stay on top of people. And it's frankly uncomfortable confronting people and saying, you didn't take a class, and them saying yes, I did...you know, it's a really, really difficult position to be in. It's a difficult position for my staff and teachers to be in. No different than, you know, people that have to go around and tell people put your mask on. It's an uncomfortable thing to have to go up to people and say, you know, you're not allowed to be in here unless you have your mask on. I'm concerned from life safety issues that somebody gets heated and throws a punch at somebody. So, you know, we're complying with the conditions as they are stated. Again, I'm being fully transparent. I just read Commissioner [sic] Molina's condition number 3, and I understand where it's coming from. I'm in agreement with that. Theoretically that's what I want. But making it a condition to then I am responsible for being the policeman, and if I'm not, then I've got to worry about, you know, notices of warnings and stuff like that, that's a difficult one. I like it conceptually, but it's really going to be hard for me to like, you know, how do you pay...how would you monitor all this and then approach people? And what if you're wrong and you've offended somebody? So that's my, you know, thoughts on that.

CHAIR PALTIN: So I just wanted to put this thought out there in response to your response. Either for Member Molina, Director McLean, or yourself. It seemed as though Member Molina was alluding to if they don't attend the classes, the consequence should be they're not allowed to stay there. You're seeming a little bit more nonconfrontational. Would it be acceptable to the three of you if, say they register for a class, they don't attend any class during their stay, they have to pay double or something, the fee for nonattendance.

MR. EISENBERG: I thought about that as well. The problem with that is then, you know, we charge their credit card, they go home, they dispute their credit card, then there's a bunch of back and forth with the credit card company and, you know, I can't tell you what happened in the meantime, you know. Someone will get on Yelp and say horrible, horrible things about us. And when we look at our Yelp comments, you know, we think that the negative Yelp comments are generally people that should be staying here, that they are unhappy because of...we're not a hotel. And so they put...we are a mismatch and they take it out on us. And so if we go that route, you know, we'll charge them, they'll dispute it with the credit card company, and then they'll say how awful we are. It's hard. You know, I wish I had a way to accomplish that. I don't want those people staying here. I want people who are engaged, where I can walk around the property and you see people's excitement, you know, they're working with different, you know, oils, you know. Today there was a couple taking a class on oils, and they were so into it. And that...you know, that rubs off on other students. There were other students taking ukulele lessons and thought it was the greatest thing in the world, and that energy is infectious. And that's what we want. And so we want the same thing as Commissioner

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[sic] Molina. I don't want to be in the enforcement business. We're about love. And prior to Me Too and Corona, we were all about hugging. Like we would tell people, we're about hugging here at Lumeria. We would hug our employees. We would hug our guests. That's the environment that we want to create. If we're then enforcing...ooh.

CHAIR PALTIN: Okay. Thank you, Mr. Eisenberg. So just to clarify, if there's nonattendance of the classes, there's currently no consequence. It's you register, you show up or you don't, and then move along kind of thing.

MR. EISENBERG: I would say here's the consequence. When we suspect someone's, you know, here for the wrong reasons, we don't let them rebook. So, you know, we know who they are. And so if they try to come stay here again, you know, we don't let them stay here. It's a non...it's a passive way of keeping them out without having to be an enforcer and aggressive. And if you come and...you know, some of you who have been up here, you know, there is a woman working the front desk. And I was talking to Norm and I said...he said oh, yeah, you know, she just left the Kealani. And I said why would she leave that to work here? Oh, she doesn't want the corporate environment, she loves the vibe of Lumeria. So we hire a certain type of person with a certain type of personality. These people would not...and they're great at what they do. They would not be great at being enforcers of noncompliant students. But I understand the issue you're raising. I wish I could come up with a solution.

CHAIR PALTIN: Okay, thank you. I think I saw Member Rawlins-Fernandez's hand up.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Just real quick, following up on your questions. Mr. Eisenberg, you know, no one likes to hold people accountable. It's hard, it's awkward, it's uncomfortable, but in order to, you know, represent the business, yourself, you know, the goals, the policies, objectives with integrity, there has to be that enforcement policy, right? And so I just heard you kind of answer my question. So it sounds like the only enforcement is that they would not be allowed to return. And you would track all of these names, and this happens...like this has happened before?

MR. EISENBERG: We don't create a blacklist. If we find someone who is flagrant, we keep them out. But I want to remind, you know, the Council, this is not a condition that we currently have. There is no enforcement condition. The condition is that we require everyone to sign up for a class, and so we comply with the condition. There is no condition that we have to enforce and do anything to anyone, and we don't. And, you know, we see it, and notice, and it's flagrant, we don't want those people coming back. But we do not currently, nor are we required, to enforce this. And it would be...it's not something we're interested in doing, not because we're trying to get people to stay here who aren't taking courses, it's not safe to put our team in that situation.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo. And you call them students on your website rather than guests, and I guess, you know, student means one thing to people that, you know, classes are being taken and, you know, that education and training is occurring so that, you know, that student...and then how long do they...does a typical

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person stay there for?

MR. EISENBERG: Norm, I think you answered that, do you want to...what's the average?

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Three days.

MR. EISENBERG: Three days, I think it was.

MR. SANTOS: Yeah, that's correct.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo.

CHAIR PALTIN: I had an additional question for Mr. Eisenberg. You know, I can...I can believe the things that you're saying. I think a person like yourself would be called the exception rather than the rule. There's not a whole lot of folks that I know that would be willing to take a loss going on eight years, every year. So the issue that arises for me, being that I believe the things that you say, is when we change the zoning of a property, it runs with the land and not the owner. I wonder, what is your succession plan? Do you have unlimited money that you would continue to lose money until you stop running or owning this place, or...

