KAUA'I PLANNING COMMISSION
REGULAR MEETING
Excerpt
November 24, 2015

The regular meeting of the Planning Commission of the County of Kaua'i was called to order by Chair Anderson at 9:00 a.m., at the Lihue Civic Center, Mo'ikeha Building, in meeting room 2A-2B. The following Commissioners were present:

Chair Angela Anderson
Vice Chair Sean Mahoney
Mr. Louis Abrams
Mr. Wayne Katayama
Mr. Roy Ho
Mr. Kimo Keawe
Ms. Amy Mendonca

The following staff members were present: Planning Department – Michael Dahilig, Leslie Takasaki, Kaaina Hull; Deputy County Attorney Jodi Higuchi-Sayegusa, Office of Boards and Commissions – Administrator Jay Furfaro, Commission Support Clerk Darcie Agaran

Discussion of the meeting, in effect, ensued:

HEARINGS AND PUBLIC COMMENT

New Public Hearing

A Bill for an Ordinance amending subsection 8-15.1(d), Kaua'i County Code, as amended, relating to additional dwelling unit on other than residentially zoned lands. Kaua'i County Council Bill 2601 (ZA-2016-2) = *Kaua'i County Council.*

Mr. Dahilig: Item F.4.b. A bill for an ordinance amending Chapter 8-15.1(d), Kaua'i County Code, as amended, relating to additional dwelling units on other than residentially zoned lands. This is County of Kaua'i Council Bill 2601, and has been notated as ZA-2016-2. This came from the County Council.

Madam Chair, there is a Director's Report pertaining to this matter, and I do have two (2) individuals signed up to testify for this public hearing.

Mary Boulwan followed by Peter Townsend. Mary Boulwan.

Mary Boulwan: Hello. My name is Mary Boulwan. I am from the Kalāheo District. I'm in favor of the proposed bill. I believe that there is a major housing shortage on Kaua'i, and by

amending the current County Code, many local families will benefit. I grew up on Kaua'i and always dreamed of raising my own family here. I went to California for college, and after finishing school, I obtained a job that has brought me back to the island. Now that I am here, I am faced firsthand with the island's housing crisis. Something needs to be done to help local families use their resources to make a life on Kaua'i. The current conditions attached to the ADU permits do not easily allow for that. By lifting the conditions, families will be able to use their permits and build. To me, it does not make sense for those families who have legally obtained their permits to be restricted. The current County Code is hurting these families. People's situations have changed since 2005 or 2007. Those who have obtained permits then may be in a situation now where they are able to build, so the Code should allow them to do that and take some stress off of the housing crisis.

My situation has changed since then. In 2005, I was 15 years old, so I or my family did not think to apply for one (1) of these ADU permits on our Ag zoned lot. Now I am 25 years old, educated, working, and still struggling to find a reasonable living situation on Kaua'i. Being able to use our family land would fix this. I know I'm not the only person from my generation struggling with this issue. Many of us who left the island for college are hesitant to move back once we've obtained a degree because now we know how tight the housing market is. There needs to be a solution to this problem because it has and will continue to keep young, skilled people from returning to Kaua'i. The island is missing out on a lot of resources, and we need to find a way to make living on Kaua'i a viable option for the next generation.

The proposed bill is a good first step in the right direction. By making it easier for those with permits to build, we are working towards a solution. More homes will be built if their conditions are less restrictive. Moving forward, I think the Planning Commission should take the next step and open back up the ADU permits for families who did not get the chance to apply ten (10) years ago. Less restrictions and more permits will benefit thousands of local Kaua'i families who are struggling to find a home here. Thank you for your time. I hope that you take my situation into account when voting on the proposed bill. I know my voice is just one (1) of many local families who would support this action and greatly benefit if it moves forward. Thanks.

Chair Anderson: Thank you.

Mr. Dahilig: Peter Townsend followed by Robin and Lisa Murayama.

Peter Townsend: Good morning, Commission. My name is Peter Townsend. I'm a resident of Kalāheo, since 1985. My daughter, Mary, just spoke and probably said what I want to communicate better than I will, but I wanted to be here because when your children have a problem, it's your problem. I wasn't really perceiving the housing crisis until she came back and is faced with this situation, so that's why I'm up here today; just to say what I feel about it. I am in support of the Bill 2601. The situation is that Mary, our other children, her cousins, and her friends are all in this situation where if they're luckily enough to make it back here, having left, and they've worked hard to get an education, and we were thrilled that she had a job opportunity and came back here in late July. But then you start to figure out how can they find a home or buy a home to live in. We're faced with a very limited supply of land or lots that are available in the area that we live in. If you get one (1) for $200,000, you're lucky, and then you have to think

about building a house. I think if you add up the cost of the lot and building a house, she can't qualify to borrow enough money to do that. My understanding is that the extension that would happen today, which I am in support of, would...currently there is 200+ people that have the permits from before, and this would help those people a lot. But the situation is it sounds like we're in the hole for thousands of houses that are needed for this island, so I would advocate, besides supporting the bill that we're talking about today, going the next step and giving families the opportunity to obtain permits to build additional dwelling units.

We live on an acre Ag lot in Kalāheo. We have lots of avocado and citrus and tropical fruits. We are actually selling those, so we are doing some Ag. It's not our primary income, but if we were to add a house onto this property, that Ag wouldn't go away. We have plenty room to fit another dwelling on this property, but I don't want to get into those details; other than just to say I think we should open it up for other people on the island. A lot of local families have property that would...where they're given the chance to do this, they can offset the cost of trying to buy a lot. Makes it prohibited...

Mr. Dahilig: Three (3) minutes, Madam Chair.

Chair Anderson: If you can conclude your remarks because your time is up.

Mr. Townsend: Yes. I'm basically done, so I support 2601 strongly. I was happy to see that the Director supported it. I would just plead to consider to take the next step of opening it up for other opportunities for families. Thank you.

Chair Anderson: Thank you.

Mr. Dahilig: Robin and Lisa Murayama.

Robin Murayama: Good morning, Commissioners. My name is Robin Murayama, and my wife is Lisa Murayama. Today we are here literally on behalf of our children. Obviously they are too young to know what's going on, but let me just share a little bit of history on our family. We live in Niumalu. I've lived there all of my life. I'm a 4th generation Niumalu resident. My kids are 5th generation Niumalu residents. We have a house, a home, which is situated on an acre of land, which is in Urban/Open District, which is tied to the ADU. So, what we would humbly ask that you folks seriously consider is to allow the permanency for the ADU. What we are trying to do is perpetuate our land to my daughter Kira and our son Kaysen. There's no speculation involved. It's just to perpetuate and pass on the legacy of the land. My daughter Kira is 9, my son Kaysen is 6, and it's so very valuable to us because we've lived in Niumalu for like 4th and 5th generation, but we just recently owned the property since 2003. I do hope you folks give some consideration into the permanency of the ADU. Thank you very much for your time. Are there any questions?

