

LAND USE COMMITTEE
Council of the County of Maui

MINUTES

Council Chamber

October 14, 2009

CONVENE: 1:34 p.m.

PRESENT: Councilmember Gladys C. Baisa, Chair
Councilmember Michael J. Molina, Vice-Chair
Councilmember Jo Anne Johnson, Member (arr. at 1:37 p.m./left at 4:04 p.m.)
Councilmember Sol P. Kaho`ohalahala, Member
Councilmember Danny A. Mateo, Member
Councilmember Wayne K. Nishiki, Member
Councilmember Joseph Pontanilla, Member
Councilmember Michael P. Victorino, Member

EXCUSED: Councilmember Bill Kauakea Medeiros, Member

STAFF: Carla Nakata, Legislative Attorney
Pauline Martins, Committee Secretary

ADMIN.: James Giroux, Deputy Corporation Counsel, Department of the
Corporation Counsel
Jeff Hunt, Director, Department of Planning
Paul Fasi, Planner, Department of Planning (Item No. 22)
Joseph Prutch, Planner, Department of Planning (Item No. 21)

OTHERS: Kim Pffirman
Leighton Paul
Linda Paul, Secretary, Kauhale Makai Association of Apartment Owners
Michael Ondo, Director, Kauhale Makai Association of Apartment
Owners
Matthew Murasko
Janet Mercer
Georgia Pinsky
Stephanie Kaiwi
Jane Barton
Margaret Leach
Willis Leach
Rosoneli Curell

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Helen Bowman
David DeLeon
Gregg Blue
David Lee
Ann Wittenbrock
Debra Myers
Leina Shirota-Purdy
Carina Ann Caires Shirota
Robert Mitnick
Leo Caires
Kimberlyn Scott
Bobby Caires
Matt Daniells (Applicant)
Sandy Daniells (Applicant)
Will Spence, The William Spence Company (Applicant's consultant)
Jim Niess, Maui Architectural Group
Chris Williams, Hawaiian Style Activities
Plus (15) other people

PRESS: *Akaku Maui Community Television, Inc.*

CHAIR BAISA: ... (*gavel*) ... Will the meeting of the Land Use Committee of the Maui County Council please come to order. To be noted, that it's about 1:34 p.m. on October 14th. Good afternoon, everyone.

COUNCILMEMBER VICTORINO: Good afternoon.

CHAIR BAISA: I'm Councilmember Gladys Baisa, the Chair of the Land Use Committee; and with me today I have my Committee Vice-Chair, Vice-Chair of our Council, Mike Molina.

VICE-CHAIR MOLINA: Good afternoon, Madam Chair.

CHAIR BAISA: Good afternoon, Mike. We also have our Council Chair Danny Mateo, Member of the Committee.

COUNCILMEMBER MATEO: Good afternoon, Chair.

CHAIR BAISA: Good afternoon. We also have with us Councilmember Sol Kaho'ohalahala.

COUNCILMEMBER KAHO'OHALAHALA: Good afternoon, Chair.

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CHAIR BAISA: Good afternoon. We also have Councilmember Wayne Nishiki.

COUNCILMEMBER NISHIKI: Good afternoon.

CHAIR BAISA: Good afternoon. And with us Joe Pontanilla --

COUNCILMEMBER PONTANILLA: Good afternoon.

CHAIR BAISA: --and Mike Victorino.

COUNCILMEMBER VICTORINO: Good afternoon, Madam Chair.

CHAIR BAISA: Thank you very much. Excused at this time are Member Jo Anne Johnson and Member Bill Medeiros. We also would like to ask those of you that are here if you have any cell phones or pagers or anything that makes noise, would you please do us a favor and put it on the silent mode so that we can proceed without any interruptions. We also have with us this afternoon from the Department of the Corporation Counsel, we have our regular Deputy Corporation Counsel James Giroux.

MR. GIROUX: Good afternoon, Madam Chair.

CHAIR BAISA: Good afternoon and thank you for being here, and from the Executive Branch we also have Jeff Hunt, our Planning Director.

MR. HUNT: Good afternoon, Chair.

CHAIR BAISA: Thank you for being here. We also have Mr. Paul Fasi, a Planner with the Department of Planning.

MR. FASI: Good afternoon, Chair.