MR. EISENBERG: That's a fair question. So I'm going to answer it in two ways. And I'm not an expert on this and when I've, you know, asked, you know, Raymond, you know, Cabebe about this, I don't really know what we get by changing, you know, from Interim to permit [sic]. I don't...there's nothing I get. There's...the taxes don't change, I'm not allowed to do something that I can't do now. This is really an administrative change. I can't think of anything...like I'm on BlueJeans with you guys going through this, and I'm happy to do this, but I didn't even know...like, you know, my wife was asking, so what happens if they approve you? I go, nothing. So what if they deny you? I go, nothing. So I may be naïve, I may be missing something, but I asked Raymond and, you know, he's explained it to me over and over, and I don't really see what we're getting, other than an administrative change. So I don't know if...you know, if in the future, you know, if we were ever to, you know, pass on Lumeria, if it would be any different one way or the other for someone else. But in terms of carrying it on, I believe the world is coming our direction between the time we purchased Lumeria and now. You know, the Four Seasons, the Hyatt, were not offering anything like we're offering. If you go and look at what they're offering now, huh, they're offering some of the same things that we're offering, and that's because the world is coming towards wellness. They're more interested in this, you know, they're looking for ways to heal. So I'd like to think that we're going to turn the corner, and get to break even, and maybe one day make a profit because more people are appreciating us. I also think that--this is selfish--but with your moratorium on hotels, and your aggressiveness on the Airbnbs, that will inure to our benefit. Because what people will think is a reasonable rate to pay for an experience in Maui is going to go up when you, you know, stop building new hotels, and when you stop allowing Airbnbs. So I see us continuing this for the foreseeable future because I think we can get it right. And I think we can get to a point where, you know, we're not losing as much money, and we keep trying to figure it out. So that's, you know...the

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other things I own I try to own forever because I think that's the best way to operate businesses and top rate, you know, real estate. So that's...I hope that addresses it. We're not a fund, you know, we don't buy and flip things, and if we did we would have, you know, said, you know, probably five years ago we'd say oh, my gosh, this is too difficult with the County, we're losing money, let's get out of here. And we haven't, and we didn't do that during the pandemic either.

CHAIR PALTIN: Okay. Thank you for your answer and your candidness. I do believe if we file it, based on what the Director has said, that you would need to be a university to be in compliance with Interim zoning. So I mean, it's possible the operation, the overnight stays might get shut down, but we'll cross that bridge when we come to it. Go ahead, Member Molina.

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair. Well, what I'm getting from hearing from the owners, certainly concerns about especially condition number 3. And my rationale for this, I guess, proposed solution to kind of find a common ground between the applicant's concerns, as well as the Department concerns, I was hoping these conditions would be palatable, though the owner doesn't sound like it is. And I respect the owner's concerns about trying to abide by these conditions, especially number 3, but at the same time I understand the Department's concerns they've had with this...with Lumeria, not only from the past, but possibly now. So Madam Chair, I don't want to waste anybody's time already. At this point I'm not going to try to beat a dead horse. I'll just await your recommendations. I'll withdraw the ASF. Thank you, Madam Chair.

CHAIR PALTIN: Okay. All right. Well, I mean, Mr. Eisenberg, my understanding is that Director McLean doesn't think that your operation would be in compliance in Interim zoning, but without Member Molina's ASF, I don't think we have the support to go to PQP. So you are not willing to hold your guests accountable to attend the classes may cause us to file it. Are you sure that you're not willing to hold your guests accountable to attend the classes?

MR. EISENBERG: Well, look, try to put yourself in our shoes. That's not a condition now, why would I agree for it to be a condition and not really get anything for it? Not that I'm looking for anything for it, but...how does that help us? It hurts us. So I would agree to a condition that now I become an enforcer, and there's no benefit to Lumeria from it. So I'm just being rational...and again, totally being transparent. And if I'm missing something--I'm in a different room because of Corona. So I'm at Lumeria now, but in a different room than Mr. Cabebe, so I'm not discussing this with him. But...and I don't mind being transparent with all of you if I'm missing something.

CHAIR PALTIN: Okay. I saw...

MR. EISENBERG: It doesn't seem to me to make sense to like put myself in a situation...put ourselves in a situation where now there's more stuff that Commissioner [sic] McLean can come after us for, and it doesn't benefit us in any way. So I again...

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CHAIR PALTIN: Okay. I see Director...

MR. EISENBERG: Raymond may come running over there and say wait, wait, wait, wait, wait, but I don't...and please feel free to help me understand because you guys are the experts.

CHAIR PALTIN: I'm totally willing to give a ten-minute recess for you to talk to your consultant. I did see Director McLean pop on the screen, so I'm assuming she has something to add to this discussion, and then I'll go to Member Sinenci. But after that, I think we should take maybe a ten-minute recess for you to consult with your consultant.

MR. EISENBERG: That would be great. Thank you.

CHAIR PALTIN: Okay, go ahead, Director McLean.

MS. MCLEAN: Thank you, Chair. Our enforcement Staff is in the process of drafting notices of warning and notice of violation for existing violations. As we said in our most recent letter to the Committee, we found noncompliance with some of those existing conditions. So in answer to the question, well, why change anything? Well, if you don't, and you continue operating the same way that you have, you will be subject to continued enforcement action. As I said before, if this Committee and the Council is supportive of what they're doing, there are ways to craft approvals to allow that. Now, if the applicant isn't willing to go along with some of those restrictions, then that's a different situation for you to handle. But I think that there isn't much support, at least in the community, for Hotel zoning, so the other way to accomplish this is to do the Public/Quasi-Public zoning with the conditions like the ones that Councilmember Molina drafted. But if the applicant is not willing to go along with those, then the applicant would definitely be in a worse off position, and would be restricted even further, and would be subject to enforcement action.