Chair Anderson: Thank you.

Mr. Dahilig: Patricia Lyons.

Patricia Lyons: Good morning, everybody. Thank you for your time. I really appreciate all of you. I'm here for Bill 2061 (sic), for the ordinance to amend the additional dwelling units on agricultural lands.

Chair Anderson: Your name for the record, please.

Ms. Lyons: Oh, Patricia Lyons.

Chair Anderson: Thank you.

Ms. Lyons: Thank you. Sorry. It is extremely important to me and my family that this becomes permanent, and not having a time limit for building. As of now, we only have a ten (10) year window ending December 15, 2024, which may not be enough time for us to build. Plus, the new rate for Water Department's water facilities reserve fee will be increasing this November 29th from $4,600 to $14,000. So that's more money we have to save to build, especially with my nephews being young. They're in their mid-20's and they are working really hard so that they can build. It was my dad's dream to have all of us stay on that property. My father did buy the land in 1967 when I was just 5 years old. He always told us that we would be able to farm and possibly build in the future, and that the land could be passed on to our future generations. And that's the goal, you know, to keep the land in farming and in our family. I was so tempted to come this morning because we are farmers. I had footprints all over me, and I thought to myself, wow, you know, the footprints not only of the animals, but of my dad walking through there; all his blood, sweat, and tears, you know, wanting us to be there for the rest of our lives and our children's. That's pretty much what I'm here to say, and I appreciate all of you. Thank you so much.

Chair Anderson: Thank you.

Mr. Dahilig: Macky DeSilva.

Macky DeSilva: Good morning. I, myself, is for the idea of bringing back the 'ohana zoning, and I truly believe that it will benefit the people of this island, Kaua'i. Certainly, if it does come back, it won't solve the housing shortages that we do have, but it'll help. With that intent, I leave you, and thank you.

Mr. Dahilig: Madam Chair, that's all I have signed up to testify for this public hearing. The Department would recommend making a final call for testifiers on this particular matter.

Chair Anderson: This is the final call. Is there anyone else who would like to give public testimony on this agenda item?

Mr. Dahilig: Seeing none, Madam Chair, the Department would recommend closing the public hearing on this matter.

Chair Anderson: Do I have a motion?

Mr. Keawe: So move.

Mr. Mahoney: Second.

Chair Anderson: Any discussion? (None) All those in favor? (Unanimous voice vote) Any opposed? (None) Motion carries 7:0.

NEW BUSINESS

A Bill for an Ordinance amending subsection 8-15.1(d), Kaua'i County Code, as amended, relating to additional dwelling unit on other than residentially zoned lands. Kaua'i County Council Bill 2601 (ZA-2016-2) = *Kaua'i County Council.*

Mr. Dahilig: Under New Business, may I suggest, because we closed the public hearing on Item F.4.b., that we take that item first since that's available for action? And then we can provide a presentation on F.4.a.

Chair Anderson: Are there any objections to taking 4.b. ahead of 4.a., given the amount of public testimony for that agenda item?

Let's proceed.

Mr. Dahilig: Okay. Thank you, Madam Chair. The bill that is before the Commission came down from an introduction from Council Vice-Chair Ross Kagawa. The bill essentially, again, proposes two (2) changes. One (1) is to eliminate the lapse date of the special fund created by the previous ordinance, as well as eliminate the language that provides a sunset for December 15, 2024 for these units to be constructed. As the Commission's familiar, we had to implement the ordinance that was adopted last December. In effect, it yielded a little over two hundred (200) of these applications. The program that was initially proposed by the Council, that came down to the Department level and was sent up, had an annual renewal requirement, which was stricken before passage by the Council. In looking at the totality of the units that are available out there, there's really only about 213 that are there. To enforce a sunset date that is ten (10) years down the line when much of the institutional laws of the Department may turnover, as well as the small amount of units that were actually certified, it becomes almost, in effect, an economies of scale when it comes to enforcement and the practicality of enforcement of that sunset date. So, we believe that the amount of units that have been re-certified is, in some degree, negligible when you look at the overall impact of the housing demand that is on the island. So we believe that…well, the Department does not have any objections to the proposal as set forth by Councilmember Kagawa, and we would recommend approval of the proposal.

Chair Anderson: Does the Commission have any questions for the Department?

Mr. Abrams: Mike, you had 219 applications. Was there any determination as to how many lots that would fit into this thing would be eligible total? I mean, I'm not quite sure how many this

would affect because this would apply to those that didn't get a permit, right? Didn't get one, an ADU permit, or the facilities clearance thing that was used to get that permit?

Mr. Dahilig: Yes. The facilities clearance form requirements, as it pertains to Ag land and the ability to obtain a form after, I believe it was 2005, I think, that is still part of the code. So, the policy, as proposed, would not open up for new units, in effect, so this is a fixed number. Each certificate is for one (1) unit, so in cases where you had one (1) lot, but multiple CPRs that did allow for an additional dwelling unit within each of those...well in circumstances like that, again, I hesitate to generalize, but situations where there were multiple ADUs that could be built, each unit needed a certificate. So this is not lots. This is the amount of units that are available.

Mr. Abrams: Okay, so previously that was...ADUs were applied to on Ag and Open for those properties that did not allow more than one (1) unit?

Mr. Dahilig: That's correct.

Mr. Abrams: So what you are saying is that those properties that have not come in the past to seek this then would not be eligible?

Mr. Dahilig: That's correct. So unless they came in and actually got their certificate and re-certified via the previous ordinance, this would not provide a cure for them missing the deadline.

Mr. Abrams: Does the Department have an opinion in regards to or a number relative to what we may be looking at if we would recommend or think about recommending to the Council to include those other lots?

Mr. Dahilig: I think it is a broader policy discussion that I think goes beyond what you're hearing here today, and I think a lot of the...and why the decision was made to actually close the window for these types of units was the abuse that accompanied a lot of the ADU units in areas that turned into gentleman farms. I believe it's a balancing element that would need some in-depth discussion with the Commission. I do feel that there is room for looking at whether certain types of Ag lots would be eligible for ADUs once again, if they have not come in through this program, but the difficulty with land use regulation is we cannot tie those regulations to consanguineous relationships, and that's blood relationships. I think that's where a lot of our heartstrings go, but the net effect of the policy has been, in the past, that these ADUs were then chopped off, sold off, and sold off as very large estates. I think there was a very strong policy push ten (10) years ago to say okay, we don't want to permit much of that anymore.