CHAIR BAISA: Good afternoon, and also joining us later we will have Joe Prutch, who is a Planner with the Department of Planning also--I don't know if he's already here, I don't see him--and also we expect Milton Arakawa, the Director of Public Works. Also we have applicant representatives today for Land Use 22, which is the Hanzawa Store. We have Sandy Daniells, and is Matt here too? Both Sandy and Matt Daniells are here. We have Will Spence from The William Spence Company, and we also have Jim Niess from the Maui Agriculture, I'm sorry, Architectural Group. And for Land Use 21, which is in regards to Kauhale Makai, we have Linda Paul, she's the Secretary of AOA. And also present with her will be Chris Williams of the Hawaiian Style Activities. I believe that the representatives we have here and if there are others, we'll introduce them as they are called upon. We also have my regular Committee Staff this afternoon, I have Carla Nakata, my Legislative Attorney; and I also have Pauline Martins,

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our Committee Secretary. We will be accepting public testimony starting in a few moments. Those wishing to testify should sign up at the table that is set up outside in the lobby. Testimony shall be limited to three minutes. The yellow light will indicate that you have 30 seconds remaining and should begin to conclude. Now when the red light goes on, it's pau. Testifiers are requested to state their name for the record and to indicate who they are representing, if applicable. Members, today we have two items on our agenda. We have Land Use 22, a District Boundary Amendment and Change in Zoning for Hanzawa's Variety Store and Adjacent Property in Haiku; and Land Use 21, a Conditional Permit for Concierge Services at Kauhale Makai (Village by the Sea) Condominium in Kihei. The Committee will now accept public testimony, and we have several people who have signed up to testify. I'd like to invite those of you who are here who may not have signed up, to please do so with the Committee Secretary so that we will be able to accept your testimony. Our first testifier today will be Kim Pfirrmann, and Kim will be followed by Leighton Paul. Kim, if you'll please come forward.

... BEGIN PUBLIC TESTIMONY ...

MS. PFIRRMANN: *(NOTE: Speaking from the gallery.) ... (Inaudible) ...*

CHAIR BAISA: We're going to take care of you, Kim. If you could, can you wheel down to here --

MS. PFIRRMANN: *(NOTE: Speaking from the gallery.)* Okay.

CHAIR BAISA: --and we have a spot here at the desk with a cordless mic. Just everybody hold on for a second, it will take Ms. Pfirrmann a few moments to get situated.

MS. PFIRRMANN: Hi.

CHAIR BAISA: Kim, whenever you're ready, just go right ahead.

MS. PFIRRMANN: Okay. My name is Kim Pfirrmann and I am for the expansion of the property. My property and Hanzawa's property meet back to back, and I don't feel that there would be any reason for them to not be able to expand. Okay. That's really all I got to say.

CHAIR BAISA: Thank you very much.

MS. PFIRRMANN: Thank you.

CHAIR BAISA: A very important testimony. Members, any questions for the testifier? If not, Kim, thank you very much for making the effort, we appreciate it. And our next testifier will be Leighton Paul, and Leighton will be followed by Linda Paul.

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MR. PAUL: Good afternoon.

CHAIR BAISA: Good afternoon.

MR. PAUL: My name is Leighton Paul. I'm in support of the Conditional Permit for concierge services at Kauhale Makai. My wife and I bought our apartment at Kauhale Makai 27 years ago and retired there as full-time residents six years ago. Historically, we've had concierge services at the property off and on for many years, and I've always seen these services as a plus. We've used the services ourselves for our relatives when they visit. Concierge services have never been a nuisance or a problem at Kauhale Makai, and I miss not having them. I think the limitations in the proposed ordinance, which I have read, are good protections against any possible abuses. In the past there was a convenience store operated on the property under a permit that was issued by the County Council in the early 1970s. Ownership, as you can imagine, has changed significantly over the years and personnel have changed here at the County, and awareness of the conditions of that early permit were lost after time. And the store eventually caused trespassing and parking problems when it transitioned to selling liquor to the general public. The store is now gone and it's an owner...I'm glad to see that the apartment, Association of Apartment Owners is gonna be the named operator under this proposed permit, and that the permit is non-transferable. I would not want to see a third party as the named operator. Even though vacation rentals are not permitted under current A-2 zoning for new construction as I understand it, vacation rentals were permitted under A-2 at the time of our construction in the 1970s. Vacation rentals are a large part of our operation and they're a part of our underlying documents, and I think that concierge conserve, concierge services are quite consistent with the nature of our complex where the majority of our apartments are in the short-term rental market. So I'm, am in support of the ordinance as written. Thank you.