CHAIR PALTIN: Okay. And I did see Mr. Hopper pop up as well. Did you have something germane to the conversation, Mr. Hopper?

MR. HOPPER: I think so. If the ordinance that we're looking at for the District Boundary Amendment conditions is 3990, Condition 3 of that ordinance says that all overnight lodgers in the dormitory units shall enroll in and attend onsite educational programs, and may participate in off-site educational programs coordinated by Soul Space Ranch LLC. It sounds like there is a requirement for staying in the dorms to attend the classes in the existing District Boundary Amendment, unless I'm reading that wrong. So I don't know if Director McLean has a comment on that, but that seems relatively clear to me.

CHAIR PALTIN: That seems that what she was referring to as her notices of warning and violation. I think that's what she had been...

MR. HOPPER: Okay, just to be clear there's the requirement to stay . . .*(inaudible)*. . . to attend, so.

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CHAIR PALTIN: Oh, you came in broken up on that last sentence.

MR. HOPPER: Oh, just noting there is a requirement to attend, as was discussed.

CHAIR PALTIN: Thank you. Thank you, Mr. Hopper. Member Rawlins-Fernandez, you had something?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah, so just to clarify. Because when Mr. Eisenberg was speaking about his discussion with his wife, he said what happens if you get the change in zoning, and he said nothing different. What happens if the Council denies the change in zoning, nothing different. So it sounds like from the feedback from the Director and Mr. Hopper right now is that is inaccurate, that if you don't get approved for the change in zoning, there will be enforcement action against Lumeria for not following the DBA conditions, as just stated by Mr. Hopper. Okay. I'm seeing nodding heads. Mahalo, Chair.

CHAIR PALTIN: Okay, sorry Member Sinenci. I'm...sorry. Go ahead.

COUNCILMEMBER SINENCI: Thank you, Chair. And yeah, I'm in the same mindset as you. Now that...if Member Molina is going to pull the ASF, I'm with you, maybe Mr. Eisenberg should speak with his consultant. But following the lines of Member Rawlins-Fernandez, so would...or a question to the Director, would the applicant's application be denied?

MS. MCLEAN: Well, only the Council has the authority to deny the application.

COUNCILMEMBER SINENCI: Oh, okay.

MS. MCLEAN: No matter what action the Council takes on the change in zoning, they are still subject to the District Boundary Amendment conditions.

COUNCILMEMBER SINENCI: Right. It sounds like, yeah, you have to go both. Okay.

MS. MCLEAN: Right.

COUNCILMEMBER SINENCI: Thank you for that clarification. Thank you, Chair.

CHAIR PALTIN: Like filing...filing the item would essentially be denying their application for a change in zoning. At this time Members, I'd like us to take a 10 to 15-minute recess and give the applicant a chance to consult with his consultant on which path he would like to choose moving forward. If he is not willing to comply with Member Molina's ASF and the addition of not only register, but attend, as it is in the DBA conditions, then we'll file it and call it a day. So it's 3:10 about, shall we come back at 3:25, and then we'll make the call then? Okay. Thank you. This meeting is in recess until 3:25. . . .(gavel). . .

RECESS: 3:09 p.m.

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RECONVENE: 3:25 p.m.

CHAIR PALTIN: . . .*(gavel)*. . . Will the Planning and Sustainable Land Use Committee of January 25th, 2022, return to order. The time is now 3:25. Just one item on the agenda and we would like to know from either Mr. Cabebe or Mr. Eisenberg if the conditions in Member Molina's ASF are acceptable with the addition of register and attend on Condition 3, otherwise we can file this. Mr. Eisenberg.

MR. EISENBERG: We appreciate...we appreciate the Council's...can you hear me?

CHAIR PALTIN: Yes, we can hear somebody. Is that Mr. Eisenberg?

MR. EISENBERG: Yeah. Yes.

CHAIR PALTIN: Okay.

MR. EISENBERG: We appreciate the Committee's time, and we appreciate Commissioner [*sic*] Molina's proposal, but we rather the Council just, you know, vote on our existing application as is.

CHAIR PALTIN: Okay. In that case, Members, my recommendation is to file this item. Any discussion?

COUNCILMEMBER MOLINA: So moved.

CHAIR PALTIN: Moved by Member Molina.

COUNCILMEMBER JOHNSON: Second.

CHAIR PALTIN: Seconded by Member Johnson. Any discussion, Members? Member Molina as the movant.

COUNCILMEMBER MOLINA: Yeah. Thank you very much, Madam Chair. First of all, thank you for bringing this matter for the Committee's consideration. You know, and I respect the owner's decision to proceed in that fashion and not consider the conditions. It was my hope that to sort of alleviate any future problems or concerns between the Planning Department and Lumeria. I was hopeful that these conditions would help potentially alleviate that. But again, my big thing was Condition 3, and I understand everybody has their reasons for not wanting to, I guess, police or enforce. But to me, if you allow one guest to...you know, who signs up for the class and doesn't do it, then where does it end? Future guests could do the same thing, and I know...I don't know if there is a list that Lumeria would keep. It didn't sound like they are going to be keeping track...tabs of certain names. But what if, for example, I come in, I sign up for a class, I don't go, then fine, I'm told not to come back. But then I...then maybe a year or two later I come back, but I come with somebody else...it's under that person's name. Are they going to keep track of who their guest is, you know, of the person who signed up?

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So it's really a slippery slope. So, you know, to me, this condition would reinforce the belief that Lumeria is an educational wellness center. Because to me, without this, then it's easy for the public or the Department to perceive that Lumeria is really operating more like that of a hotel. And so I can understand the Planning Department's point of view. So I was hopeful that that condition and the other conditions would be acceptable to the owner, but apparently it is not and, you know, I have to respect that. But anyway, I was just looking for a solution. And so that is why I will support your recommendation to file, Madam Chair, and let the Department proceed as they have in the past in dealing with Lumeria. Thank you.