Mr. Abrams: Yes, I understand that. However, the large estates were on ones that you could go up to five (5) dwellings where you had big parcels and you did a CPR of it. I'm just curious in regards to...because these parcels that are Ag, and notwithstanding the fact that Ag is Ag, and that is the way the County had felt in the past. We have a housing issue here, much like what we are being talked to about for those who have not submitted an application and gotten a permit, where we were hearing from the people on the public hearing side that those are the smaller lots. They are the ones that are almost on their way from a planning perspective to an urban type of use. If, in fact, we are looking for properties or areas to expand urban use, which I think we're

desperately having to come up with that. So at some point in time, either we're going to talk about urbanizing those or finding other places to urbanize. I just thought, maybe, that discussion should probably come now, since it appears to be coming from the Council in regards to letting the ones who have applied, who got in line and went through the facilities clearance and were able to produce that in order to get a certificate so that they could finish their units off. I'm curious in regards to how many parcels are out there that don't have those that might be eligible. I'm not sure whether from a General Plan's perspective that was something we should look at now. I didn't think we were going to, but at this point, it appears to be certain members of the County Council are feeling that way, and I sense a desire on some parts of the community. I don't like the speculative one, but it is housing, and in effect, I know we can't stop CPR-ing it, which is part of the issue that comes up there, but appears that some of the people who did not fully recognize the impact of shutting this off, didn't get those applications, and they are the type of people we want to reach out to right now.

Mr. Dahilig: And I would say that the effect of the ordinance last December, because of the way that the ordinance was administered…previous ordinance capping was administered, we did not have a gauge as to how many, I guess, complete forms we had out there. So this was a way to try to identify, make a call, and we went through a big public outreach campaign to get people to come in and declare their entitlement. I will say that the amount of people that came through the process…I was surprised by the low amount. I will say that. Now, to get to one (1) step deeper on those that have not filled out the forms, but if we were to open up the registration process again, what would that yield? I don't think we have the readily available information offhand to provide an estimate to the Commission on what could that yield if we were to re-open the ADUs on Ag land. I will say, though, that if it were to…if the policy desire of the Commission was to send up to the Council something that were to re-open up the certification process again, starting from scratch, not the re-certification process, but the certification process, the Department would probably have some suggestions as to having the entitlement be…have it not be unfettered, I would say. There, certainly, does need to be some controls. I believe, you know, you've seen the pendulum swing one (1) way, you're starting to see it swing another way, but I think we've seen the extremes, given the tight housing market, as well as the tight demand here and the low supply. So where we find that balance, I think, is worth a discussion. But at this juncture, Commissioner, I don't have the potential beyond what we have in terms of the certification process.

Mr. Abrams: Okay.

Mr. Keawe: I have a question.

Chair Anderson: Okay, and I just would ask the Commission…there are obviously huge policy implications that are brought in, and I would like to limit the questions to particularly on this particular ordinance change, and then when we go into discussion on a proposed motion, then in terms of opinions and the further broader policy actions, we can go into that discussion. Thank you.

Any further questions?

Ms. Mendonca: Mike, repeat what this bill is now for, in clarity.

Mr. Dahilig: Okay, so the bill does two (2) things. What the bill does is it removes the required bill date for those that have re-certified through the process this past year. They were required to build the units by December 15, 2024. This would eliminate that and would allow indefinite time period for them to build a unit.

Ms. Mendonca: Indefinite?

Mr. Dahilig: Indefinite. The second thing is that there was a required fee as part of the re-certification process under the previous ordinance that was deposited into a special fund for Departmental use. That fund was to lapse at the same time, and that date is also being stricken from the…so the fund will continue on indefinitely as well.

Ms. Mendonca: I was a little bit confused, as far as the amount. What was the amount that we had originally discussed here before it went last December?

Mr. Dahilig: I believe it went up…it was $750, but it was on a per annum basis. The Council changed it to $750, one-time.

Ms. Mendonca: Okay. So re-certification, basically $750, they pay it once and they don't have to pay it again?

Mr. Dahilig: Yes. And all those fees were already collected between December 15th and February 17th of this year.

Ms. Mendonca: So indefinite until they build?

Mr. Dahilig: Yes. So there are no more fees to be collected, no more re-certifications that are required, and the fund that those monies were received into will continue indefinitely.

Ms. Mendonca: So my question would be like you have 213 applicants, so that's $750 one-time, and that's all they pay, and it stays in this fund until the individual builds?

Mr. Dahilig: Actually, the funds are earmarked by the Council for specific uses related to enforcement. Until the Department decides to expend the funds down and zero out the account, the monies will just stay in the account. So it's not incumbent on any other type of action related to specifically this program.

Chair Anderson: Any other questions for the Department?

Mr. Katayama: From a procedural point of view, if we were to suggest changes to the bill as written, how would we do that?

Mr. Dahilig: If there's a motion on the floor to approve or disapprove the bill, I guess motions can be made to add or delete language, and then we would enroll it as approved by the Commission.

Mr. Katayama: Thank you.

Chair Anderson: Any other questions?

Mr. Abrams: One (1) last question. Mike, am I to understand that out of the 219 certification processes, 213 were approved?

Mr. Dahilig: Yes.

Mr. Abrams: So six (6) people didn't get approved. Of the 213 that were approved, did all of them construct an ADU? Or do you know how much this bill actually applies to in terms of ADU dwelling units?

Mr. Dahilig: It's a fixed number of 213 dwelling units, potential. How many have actually taken the opportunity to build since the certification deadline? I'm not sure.

Mr. Abrams: Thank you.

Ms. Mendonca: And they have an indefinite time to build?

Mr. Dahilig: That's correct.

Chair Anderson: Other questions?

Okay. What is the feeling of the Commission, and do we have a motion on the matter?

Mr. Katayama: How would you like to approach any discussions on amendments to the language of the ordinance?

Chair Anderson: There are two (2) ways. If you have a question, you could frame it in terms of a question to the Department on whether they would support the particular language of an amendment. At this time, they've submitted a report that they support the ordinance change. Or, once we have a motion, if it's approving of the ordinance, then we could amend the language, and then amend the motion.

Mr. Katayama: Prior to going into that kind of detail, can we maybe discuss a conceptual approach?

Chair Anderson: Yes. I'm open to that. What are your suggestions?