CHAIR BAISA: Thank you, Mr. Paul. Members, questions for our testifier? Yes, Mr. Nishiki?

COUNCILMEMBER NISHIKI: Mr. Paul, will you be here towards the end of the calendar...or are you leaving...*(inaudible)*... to testify?

MR. PAUL: No. I, I plan to be here through the entire proceeding.

COUNCILMEMBER NISHIKI: Okay. Maybe I'll ask you this one, two questions right now. You mentioned to me that TVRs are a big part of your complex now.

MR. PAUL: Yes.

COUNCILMEMBER NISHIKI: Do you know how many people are renting it for vacation rentals or...*(inaudible)*...?

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MR. PAUL: I believe that we have 169 total apartments in the complex, and I believe the number of vacation rentals is about 120. I did look on the mauipropertytax.com and there are about 90 there that are listed as hotel.

COUNCILMEMBER NISHIKI: Okay, 90 that are listed as hotel. So maybe 30 are getting away with paying long-term rental taxes then? And 30 maybe --

MR. PAUL: Yeah.

COUNCILMEMBER NISHIKI: --something that we need to look at?

MR. PAUL: I really can't speak to that. The, the number or the estimate of 120 came from our office and the number that's on the State or on that website is about 87 or 90, somewhere in there. So --

COUNCILMEMBER NISHIKI: Okay.

MR. PAUL: --I think there is a discrepancy.

COUNCILMEMBER NISHIKI: And you lived there long, long term?

MR. PAUL: Yes, we're, we're homeowners.

COUNCILMEMBER NISHIKI: And, and I guess if you were having to pay more because these other 30 are paying less than what they should be paying, you would be upset?

MR. PAUL: I wouldn't be happy.

COUNCILMEMBER NISHIKI: Thank you. Thank you.

CHAIR BAISA: Any more questions for our testifier? If not, Mr. Paul, thank you very much for being here. Before we proceed, Chair would like to note the presence of Councilmember Jo Anne Johnson.

COUNCILMEMBER JOHNSON: Aloha.

CHAIR BAISA: Thank you. Our next testifier will be Linda Paul, and Linda will be followed by Michael Ondo. Take your time, Ms. Paul, don't, don't rush.

MS. PAUL: *(NOTE: She parked her wheelchair, retrieved her cane, and placed folder on the podium.)* I have no choice.

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CHAIR BAISA: Yeah, don't, don't rush. It's quite okay, we can hold on for a minute here.

MS. PAUL: Thank you.

CHAIR BAISA: You wanna pull that mic down so you can reach it?

MS. PAUL: Aloha kakou.

COUNCIL MEMBERS: Aloha.

MS. PAUL: I am Linda Paul, AOA Secretary on the Board of Directors for Kauhale Makai in Kihei. My husband and I bought our unit 27 years ago in 1982, and we are now retired in it as full-time residents. Committee Members, allowing Kauhale Makai to have this Conditional Use Permit is a win-win situation. The great majority of our units have always been short-term vacation rentals, including 13 timeshares with weekly guest turnovers. We used to have concierge services for many years to provide owners and guests with information and ticketing services for the great variety of activities available on Maui. For the County, concierge services provide important access to local tourist businesses by providing sales to boost the local economy, aloha spirit in giving directions and recommendations, and of course they provide employment. When visitors are exposed in a personable, organized manner to a variety of activities they can experience here, I think it's more likely that they will choose to return to Maui again in order to do the things that they couldn't do all in one trip. A concierge can also help visitors to feel they're getting a bargain with price breaks as well as personal service. We miss having a concierge and the benefits to our owners and guests, and that's why our Board of Directors are seeking this CUP for the AOA, for our Association. Kauhale Makai is located a mile from the nearest store. We would like to provide owners and visitors with some small conveniences, like soap for one or two loads of laundry, and *The Maui News* newspaper in the lobby. We used to do that and our occupants miss it. It could save, it would save fuel for extra trips to a store in Kihei town. We're a nonprofit organization and try to encourage energy-saving behaviors in many ways. Being able to provide some sundry items to our vacationers makes sense. It helps to meet the needs of our occupants and saves trips to the store. You can allow us to once again, we hope you'll allow us once again to provide a concierge and a few sundry items for our vacationer needs so they can enjoy island activities to the fullest. Please vote to approve this ordinance, it's a definite win-win situation, and for your decision. Mahalo nui loa for all the work that you do. And I'd like to address the question, it's not 120. The owner that spoke before me...I do have the figures here, I got them this morning from the secretary. Please keep in mind that these change. If you wait ten minutes, there'll be different numbers. We're in a constant state of flux. We have 13 timeshares out of 169 units. We have one small unit without water or sewage and that's...used to be the store. Presently it's unoccupied. We have two units owned by the Association, including the resident manager's unit and the office lobby. We have 24 owner-occupied units where we live full time there--I see you writing--and we have 20 long-term rental units rented for 6 months or more because their