CHAIR PALTIN: Thank you, Member Molina. And it was such a creative and good solution. I applaud you for your efforts. I think I saw Member Lee, followed by Member Sinenci, followed by Member Sugimura. Go ahead, Member Lee.

COUNCILMEMBER LEE: Okay. Thank you, Madam Chair. I, too, agree that Member Molina should be complimented for his effort to find common ground. However, you know, I do appreciate the fact that this entity has been a good neighbor and has tried to follow the rules, even though Interim zoning is so vague in so many different ways. It's too bad he didn't take Mr. Molina up on his recommendations; however, I still believe that this person is trying to make a good faith effort of complying with the requirements, and has seemed to have had a lot of obstacles in the way. But again, I appreciate what he's done, and I will therefore vote against the motion. Thank you.

CHAIR PALTIN: Thank you, Member Lee. Member Sinenci, followed by Member Sugimura.

COUNCILMEMBER SINENCI: Mahalo, Chair. I, too, wanted to applaud Member Molina's efforts. I think I was originally supportive of his conditions to the zoning change. And also because Director McLean also explained that it was a path forward as far as addressing some of the zoning violations. But with that, I'll support...

CHAIR PALTIN: We missed that last word, Member Sinenci.

COUNCILMEMBER SINENCI: I'm supportive of your recommendation.

CHAIR PALTIN: Oh, okay. All right. Thank you. Member Sugimura.

COUNCILMEMBER SUGIMURA: Full of thoughts. So I actually, too, commend Member Molina for coming up with the amendment summaries. And his amendments were very creative in trying to figure out how to keep this in compliance, which is what our job is, you know. And so I really like it and, you know, going back to number 3, which seems to be the deal breaker for Mister...or for the organization, and I will tell you that if you think about it, if you require your guests to do something and they don't, right, it's not really something that is strict enforcement or whatever, but you've got to try your best to do it. It's like owning a short-term vacation rental, we plop you in the middle of a community, which this is, and your...if your tenants are going wild and doing all kind of stuff against the neighbors, you know, you're going to enforce it and your rules because you want to be good neighbors. And it sounds like you've been really good

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neighbors because we haven't heard from neighbors that are complaining as sometimes, you know, we hear that. And I'm going to sadly...I'm going to vote against the motion because I wish that this could continue, and that they would think about not accepting Mr. Molina's Amendment Summary Form because I think it keeps them on a path that is like a viable business and without the, you know, objections from the Department. And the Department sounds like they are, you know, ready to sharpen their pencils and go after what they need to do, which...if you think about your options that you have today versus after...if Mr. Molina...if his Amendment Summary Form was to be accepted, it'll be better for the organization in general, is my opinion. So I'm going to be voting against filing because I believe that...you know, that Mr. Molina's proposal is actually genius, you know. And hard to do business in Hawai'i, hard to do business in Maui, we keep on hearing about that. But I think this was a plate that the...Member Molina was trying to offer to figure out how can we, you know, work together. So I'm going to vote against the motion, but thank you very much, Mr. Molina, and for considering ways of finding a solution.

CHAIR PALTIN: Okay. Anyone else have any discussion? Member King, followed by Member Kama.

VICE-CHAIR KING: I'll defer to Member Kama first, Chair.

CHAIR PALTIN: Okay. Member Kama.

COUNCILMEMBER KAMA: Thank you very much, Chair. You know, when I read Mr. Molina's summary amendment form, I said to myself, wow, I mean, if you wanted to be able to try to make things whole, you would try to make things so that it's acceptable to you, it's acceptable for me, and it makes it easier for the organization to continue to do their business without being in violation, and you make the organization whole. So I'm kind of disappointed that the organization has said that no, they're going to go ahead and take a different path and, you know, you certainly have to respect them for that. But it makes it difficult because now the decision we have to make is to file or not to file, right? To file to me means it's gone, we'll probably never, ever hear about this, or they'll probably never come again, unless the Department brings them to us, or unless they give you a call or Mr. Molina call later on down the road and say hey, can we have this discussion again, and then maybe it'll come back. I don't know. So that puts me in a quandary as to support the motion, not support the motion, and that's where I'm at right now. So I'm just going to think about it for now, Chair, until you actually call for the question. But thank you so much.

CHAIR PALTIN: Thank you, Member Kama. Member King.

VICE-CHAIR KING: Okay, well, I...that was kind of a shocker after I finished my meeting and came back to see what was happening because I thought...you know, I thought the ASF that Member Molina proposed was very reasonable, and exactly what the intent of the organization was. But if we don't file it, we're not going to come to a solution today anyway. If we do file it, they can always come back. They can always work on this issue, which is what I heard the Planning Department say in the beginning of this

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meeting was, you know, we'd like for them to come back in a year...you know, work on their violations, and then come back in a year and ask for rezoning. So maybe that's where they need to be, and we just take it off our plate for this period of time until they figure out best solutions that need to happen to move forward. And so I'm going to support the motion to file because I think if we don't, then it's just hanging around as unfinished business for us, but it doesn't mean that they can't work with the Department separately. So thank you, Mr. Molina, for trying. I know you tried to help them. And it's a beautiful site. I would have loved to have gone myself. And I'll tell you, I would have taken classes every day if I did go. Thank you, Chair.

CHAIR PALTIN: Thank you, Member King. Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I'm kind of confused right now. Sorry. I got on a little late, but I went back on Facebook to rewind to see what I missed, and I just missed you saying that the deal breaker is number 3 in Member Molina's Amendment Summary Form.