Mr. Katayama: Well, the quid pro quo for removing the sunset would be putting in a window for re-certification to keep an inventory of the effectiveness of this program. Otherwise, you have

no way, to me, that the Department can monitor if these certificates have actually been acted on. I think the Department is correct that for the number that it becomes an administrative nightmare for them. However, if they are collecting a fee for re-certification, then it can use whatever resource it needs to maintain that program as part of the fund that's being created because otherwise it's unfettered.

So, my recommendation would be to restore, at least in the language of the bill, a re-certification window, you know, whatever duration the Department feels is reasonable, and that they can at least...as we look at other remedies for ADUs or housing issues that they can make a comment of how effective this program has been.

Mr. Dahilig: I guess I would...just to respond to Commissioner Katayama's question, and also to, in effect, take in some of the responses and questions as posed by Commissioner Abrams on kind of the broader context of this, we've looked at this as almost a phasing out of the program, rather than a situation where we're looking at the success of it. But, if there is the desire to want to, from a barometer standpoint, see how units like these are being constructed and then added to the inventory, that would be, I think, a paradigm shift in how the Department has been viewing this particular program because we've always viewed it as okay, this was a call that was made ten (10) years ago, we are trying to phase out the program, many of the units that were on Ag have already been built, and in effect, sold off speculatively. What you're seeing as remaining is a lot of the long-time, small landowners still struggling to accumulate the capital investment necessary to actually realize the unit. If monitoring the program is a desire of the Commission for the reasons of what may be, as Commissioner Abrams is alluding to whether or not this needs to be re-opened or not, that could have some value. I will say though that the bill as proposed does pose problems as to whether or not the fees that would be collected would actually supplement the effort of the Department because the current fund is earmarked for enforcement, rather than administrative costs.

Mr. Katayama: Well, I would also recommend the changes in the use of the fund to expand it to cover...
Mr. Dahilig: Administrative costs.

Mr. Katayama: Maintaining the program. I think that, you know, the recent developments in other Counties, specifically the City and County of Honolulu, that have carte blanche open up an ADU ordinance, I think that we should be sort of, at least, cognizant of what the efficacy of that program is. I agree with 8,000 housing units in our horizon, you know, there is not going to be one (1) single solution, but probably several different vehicles addressing in this. So again, I don't quarrel with removing the sunset. What I would like to know is, is this a good program or not?

Mr. Dahilig: I will...let me add just a little bit more context just to cover discussion. I don't want to correct myself on my responses to Commissioner Mendonca. The original fee proposal was for $750, and so the re-certification process on an annual basis at that high fee amount was meant as a means to compel construction of the units; that was the original proposal on the table. The Council saw fit to actually reduce it to $250 at one time. So if the monitoring were to occur, the proportional fee that would accompany that annual re-certification for statistical purposes

should also be looked at from a context if we are looking at either trying to compel these units online, or we are trying to just obtain information, what the appropriate fee amount would be if trying to identify the success of the program is what the Commission desires. I will say that if the fee is just based off of administrative costs, it likely will not be enough to compel construction of the unit and it would be, in effect, an annual fee in perpetuity. And I think the Department would be a little weary of having to go through that process in perpetuity. So that circularly leads back to a discussion of whether or not a sunset is important. I think that there's a lot of room for discussion that, Commissioner, but I...

Mr. Katayama: Well, let me, sort of, put my opinion on this issue, and I understand the Department's stance on this. It doesn't have to be annually, and I think if there...I'm open to a hardship waiver. If for some reason the re-registration fee is onerous, they can apply for a waiver on that. But the main thing is to keep it current, keep the inventory current, and they can always choose to let it lapse. Again, if we find that the conversion rate...let me back up a minute. I don't think this fee should be a stick to force people to do something that doesn't make sense. Okay, I mean, the whole intent was to create additional housing units, whether it's for family or for workers or whatever the reason was. I think we have an issue that we need to address, and it's hard to address an issue if you don't have good data. So again, if we impose a re-registration fee, and you could pick a time limit, it doesn't have to be annual, and if the applicant has a hardship, I would put in language that the Department has the ability to waive those fees, as long as they register. And then I would change the language for the fund to include administrative fees in which you can use, and we can revisit the fee amounts if this thing is ongoing or amend the bill to remove it later on. That's sort of the conceptual that a 60,000-foot view of this program.

Mr. Dahilig: Conceptually, I would say if we're talking about a large number of units on the table, then that's one (1) item. I hesitate, given our experience with how much we've had to invest in something like the TVR program, which is a small amount of units. And it's not to say that this wouldn't be more simplistic than what that program is, but having a program insight in mind to monitor, I think is more the reasons why our Department recommended the concurrence because we're really only talking about 213 units to monitor. I could see a program like that if we statistically are going after thousands of units, but we're really talking about only 213 here. And I think in the overall scheme of things, it's pretty negligible when you look at the overall permitting demand that we have on an annual basis. I can see our Department integrating...we have the list in digital format already, so it's not difficult for us to integrate the information that way.

Mr. Katayama: If a building permit is issued, that 213 goes down?

Mr. Dahilig: Yes.

Mr. Katayama: Do you have the ability to keep a running tab on that?

Mr. Dahilig: Yes, we do. Because what will happen at that juncture, in order for them to come through with the entitlement, they are going to have to, I guess, declare that they're using the

certificate at that point, and we'll have to cross-check that with our database that we have already established based on the re-certification process.

Mr. Katayama: So, can the Department form an opinion on the efficacy of this program?

Mr. Dahilig: Well, again, we look at it in two (2) contexts. Obviously, given the public testimony on this, it's very clear that even a 10-year horizon seems problematic for many people. So if you were to ask for me that the success of the program from a timeliness standpoint in getting units online, I would say that speaks in and of itself that this does not quickly get units online for homeowners if the desire is timeliness. If the desire is just options, then I'd say, you know, you're hearing the public testimony, and it's pretty clear that there's a desire there, but whether the desire translates to timely implementation of housing, getting that online given the crisis, I would say no, it does not yield quick units. And so, I think that along with the policy from the Council ten (10) years ago, that they saw this program as needing to end. That's also something to keep in mind if asked the question about the success of the program because that was a policy, I guess, identification by the Council that no, this program does not work. It doesn't meet what, from a zoning standpoint, we want to see in the island, and that's why we're going to close the tap off.

Mr. Katayama: Okay, thank you.

Ms. Mendonca: Mike.

Chair Anderson: Go ahead.

Ms. Mendonca: I have a question. Based on the testimonies we received today, I'm under the impression that the cut-off date for anybody to get a certificate has passed and gone, right?

Mr. Dahilig: Yes.