CHAIR PALTIN: Number 3 with the attend. Not only register, but attend.

COUNCILMEMBER RAWLINS-FERNANDEZ: Right. But that's already a DBA condition. So are they going to cease operations? Is that's what's happening, they're going to stop?

CHAIR PALTIN: I believe they are going to continue on the way that they have, and I believe that the Department of Planning is going to...once we finish this, start issuing notice of warning and notice of violations because that's a violation of their DBA.

COUNCILMEMBER RAWLINS-FERNANDEZ: Right. Okay.

CHAIR PALTIN: So I felt like that left me with no other option but to recommend filing for noncompliance with their DBA condition.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So I guess the piece that I'm still unsure of, that's not clear to me is, you know, for the DBA and for the number 3 condition on the ASF, neither have like enforcement terms. Like so we did hear from the owners that if someone doesn't attend, they're not going to go, you know, handcuff them and force them to sit there and do a training, right? But, you know, if they don't fulfill, you know, their end of this retreat that they're having in attending the classes, then they would not be allowed to return as a guest. And so that sounds to me like enforcement in a way, like it's...

CHAIR PALTIN: He mentioned flagrant violation. They don't necessarily keep a blacklist...

COUNCILMEMBER RAWLINS-FERNANDEZ: Right, I remember the blacklist.

CHAIR PALTIN: Flagrant violation.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yes, I do remember that. So I guess if that is

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not...because we don't...we don't know what flagrant is defined as, or what that means in concrete terms...yeah, I don't know. It just seems like we're throwing the baby out with the bath water right now. And, you know, I mean everyone knows that, you know, like I'm all for controlling tourism, but it just seems like a waste, right, in this moment. So I'm still trying to process this. Mahalo, Chair.

CHAIR PALTIN: Okay. Member Johnson, and then I'll speak, and then we'll go for second comments. Go ahead, Member Johnson.

COUNCILMEMBER JOHNSON: Thank you, Chair. Thank you so much. I appreciate...I support your recommendation, Chair. I appreciate Councilmember Molina's Amendments. And after listening to all the discussion, I just keep thinking you can't help those who don't want to get help, and you can't save those who don't want to get saved. So it is what it is, zannen shogonai as they say in Japanese. But mahalo, Chair, that's my two cents.

CHAIR PALTIN: Thank you, Member Johnson. For my first comments on the motion, the issue is this is not Hotel zoned, and it's PQP, the idea is a school. So the overnight stay is an accessory use to the school, and not the other way around. The school is not the accessory use to the overnight stay. And for me, that's the big problem. You can have all the schooling you want, and you can have overnight stay with that, but you can't have overnight stay without the school component because of the Interim or the PQP zoning. If you were a hotel, you could have the overnight stay and take or leave the school part. But because it's not Hotel zoned, it's PQP or Interim, the school has to be the part, and you can take or leave the overnight part. That's how it works out in my brain. And so since we're not willing to have the school with the hotel use being accessory, we can't have the hotel use with the school being accessory in terms of policy. You know, I was pretty excited to read Member Molina's ASF once I understood it because I thought it was a way to thread the needle through all the bureaucracy. But, you know, similar to what Member Johnson says, you know, if they're not in compliance with their DBA, which says you must register and attend, then they're not in compliance, you know. I mean, what's to stop any other organization from having full use accessory to overnight stay in not Hotel zoned property, you know what I mean? It's...that's the part for me, what is the accessory use? The school is not the accessory use, the transient accommodation is the accessory use. So if we can't guarantee the school component, then it's a hotel. And if it's a hotel, it's not in the right zoning. So that's my comments. You know, the original minutes was about full-time students, and we were trying to work with this new owner because he didn't create what Mr. Xorin Balbes created, so we were trying to say, okay, this is a new owner. But whether it's a new owner or the old owner, the school use has to be the principal use, and the transient accommodation has to be the accessory use if we're not in Hotel zone. So that was my rationale for the decision to recommend filing. Member Molina.

COUNCILMEMBER MOLINA: Yeah. Thank you, Madam Chair, for my second and final. And let me first start off by staying to all my colleagues, thank you for the love fest. My goodness, I've never been complimented that much...not even my wife would compliment me this much. But all joking aside...but thank you, I appreciate that. And

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yes, you know, to dovetail off of your comments about the...you know, the neighbors being fine with the new owners, and the past transgressions of the previous owner, I mean, I do want to thank the new owner for at least working with their neighbors and trying their best to comply with the community. But again, as you know, my concern was condition number 3 to again go...it was my hope that complying with these additional conditions would, I guess, lessen any uncertainties about Lumeria's operation. Some might think that it's a hotel, whereas others believe it's a health and wellness. So that was just the rationale for my solution. As the area representative I put something out there but, you know, you try your best. And if it flies, it flies and if it dies, it dies, so be it. But, you know, the owner has every right to choose whatever path they want to choose, so I'll leave it that. And if I could just ask Director McLean one quick clarifying question. So now, assuming if the filing takes place, so now the Department will go ahead and issue, from what I understand, the notice of violations. When will that take place...how soon will that take place? Any timetable?

CHAIR PALTIN: Director. Oh, Director, we can't hear you. Director McLean, I'm not sure if you're having connectivity issues, but we cannot hear you.

COUNCILMEMBER MOLINA: Madam Chair, with that I'll go...maybe I can get the information on my own, but thank you.

CHAIR PALTIN: Okay. Anyone else need a second and final? Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. And as you know, I'm a true believer in the meaning of names and words, so I definitely stand by my previous comment. But I did want to say that my vote to support the filing is...it's not that I don't support community health and wellness. I think now more than ever, you know, we definitely need more health and wellness in all of our individual communities. And as policy makers, we're just trying to address the current ordinances, the County regulations that are in front of us. So I just wanted to share that point. We are always looking for...I mean, Chair always says about diversifying our economy, and so we're always looking for that Maui brand that will appeal to a world market. And so, you know, we need to be cognizant of that when we're moving forward, especially with our...as hosts to our counties. Mahalo for that, Chair.