Ms. Mendonca: The original intent for this was to prevent speculations or speculators coming in and, as you call it, "gentleman farmers", correct?

Mr. Dahilig: That was why it got cut-off.

Ms. Mendonca: Right.

Mr. Dahilig: Yes.

Ms. Mendonca: Okay.

Mr. Dahilig: The first time.

Ms. Mendonca: Right. So now, in the course of counting how many applications that you have, was there, at any time, kind of like a general survey to see if there were other potential ADU Ag lands that did not come in and apply? Or was this just based on those who had applied?

Mr. Dahilig: Yes, this was just based on those that applied because the storied history of this certificate goes back to when the program wasn't even administered by the Planning Department. So there was an unknown amount of people holding this certificate out there that we needed to, from a system standpoint, identify and bring into the world because the Department only saw a portion of the oversight period. Another portion of the oversight period was done by the Building Division, the Department of Public Works, and so there was no unified database as to what the...and I hesitate to use the word "liability", maybe "potential" is a better word for it, of ADU on Ag certificate forms that were complete that were out there. So there was no identification before February 17th of this year.

Ms. Mendonca: So there could be many out there who thought about it, but didn't do it because of financial crisis, or didn't know about it because they always believe on the 'ohana thing, where the father leaves to the children and they can build some day. So that is a possibility, correct?

Mr. Dahilig: And there are people that did not come in through the re-certification process.

Ms. Mendonca: My next question is on the residential. We view a lot of these applicants that come through for ADU and residentials. Is there a way that we can word it as such so that individuals who do come later and did not apply by the 2006 certification that we also give them that opportunity to come before us and make a decision on whether or not they can or cannot build?

Mr. Dahilig: And that goes back to the broader policy question that Commissioner Abrams brought up. Whether or not the larger question of should the cut-off date that was instituted by the Council in 2005 be repealed. I think that is something that you're hearing as a desire by some individuals, but I want to, again, caution that there was a reason for that ten (10) years ago. So how you balance what led to that decision by the policy makers at that juncture versus what you are seeing as a housing crisis now, I don't think we can solve in the context of this specific bill. But I think it is worth a discussion.

Mr. Keawe: Just real quick. You had mentioned that the issue was because of the abuse of that particular ADU policy that they wanted to phase it out. So, what was the plan to come up with something else to replace it?

Mr. Dahilig: There wasn't any. And I think the reason why was...and if you look at when that bill came out, and you look at the period between that and 2008, I mean, that was when you saw the construction boom really takeoff. So I think the more pressing policy matters that were before the Council at the time were related to things like overdevelopment, traffic, and environmental concerns. Those types of things, I think, took the forefront. And when you look at the bills that came out during that period, there were things like TVR bills, there were things like shoreline setback bills, things that, from a genre standpoint, really were addressing the overbuilding versus now you're just seeing as the under-build of the inventory.

Mr. Keawe: Okay.

Chair Anderson: I have a question for the Department on some of the proposed language within the ordinance. I think it's on Page 2, Paragraph 5.B., or actually Paragraph 5.A. I have some concerns regarding the allowance of finding that as adequate to have a cesspool for the ADU unit. Does the Department have any comment on that?

Mr. Dahilig: These were all sign-offs that were required back in 2005, so whether or not they were up to par with respect to the policy concerns leading to these sign-offs by the individual agencies, I would say that bell has already rung because the certificate was already signed-off by the Department of Health, or was already signed-off by the Department of Public Works. So in effect, physically what we have are these legal-sized sheets that have each one (1) of these agencies, as you see here, signing-off and saying yes, you're okay with the cesspool, yes, you're okay with this. If we were to roll back on one (1) of those sign-offs, I think administratively we would have a very large issue with us being able to, in effect, repeal back the entitlement and have them go through a re-certification with the Department of Health.

Chair Anderson: But the initial certification had a timeframe, and so it seems as though if there is a certification that was made in 2005, if the proposal now is to extend to have no limits, that things are going to change in the future that there may be, you know, higher levels of...in terms of safety and sanity...or sanitation that may be required; and sanity as well. I hope we're at a higher-level (inaudible). (Laughter in background) But it just seems to me a non sequitur to allow...and in terms of planning, when you have an initial program that's set up basically to scale down and to grandfather in certain uses allowing the public to have a certain amount of time to apply for these certifications, and then have a deadline, which was last year, 2014, then we decided to give an additional ten (10) years, and now we're looking at perpetuity, in terms of that right, without ever having to relook at what were the set requirements at that time. I think its bad planning, and I couldn't support it in the way that it's framed at this point.

Mr. Dahilig: I certainly understand, and to also add to that discussion, keep in mind that the extension was on top of already a ten (10) year allowance on top of that. So there was a 10-year period that was supposed to...and mind that, that 10-year period previous to 2014 was an aggregation of, I believe, three (3) changes where they extended it three (3) times before. Going back to the question of how effective is this program from a timeliness standpoint, this is, I would say, I believe the 4th or the 5th extension that you're seeing these units be grandfathered from. I do see the perspective you have, Madam Chair, on whether or not...because of the lengthy period since the inception of the program until now, whether environmental and social standards have changed to accommodate these units. Administratively, however, I would have some concerns as to how we would roll back on an approval that was given already by an agency. That, I think, we'd have to get into, and maybe it's worth a discussion with the County Attorneys if you're looking at options because it becomes a reliance issue, I believe, for the County if we say we don't recognize an approval by the Department of Health that was given "x" amount of years ago.

Mr. Abrams: Madam Chair?

Chair Anderson: Yes.

Mr. Abrams: Can I add some…? I believe the Health Department is not going to allow cesspools. They are going to require individual wastewater systems. And that these applications were only applications. There were not any building permits that were submitted with them. They would have to come in and catch up with whatever the standard is, whether it's a building permit standard or a Health Department standard for a wastewater system. They, at that time, were signing-off that a system could go in there. Because the ordinance says that it is "or cesspool", which probably was…this ordinance was originally done in 1988, I believe was when…

Administrator Furfaro: '85.

Mr. Abrams: '85? Yes. Back then you could do a cesspool, and that's when it was there. I don't have any problem with crossing those words out or suggesting to do that because I don't believe that cesspools would be something that the Health Department would approve of under any circumstances now.

Chair Anderson: And I think that's where it's uncertain. If they've gotten approvals already, that these are passed certifications.

Mr. Abrams: They didn't even get shown a plan. I mean, there was no building plan, there was nothing. There was just a plot plan. I mean, I remember doing it for my house. I just drew a little house there, and then they checked to make sure that it had the setbacks properly, and then I took it around, and they said yeah, you can have a wastewater system and whatever. In effect, I don't think…and from what I know from people who have come in and actually acted on those permits or from them, they had to go through the process of reapplying. And maybe the County Attorney side could opine on that.