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

COUNCILMEMBER LEE: Can we try one more time to get Director McLean? I want to verify that on the ASF condition 3, is already a condition.

CHAIR PALTIN: Okay.

COUNCILMEMBER LEE: Oh, I see her.

CHAIR PALTIN: Her computer froze, and I think she logged on and back in, and now we see her.

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MS. MCLEAN: Sorry about that. Yes, it is already a condition of the District Boundary Amendment. And to answer Councilmember Molina's question, we have already started putting together enforcement notices of the violations of the District Boundary Amendment conditions. So if this item is filed, we would continue to enforce the DBA conditions. And then we'd be looking at compliance with the Interim zoning district, and that's pretty narrow. So there might be further enforcement related to that.

COUNCILMEMBER LEE: What if we passed...instead of filing we passed this today, regardless of what he wants.

MS. MCLEAN: Right. And that's your prerogative, of course. Then they would be subject to whatever conditions you impose on the zoning, and we would enforce those.

COUNCILMEMBER LEE: Right.

MS. MCLEAN: Which would give them a little...would give them more leeway in their current operations.

COUNCILMEMBER LEE: Yes. And the conditions that we're adding are not conditions he doesn't already have.

MS. MCLEAN: Or at least have in spirit.

COUNCILMEMBER LEE: Okay.

CHAIR PALTIN: Chair Lee, I think...

COUNCILMEMBER LEE: Do you want to change the motion and to add the conditions?

CHAIR PALTIN: Chair Lee?

COUNCILMEMBER LEE: Sure, go ahead.

CHAIR PALTIN: The problem with that, and we've run into it already with Moloka'i Education Center; if they don't agree with the conditions, they won't sign the Unilateral Agreement, and we'll never get to first reading. And then...

COUNCILMEMBER LEE: You know why? I don't think he understands what's going on, honestly. If the condition is already there, him objecting to it is not going to make any difference. So it's very strange. This whole thing is very strange.

COUNCILMEMBER SINENCI: It's cataclysmic.

CHAIR PALTIN: Okay. Was it Member Molina and then Member Sugimura, and then Member Kama?

COUNCILMEMBER MOLINA: Yeah, thank you, Madam Chair. I think one of my questions

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was answered with regards to what...Chair Lee's question was answered. Because Unilateral Agreement...even if we were to pass it, if the owner doesn't sign the Unilateral Agreement, well, it's moot. But, you know, just quickly for Director McLean, so what type of potential fine amounts would be considered for the notice of violations, I don't know if you have that amount? Could you share that with us if possible?

MS. MCLEAN: Well, for these kinds of violations, violation of a permit condition or the DBA condition, or a violation of zoning, has a maximum of 1,000 initial and 1,000 per day. So there would be the initial fine, and then we would give them time to come into compliance to not accrue the dailies. But if they continue to be in noncompliance, then they would accrue daily fines.

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

CHAIR PALTIN: Member Sugimura.

COUNCILMEMBER SUGIMURA: A very, very pertinent discussion. And I wonder if Mr. Eisenberg understand...understood until today that there is a really big difference, you know, and I wish that he can confer and talk to Mr. Cabebe again, and realize that if he does have to do it already, and if there is no difference, I don't see why he doesn't want to agree to the Amendment Summary Form. And he's doing all these things. They have the onsite manager, I mean, all these conditional permits, not build new dormitory, 24-hour number of property manager where there's a property manager living there. I'm sure he doesn't have amplified sound system between 9:00 and 8:00 p.m. for the kind of facility it looks like, but that's easy to comply with. And...so I don't think he really understood coming in, you know, what it was, and what it currently is, and what this does for him in the future. I think there's great benefits. So again, I'm going to vote against the motion, unless if Mr. Eisenberg will come back and talk to us.

MR. EISENBERG: I'm happy to talk to you guys. We never saw this...

COUNCILMEMBER SUGIMURA: I think you've been given wrong advice, Mr. Eisenberg.

MR. EISENBERG: We never saw this to begin with and we...you know, the first time I saw bits and piece of it during this conversation. We have not had the opportunity...and listen, I understand your process is your process. I'm not necessarily privy to your process. If we would have seen it ahead of time, we would have...you know, we had a great meeting on site with Commissioner [sic] Molina...we would have gotten on the phone with him or go visit with him in person, he was very accessible, and we would have said, hey, you know, here's what we see is the issues with this. If we tweak this here and tweak this there, this could work. I'm under the impression that you guys are going to vote now, there isn't the ability to work through this either with the Committee...with the Commissioner [sic] Molina, and rather than get into this drawn out we need to do this, or this is...and there are differences. You know, it's easy to sit here and say oh, that's already a condition. If you look at the words or the conditions, and you look at number 3, it's not the same. One is more. Now, Commissioner [sic] Rawlins-Fernandez brought up a great point. If they miss five classes in a row, is that the same as if they missed

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one out of five classes? There's so many unknowns in this stuff, we don't really know what we're signing up for. So if you want to...and I don't...again, I don't know how this works. If you want to give us an opportunity to work through this or to talk to all of you one on one, or Commissioner [sic] Molina. You know, you're right, we're not that far away, but there are other things in there that...you know, again, I've had like...I had ten minutes to talk to Mr. Cabebe, you know, and one of the things he mentioned is, well, you're going to have to come in front of this Council every two to three years and go through the process again. I don't know what that means. Even as we talk here now, we didn't have enough time to get educated on this. And I can't...you know, with a gun at my head, I can't agree to something that forever is attached to the property. So if...you know, we're very reasonable. I don't think that Commissioner [sic] Molina's proposal is crazy, you know, but there did seem to be...and I don't know if there is permitted to be an opportunity to sit there and work through this stuff jointly. You know, we all want the same thing. I mean, we're delivering great stuff for...