Ms. Higuchi-Sayegusa: Yes, that's my understanding that at building permit, there will be another agency review process where the building permit will have to be reviewed by DOH.

Mr. Dahilig: I will say that even if it says this, because the DOH regulations are premised upon clean water act types of regulations, those Federal standards would supersede any "at time"…I don't think we can grandfather for Federal regulations. But again, I could not go further as to the effect of having this through that sausage-making process still remain in there, but I will say that at least there's that backstop that we would…whether or not somebody can sue and make a case saying I'm entitled to have a cesspool regardless, that's, I think, a multi-agency lawsuit that would probably come forward.

Mr. Abrams: I don't think, maybe retroactively, if we took it out because people already have their permits that we could actually compel them to do it, but I'm pretty sure the Health Department could say that cesspools are not acceptable at this time and you're going to have to do an individual wastewater system. And maybe it would be appropriate for us to route this to them to see what they would say.

Mr. Katayama: Madam Chair?

Chair Anderson: Yes.

Mr. Katayama: Isn't this sort of a classic issue that we always come across, is that when you've applied, the ordinance in effect at the time you applied are the standards we hold you to? And it could change subsequently. We've gone through that in the homestays, we've gone through that in other (inaudible) issues. How is this different? You've gotten the approval and certification under a 1985 standard. Why wouldn't the rules in effect in 1985 apply?

Mr. Abrams: Because you're building a new structure, as opposed to confirming a use within an existing structure, is my understanding.

Ms. Higuchi-Sayegusa: Right.

Mr. Dahilig: And I think also, just to...at least my understanding of the sign-off forms, it was not to approve a design. It was to say do you, agency, have the capacity to add this additional unit on? Those were the acknowledgements that were (inaudible).

Mr. Katayama: So can we change the language in the ordinance to reflect that position?

Mr. Dahilig: Well, I guess...I would have to look at whether or not we would, in effect, create a new process where we'd have to strip out the old certificates and say okay, 213, you've come in, we want you to go through another 360 with the agencies and identify whether or not what you were grandfathered for is still available. If we're talking about that with respect to Water or Public Works, I can see that. If we're talking about it from a standpoint of sanitary sewers, my concern is that if the cesspool issue that the Chair is bringing up needs to be addressed by the Department of Health, all you would see them say is okay, you know, you don't have a public sewer system connecting to your property. You would, in effect, have to declare at that time how many bedrooms you're going to be putting in, and I think that's a little premature in this process, if we were to require the sign-off. So the Department of Health really only looked at whether or not there was a sanity sewer capacity issue versus a cesspool or private sewer system situation. But we could run the 213 through another certification process again; that's certainly within the purview of the Council. I just wouldn't know what standards now to ask them to re-verify again. Again, the collection system that happened back in...between December and February of this past year was simply to make sure that all the signatures met the sign-offs by law that was in effect between the 80's and 2005, and not to make any discernible judgements from what those sign-offs meant or if they are still valid.

Mr. Abrams: I have no problem making a motion to approve the Department's recommendation, so we can start how you want to handle it, which is the discussion which we've kind of jumped the gun on, but I have one (1) more technical thing. And that has to do with No. 7 on Page 3. I noticed that on Page 4, I see we're bracketing out really only two (2) things in the actual ordinance that are there. Would not No. 7, regarding to the $250, need to come out also? I guess we're not really approving anymore; other than just simply saying whoever came in already. There are no more renewals or any re-certifications.

Mr. Dahilig: This language is almost like, I guess, having a gallbladder. I think that's the way I would describe it. (Laughter in background)

Mr. Abrams: We'll let the Attorneys figure that out later. Just send it on up to them.

Madam Chair, I make a motion to approve our Staff's recommendation in regards to approving the submitted bill, Bill No. 2601.

Mr. Mahoney: Second.

Chair Anderson: Okay, discussion. We'll begin…let's go round-robin.

Mr. Ho: Aye.

Chair Anderson: Oh, this is discussion, so we're not calling the vote yet. If you have anything to add; your concerns.

Mr. Abrams: I get what you mean, and I suppose that at some point, our Councilmembers will have the transcripts of some of our discussions that we've had up to here about some of my feelings in regards to making this available to all lots that are on Ag or Open land that only qualify for one (1) dwelling; that was the original purpose of that bill. I understand that…and I'm not quite sure. I think the Planning Department's view of it had to do with a lot of CPRs that came in for just two (2) units, so they saw a lot of that, and it was a real pain in the 'ōkole, and it probably was speculative, and in effect, it became a problem. It also had the problem that it wasn't Ag use, and I always thought that was the primary problem. I wasn't sure about speculation because everything was being speculated on, whether you were in residential or a CPR'd one (1) acre lot that was a half-acre lot that basically was sold to somebody who built a house on it. If they built a house on it, I generally thought that that was good because they could either move into it, rent it out, or let it stay vacant. Some of them were speculating on those parcels. The bigger problem had to do with the larger lots that had more than one (1) dwelling. I've always envisioned that a lot of…if you take a look at the Ag there with our subdivision law, which creates these small lots, that our forefathers were trying to think of some way to allow those small lots to happen. And most times from Planning, they come close to being things that are very hard to farm on. I realize you can farm on them to a certain extent. I don't know whether it would be more for a Residential type of use, but it's difficult to make a real living off of that; certainly up to the standard that we review these for homestays where it had to be the substantial amount of whatever was being produced on that property compared to the rentals. So, I don't know, but I think we can find out because we have some great technology now than what has happened in the past years where we should be able to determine how many lots of record do allow, subdivided lots of record by the way, not CPR lots of record because the CPR is only one (1) dwelling, so those ones of record that could very well have an ADU on it. I suspect that it's fairly small. I think that the large majority of it…and I do believe that in the very beginning some of the discussion in the 80's and 90's may have taken account back then of it; where we'd have a better idea of how many more we are talking about, but I am of the opinion that it is not as much as one might think. If you buy the argument that you have to be farming on this one (1) acre parcel and that's the majority, then that's basically what we would go with it. If

it doesn't, then at that point you then open up the situation to, should we allow some more housing in these properties of the easiest ones to be obtained? I think for many of the reasons that were articulated by the public this morning, or just not too long ago, that they've all got great...and I've heard it up from many people that this is really hard to find and get property now because of the values. Whether or not it's speculative, I don't know. So I would be generally satisfied, I guess barely satisfied, to get this with them taking the deadline off because really at that point, there's really nothing. You could monitor it from that standpoint as to the properties that have these permits that would actually build on it. It would seem it could be assimilated right onto the regular building permit process that Planning deals with on anything, so...and it would call for, anyway, in the thing after that date that any of those funds would lapse into the General Fund, I think, is what it would be. And if there needed to be more, then we'd have to make the case, I guess, through the budget process to have that done. So, I'm prepared, I guess, since we've closed the public hearing, to move this on to the Council because I think it's an important issue. Whether or not we want to go ahead and mark this thing up and get creative with it to make our statement to the Council, I'm trying to decide whether they will read all the rest of the other stuff, or whether or not we actually have to change it if we decide to, and put it right in front of their faces, and in effect, have that discussion now. I feel somewhat comfortable that they're probably feeling the same thing about the housing issue, and how are we going to deal with this in the long run for our children or people there. I'm not talking about transient; I'm not talking about that. I guess probably the only bone someone might have to pick with me would be that we're looking at something that you may not be farming on. So that's my opinion.

Chair Anderson: Thank you.

Mr. Abrams: Yeah.

Chair Anderson: Commissioner Mendonca.

Ms. Mendonca: I think one (1) of the problems that the agencies always have, and it's forever, you hear this all the time, housing shortages, infrastructure, and development for the years to come. One (1) thing that bothers me in this particular bill is that they're making changes to go into indefinite for the 213 applicants. But, the intent was, originally back in 2006, to stop all of these speculators. But in between this, nobody took time to stop and ask the locals, who have given their land to children, and not because they're at fault, the Planning Department's at fault; I'm not saying that. I'm saying we did, perhaps, then have the ability to take a survey and see how many of these 'ohana families out there did not come in for certification. I can understand monitoring and keeping it to the point where there will be no speculators on these large parcels of land, but in making one (1) thing right, we're doing something else wrong. And that wrong is those who did not have the opportunity to come in, like those who testified this morning, who have and want to put housing that we speak of in shortage for families who are now out there looking for homes where they could build on their own property. I hope the Council will take this into consideration because on one (1) hand, we as Commissioners make decisions on ADUs, on residential, and beachfront areas where we have the locals who want to come in and, now with this ordinance, say they cannot. I believe that we should look at individualized cases. If we do this for the ADUs on residential areas, why can't we not do this for cases that come before us on Ag land? That's what I think. In fairness to those who've really sincerely want to give part

of their land to their children, and never had the opportunity or just overlooked not being here by 2006 for certification. That's my opinion.

Mr. Dahilig: Just to clarify the Commission's role on ADUs, this was purely an administrative process at this point, so the only role that the Commission has at this point with ADUs, other than recommending policy up to the Council, is the Contested Case Hearings, but these certificates do not come back to this body whatsoever.

Ms. Mendonca: No. I'm referring to those…I understand we cannot change those who've already done it by 2006. But like those that we heard this morning, I mean, they're bona fide, they're not speculating, which is what this law was intended to do; to stop speculation. And they are local people who would like to build on their property that they paid for, and their kids are young and they're looking for the future, which we're looking at 2035 future and say we're having a housing shortage. At the same time, we have those who are here saying I want to build, and we're saying no you can't, so we're like balancing it in an awkward way. I believe that by giving these individuals an opportunity to come before this body and state what they have and what they would like to do with their property that we might be able to provide some assistance to see that they can build.

Mr. Dahilig: And I think that's the difficulty with creating and modifying this into a discretionary approval, which is what you would see normally as you see with the permitting process, is that we cannot use blood relation as a means of whether or not somebody is showing the intent to do what the policy intends. I get that is a very strong policy desire here, given the testimony and maybe even personal experiences amongst some of the Commissioners, but given the constitutional mandates we are under, we have to be blind to blood relation as a reason for why a unit can be authorized or not authorized.

Ms. Mendonca: I understand that. What am I getting at is whether they're saying it's for my son, or we're talking the need for housing; the need to build more housing. And if they would give it to their children to build or rent it out eventually, those are their choices as, I believe, as homeowners who paid and pay taxes on their land. So, if we're going to make decisions for ADUs on residential areas, we should look maybe on individualized cases for Ag area; that's just how I look at it. I'm not saying all of them are going to be passed, but if we can at least offer these people with sincerity and missed the deadline or suddenly want to try to do this in the housing unit, that would give us a chance to do a lot more reviewing on the individual.

Chair Anderson: Okay, we'll move to Commissioner Katayama.

Mr. Katayama: I feel comfortable with the ordinance. I think we could add clarity to it if we remove "cesspool", and there is language in Paragraph 6.B. that addresses the permitting issue. The other change that I think would help is that if the Department is responsible for maintaining a re-certification database, that the fund should be allowed to help offset some of the administrative costs of maintaining that database. But, you know, the discussion that we had today was quite robust and I think on a very specific 213 certifications are currently outstanding, that's fine. Currently, the fund will be there forever because you probably will have no reason to access it unless you have a Contested Case, which would not be on a re-certification; it would

probably be more on a permit basis. So I think if we could do that two (2) modest changes, I think it would be a better ordinance.

Mr. Mahoney: A lot of conversation and points to consider, but right now, I'm comfortable with the ordinance. We're dealing with this 213, and I think there's compelling testimony, but I think this ordinance...I'm comfortable with how it is to send it back up to the Council. The issue of housing and...of course we need more, but I think maybe an entire new bill to satisfy to...would maybe help on that, but on this one, I think the people that are...we went through a lot of testimony and discussion previously, and sent it up to the Council. I think we should go along with this 219 right now, and move that up and go from there. And I'm comfortable with the way it is right now.

Mr. Keawe: I think, as we continued to discuss, most of my questions were answered because this bill is specific for just those that came in initially for that ADU clearance form. But I do think, as part of the discussion, there has to be more alternatives for housing for our folks that have been here for a while to try to ease some of the concerns we have. You know, just in a lot of our cases, you know, our kids and grandkids coming in, how are they going to possibly be able to afford the market stuff now? It's just ridiculous. There aren't jobs on this island that pay enough money for them to qualify for a loan, so I think we've got to come up with it. I know it's a concern of...the Planning Department is concerned of a lot of local residents, especially as we age and we look at our kids and grandkids. We have to come up with things that don't get stuck in the muck, and react to individual issues that cause, you know, slowdowns. I think we've got to a better job, collectively, in doing that. We need to think about the future for our kids, and so I would support this as an initial effort to try to get this. As you mentioned Mike, the whole idea was to get them to motivate and move, and start building it, but it's a slow moving process, obviously. It's not going to answer everything, but at least for this specific 213/219, it's a step in the right direction.