COUNCILMEMBER SUGIMURA: So Mr. Eisenberg...Mr. Eisenberg...Mr. Molina, his amendment that he tried to present to you, which is the most important persons or, you know, your organization, and to the Council, took us to a place where we were going down a path together to keep you going, right? And then the one thing that sounds like the greatest objection, of which the Department has clarified, is that you already are required to do the educational classes and require them to...

MR. EISENBERG: So why don't we do this. If you think we're already required to do it, but just take out number 3, because it already exists, so you don't need it. So let's do it that way. Delete number 3. Because according to Commissioner McLean...or Director McLean, it's already in there. So let's delete number 3, there's nothing else to talk about with number 3.

COUNCILMEMBER SUGIMURA: And then you would accept this?

MR. EISENBERG: Because you guys have all told me it exists, and Director McLean has been on here three times saying it already exists. So let's delete it, you don't need it, it already exists.

COUNCILMEMBER SUGIMURA: And you could just...opposite holds, right? You could just keep it in there because you've got to do it anyway, you know, so...

MR. EISENBERG: If you guys think it's already in there, and it's the same, then let's leave it out. It's no difference to you, right? You guys think it's the same. I don't. And so if it's already in there, and Director McLean says it's already in there, let's delete it.

COUNCILMEMBER SUGIMURA: What do you think it is?

MR. EISENBERG: It's different. But if you think it's the same, then you should be happy to delete it.

CHAIR PALTIN: Well, you've already admitted to us that you are not in compliance with this

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condition.

MR. EISENBERG: How did I do that?

CHAIR PALTIN: You're not in compliance with the District Boundary Amendment, which states that guests need to attend the classes, and that you do not require them to attend the classes.

MR. EISENBERG: We require the guests to attend the classes, we don't police them.

CHAIR PALTIN: Okay, thank you. Member King.

VICE-CHAIR KING: So Director McLean, if you're still on, whatever conditions exists now, are we just adding to them, or is this a whole different set of conditions that wipes out the original conditions because it goes with this new zoning?

CHAIR PALTIN: Director McLean? Or I guess, Mr. Hopper. Mr. Hopper had that condition. How far apart are condition 3 with attendance, and the condition that you had quoted?

VICE-CHAIR KING: And are those conditions that you quoted, are those going to still be valid if we make this change in zoning?

MR. HOPPER: The conditions would still be valid because it's their District Boundary Amendment conditions, so they would still apply. So you'd want to be consistent with them. The only difference that there appears to be is one says that they must attend and you do have to...the Department has to be given a list of any substantive changes to the curriculum. Again, it has to be an educational use, not an overnight attendance use as the primary use. And the only difference in the new condition is that they have to register for a class...which presumably, if they are required to take a class that's already being done, and if...they are required to sign a class enrollment form to qualify for the use. And I presume that would be some type of form that says that you'll attend the class. For the life of me I can't quite see a substantive difference between the two. The current one says they have to attend classes, this makes guests sign an agreement to attend the classes and register for them when they book, which I would presume is already being done, but maybe that's part of the enforcement issue. You know, Director McLean commenting would be helpful as well, but that's what...the only difference I see is that they would be...the guests would have to register for a class before booking and sign some sort of an agreement without a ton of details listed in the condition that's something called a class enrollment agreement, and I'm not sure how in substance...

VICE-CHAIR KING: Okay, so that's with the new one that's being proposed?

MR. HOPPER: Yeah, the new one says, Lumeria Maui LLC must require guests to register for one educational class per day, and sign a class enrollment agreement form to qualify for dormitory room use. And then the current condition says, all overnight lodgers in the dormitory unit shall enroll in and attend onsite educational programs. And there's other portions to that condition as well.

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VICE-CHAIR KING: Okay. So it doesn't say one per day, maybe that's the difference...that the new ASF says you have to have one...you'd have to take at least one class per day, and the other one says you just have to enroll in educational classes.

MR. HOPPER: I suppose that's the...if that's the issue then you could discuss that, but...

VICE-CHAIR KING: Okay.

MR. HOPPER: Again, the use is not a hotel use, it's a...it's either school or Public/Quasi-Public use. This is not a hotel, so that's kind of the key difference.

VICE-CHAIR KING: Right. No, I understand that, I'm just trying to figure out the difference between the existing conditions that go with the boundary amendment and then the conditions that we're adding on what the difference is. But it sounds like the one that we were proposing, or that Mr. Molina was proposing, may be just a little bit stricter just because it says you have to take at least one class per day. So...I don't know. Is that what Mr. Eisenberg was objecting to?

MR. EISENBERG: Well, that's one of the issues. Because as you just heard Director McLean, she's under the belief that we're violating the existing condition. We don't think we are, okay.

VICE-CHAIR KING: But we're not...yeah.

MR. EISENBERG: I understand, you're not adjudicating that, but...

VICE-CHAIR KING: We're just trying to...we're just trying to figure out why, if these two conditions are fairly close, what is it you are objecting to in the conditions for the new zoning?

CHAIR PALTIN: It looks like Director McLean is back on. Director, would you be able to answer Member King's question?

MS. MCLEAN: Which question was that? Just...I've been off and on, so I want to make sure I know what her question is.

VICE-CHAIR KING: So my original question...I think...at this point it's hard to keep track, but the difference between the current condition for education of the boundary amendment, and the one that's being...that was proposed in the ASF, you know, condition 3. Is it basically that the one that...the new one that's being proposed requires one class per day, and the other one just says generally you have to sign up for educational classes?

MS. MCLEAN: Yes, I think that's one of the differences, that it doesn't say one class per day in the existing condition. And also, the existing condition doesn't require that guests sign a class enrollment agreement form in advance.

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VICE-CHAIR KING: Okay, so...

MS. MCLEAN: So that would be the only difference.

VICE-CHAIR KING: Okay. But you're under the belief that the current condition in the boundary amendment changed...is being violated.

MS. MCLEAN: Not that part of the current condition.

VICE-CHAIR KING: Oh, okay.

MS. MCLEAN: The current condition that has the language about enrolling in classes, our issue was that the annual reports they provided didn't provide adequate information for us to see that the condition is being fulfilled. We also were never given any curriculum updates, which is also part of that condition with the DBA. And some of the representations that had been made in the past were not being met. So it wasn't...what Councilmember Molina proposed, that portion of the condition was not the major concern in terms of outstanding noncompliance, it was the other parts in the existing condition that were the greater concern.

VICE-CHAIR KING: Okay. Because what I'm...after hearing the discussion, what I think is happening is this is a place where people call up and want to stay there, and then they have to take classes in order to stay there, whereas mostly...if the overnight accommodations were a side benefit, you would call up and you would sign up for the retreat, and they would say if you're going to be in this retreat, you can stay in this hotel while you're taking your classes. But that's not really what's happening. What's happening is people are signing up to stay in the hotel and then, you know, some people are probably for classes, but maybe some are being told well, if you're going to stay here, then you have to take these classes, instead of...it kind of reminds of when I went to the Barack Obama Inauguration, in order to get into the Hawai'i Ball I had to stay at the...in order to stay at the hotel, I had to go to the ball, you know, I had to pay the money to go the dance and vice-versa. But one of them was the main issue of trying to...of what the event was about, and then the other one was kind of a side benefit. So I think it was what Chair Paltin said that that's the additional benefit, but the main purpose of this is supposed to be the retreat and taking the classes. So that's why I think...you know, I think that's where that Amendment Summary Form number 3 came from, is to show that people are actually coming because they want to take the classes and they want to go to the retreat, and then if they do that, you're letting them stay in your beautiful hotel...or your accommodation. So I don't know. I'm really confused. I think I'm worried that...and I don't know how long the owners have had the consultant, but I'm worried that, you know, why they didn't get this information from the consultant about what's going to happen if they don't...if we don't do this change and if they don't sign on to that, you know, the agreement. But...

CHAIR PALTIN: I think Chris Hart and Partners has been the consultant since 2012. I think the consultant has outlasted the owners.

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VICE-CHAIR KING: Right. But so...but they don't seem to be getting the right information, and I heard well, we only had ten minutes to talk to him. So why would that be if this has been an ongoing consultant? I don't understand that part.

CHAIR PALTIN: I think that was on Member Molina's ASF because we all just got the ASF today.

VICE-CHAIR KING: Oh, okay. So I don't know, maybe they need more time to absorb the ASF and come to a different conclusion. But I do have to leave because I was actually supposed to be at another meeting at 4:00 and I...

CHAIR PALTIN: Okay, I'll call for the question in that case. All those in favor of the motion to file raise your hand and say "aye."

COUNCILMEMBER MOLINA: Madam Chair, point of...should we do a roll call?

CHAIR PALTIN: Yeah, yeah, good point.

COUNCILMEMBER MOLINA: Okay.

CHAIR PALTIN: Mr. Leauanae, can you do a roll call vote, please?

MR. LEAUANAE: Yes, Chair. Proceeding with roll call. Committee Member Gabe Johnson.

COUNCILMEMBER JOHNSON: Aye.

MR. LEAUANAE: Committee Member Tasha Kama.

COUNCILMEMBER KAMA: Yes.

MR. LEAUANAE: Council Chair Alice Lee.

COUNCILMEMBER LEE: No.

MR. LEAUANAE: Committee Member Mike Molina.

COUNCILMEMBER MOLINA: Aye.

MR. LEAUANAE: Council Vice-Chair Keani Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, I don't know yet. I wasn't ready to vote. Can you come back to me?

CHAIR PALTIN: Sure, that's fine. Let's come back to her.

MR. LEAUANAE: Committee Member Shane Sinenci.

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COUNCILMEMBER SINENCI: Aye.

MR. LEAUANAE: Committee Member Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: No.

MR. LEAUANAE: Committee Vice-Chair Kelly King.

VICE-CHAIR KING: Aye.

MR. LEAUANAE: Committee Chair Tamara Paltin.

CHAIR PALTIN: Aye.

MR. LEAUANAE: And going back to Council Vice-Chair Keani Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aye.

CHAIR PALTIN: So...shoot, one, two...I think it was seven "ayes" and two "noes," with the noes being Lee and Sugimura. Motion passes.

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

NOES: Councilmembers Lee and Sugimura.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

ACTION: FILING of communication.

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CHAIR PALTIN: Well, you folks have certainly earned your overtime today. Thank you for this. This concludes...that was the filing of County Communication 14-162. This concludes today's Planning and Sustainable Land Use Committee meeting. Thank you very much, everyone. The time is now 4:10. This meeting is adjourned. . . .*(gavel)*. . .

ADJOURN: 4:10 p.m.

APPROVED:



TAMARA PALTIN, Chair
Planning and Sustainable Land Use Committee

pslu:min:220125:ta

Transcribed by: Terianne Arreola

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CERTIFICATION

I, Terianne Arreola, 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 2nd day of March 2022, in Wailuku, Hawai'i

A handwritten signature in black ink, appearing to read 'Terianne Arreola', written over a horizontal line.

Terianne Arreola