Chair Anderson: I'd have to disagree with the last statement, just in terms of a step in the right direction. In terms of this ordinance, there has been discussion on the past, on what the original intention was, and that was to phase out ADUs on Ag. ADUs on Ag have been phased out, except for the limited number of people that applied for a clearance, and they had a deadline to build by 2014; they had ten (10) years. We've extended that horizon, because of the financial burden that is trying to gather the capital, and provided an additional ten (10) years to build, so that's twenty (20) years to build on a piece of property that you've invested in; that is a long-term investment. I believe that we've provided a significant amount of leverage for those who have those properties that had that initial investment and went forward to get the clearance. In terms of the fundamental fairness, there may have been those who had ADUs, who looked at the original bill and said I'm not going to apply for this because there is no way I'm going to be able to build within the timeframe, so they didn't apply for it and then they lost out. Those, again, who may have looked at the new time horizon of ten (10) years and had up until February of last year to reapply, and said I'm not going to be able to build in ten (10) years, so they didn't apply and then they lost out. And then, after the fact, we keep on moving the bar. To me, it's not rational. I understand the need for housing, but it's obvious that this isn't the avenue that is creating housing because we're looking to move the threshold; not housing in ten (10) years, not housing in twenty (20) years, housing that maybe built...we want to give that right for any time,

so it's not creating housing now. It's not addressing the need now; even though that's the main concern that everyone is bringing up. The concern going back to Ag, I think, is very important, and we have to look at what those areas are that are potential Ag areas. As Planners, if there are areas that are zoned Ag, that it's inappropriate to be Ag, we need to make those changes, and part of that process of the General Plan is to identify those areas that are appropriate to increase density. Doing the spot zoning where we're allowing it here and there, without having that overview of looking at the big picture, looking at the infrastructure, looking at how that's going to affect the traffic, I mean, we have the concept of smart growth, but if you allow the continued sprawl in Ag areas, there's no way we are ever going to get to the ideal of having those smart growth, having walkable communities. So in terms of having a consistent policy, I think it's really important that we don't back track; that we look at the purposes behind the original bill, and see forward from a planning perspective. It's very easy to look at the micro, and look at the individuals, and we all have empathy for individual situations, but we also have to put on our planner's hat and look at well, what is the big picture here on Kaua'i? How are we able to promote affordable housing? And how are we going to do that? I believe there are other proposals that are on the agenda today that may help those issues, but not necessarily carry the need for housing and say this is a housing issue, so we're going to extend Ag housing and then, sort of, water down the other things that we're trying to promote. So that's kind of my view point on this particular matter. It's not a judgement on the individuals that are looking to continue to build, but it's more from a planning perspective. How we can move rationally ahead and also provide fairness for those that didn't act? If we backtrack and go backwards on our decisions, we're not moving anywhere, so that's my, kind of, two cents.

Mr. Abrams: That was five (5) cents. (Laughter in background)

Chair Anderson: It matched your ten (10). (Laughter in background) And if there's any other discussion…I ended it, I know that I had a…kind of had been taking notes all along, so if any other comments. Otherwise, we can move ahead with the vote.

Mr. Katayama: Madam Chair, again, I would like to make a motion to delete language and being more general on the administrative fees. In Paragraph 8, 9th line, to delete "related to ADU re-certifications", so for it to read "for administrative costs for contested case proceedings". Actually, I want to remove from…just for leaving for administrative costs for re-certification, so remove the language "contested case proceedings related to" and remove all of that language.

Mr. Abrams: The last part of the sentence then.

Mr. Katayama: So in other words, broaden the ability for the Department to access the funds in that account.

Mr. Abrams: Okay, got it. That was a motion?

Mr. Katayama: Yes.

Mr. Abrams: Second.

Mr. Katayama: Thank you.

Mr. Abrams: Would this be an amendment?

Mr. Dahilig: So, I guess, given that you're the…

Mr. Keawe: We already have a motion on the floor, right?

Mr. Dahilig: Yes.

Mr. Abrams: We can make an amendment.

Mr. Dahilig: I guess that…you're the motion maker?

Mr. Abrams: Yes.

Mr. Dahilig: You could adopt it as a friendly amendment if you're seconding it.

Mr. Abrams: Yes, I would. So who's my buddy who seconded it?

Mr. Keawe: I second. (Laughter in background)

Mr. Mahoney: I originally seconded it. (Laughter in background)

Mr. Abrams: You're the one. You're my buddy. (Laughter in background) I won't do it unless he goes along with it.

Chair Anderson: Okay.

Mr. Mahoney: I'll second.

Mr. Abrams: Okay.

Chair Anderson: Okay. Did that amendment include the deletion of the cesspool? Or no?

Mr. Katayama: I think Paragraph…was it 7.B.? 6.B.?

Mr. Dahilig: 5.B.

Mr. Katayama: 5.B.

Mr. Dahilig: Oh, 5 Alpha.

Mr. Katayama: There's language very specific to the applicant's knowledge that…

Mr. Abrams: That's 6.B.

Mr. Katayama: Yes, 6.B. Thank you. 6 Bravo. I think that…

Mr. Abrams: Covers the cesspool.

Chair Anderson: Okay, just wanted clarification. Thanks.

Mr. Katayama: Thank you.

Chair Anderson: So we have a friendly amendment, and…did we have a second?

Mr. Mahoney: We had a friendly second.

Mr. Abrams: We friendly developed (inaudible). (Laughter in background)

Chair Anderson: Okay. So any discussion on the amended language?

Okay, then we will go ahead. Let's do roll call vote.

Mr. Dahilig: Madam Chair, the motion on the floor is to approve proposed Draft Bill 2601, ZA-2016-2, as recommended by the Department and further amended with additional language by the Commission.

Commissioner Ho?

Mr. Ho: Aye.

Mr. Dahilig: Vice Chair Mahoney?

Mr. Mahoney: Aye.

Mr. Dahilig: Commissioner Katayama?

Mr. Katayama: Aye.

Mr. Dahilig: Commissioner Abrams?

Mr. Abrams: Aye.

Mr. Dahilig: Commissioner Mendonca?

Ms. Mendonca: Aye.

Mr. Dahilig: Commissioner Keawe?

Mr. Keawe: Aye.

Mr. Dahilig: Chair Anderson?

Chair Anderson: Nay.

Mr. Dahilig: 6:1, Madam Chair.

Chair Anderson: Alright, motion passes.

Respectfully submitted by:

Darcie Agaran,
Commission Support Clerk