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owners are off-island, that's 20, and right now we have 109 TVRs that are active. I really can't address the discrepancy with the tax, County tax rules. We know that they put down what the owners tell them to put down. But we have 109 TVRs that are temporary, they're rented short term usually for 1 or 2 weeks. I hope that addresses all of your questions that you may have. Are there any questions for me?

CHAIR BAISA: Thank you, Ms. Paul.

MS. PAUL: You're most welcome.

CHAIR BAISA: Questions for the testifier? If not, seeing none, thank you very much for coming.

MS. PAUL: Thank you.

CHAIR BAISA: And our next testifier will be Michael Ondo, and Mike will be followed by Matthew Murasko. We need a turnaround here.

MS. PAUL: Oh, I'll make one . . . *(inaudible)* . . .

CHAIR BAISA: Yeah. Sure.

MS. PAUL: . . . *(Inaudible)* . . .

CHAIR BAISA: We didn't think about a traffic control officer today.

MS. PAUL: . . . *(Inaudible)* . . .

CHAIR BAISA: Thank you so much. Go right ahead, Mr. Ondo.

MR. ONDO: Hello, my name is Michael Ondo. I'm a director of the Board at, of the AOA at Kauhale Makai. I'm here in support of our Conditional Use Permit for concierge services. I've been an owner since 2...since 2001. We use our unit part time and we also, and we rent it as a TVR the rest of the year. We have used concierge services when we first came on to a property and some of our owners have, some of our guests have expressed an interest in having concierge service, especially if they don't have to deal with timeshare sales. This is, this has been addressed in the provision and I'm in complete support of that. Thank you.

CHAIR BAISA: Thank you, sir, very much. Questions for the testifier? If not, thank you very much for being here. Our next testifier is Matthew Murasko, and he'll be followed by Janet Mercer.

MR. MURASKO: Aloha, Council Members.

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CHAIR BAISA: Aloha.

MR. MURASKO: My name's Matthew Murasko, I'm representing myself. Nice to see you again, Council Members. The last time I addressed the Council was at Kupuna Edwin Lindsey's resolution, which reminds me of one of the most important lessons that Kupuna Lindsey taught me in the years I spent with him and as I continue to serve on the Board of Directors of Uhane O Wa`a Kaulua. And that is to create a win-win situation in the situation that is before us today. Also, Council, I would like to point out that we have not received any of the recent notices about the project in the mail and are one of the families that reside closest to the Hanzawa's project. Do you find this odd? I sure do. I, Matthew Murasko, do not support the Daniells' request for the rezoning of the subdivision in the country town setting. We do agree the store serves the community a purchase, purpose and we purchase from the store at least once a week for the last six years. We support a revised plan, which only includes a store expansion road setback. We do not support the applications for the following four reasons. This area is subject to flood during flash flooding and heavy rains, and the expansion will only increase the runoff in the flash flooding potential to the roads and surrounding properties. We are already dealing, my family is already dealing with a major flooding problem in our property subdivision on Awalau Road behind the Hanzawa Store. The increase paved area and store rooftops will only increase the problem of the flooding in the neighboring properties. There are no gutters, sewer systems, storms runoff or ditches in the waterway. The plans do not include any measure to protect the public with road safety concerns. Waiving the setback requirements of the road will not only create a bottleneck but also create a safety hazard, as this is also a visually impaired road with no road shoulders. For example, when pulling out onto Awalau Road onto Kaupakalua, a driver has to actually pull over the legally required white-paint stop line to look right. You cannot see around the telephone pole, payphone, parked cars and palm trees that block this right-side access. I urge you to go out there and try to make this turn. You cannot see the cars that are firing up Kaupakalua heading towards Makawao. County [*sic*] town encourages foot by single traffic; however, this will endanger the pedestrians, runners and cyclists. My, when my son is old enough, I will never let him ride his bike or walk on Kaupakalua Road. Next, third issue, public healthy safe to the surrounding water table. The Council is aware of a water tunnel that runs under the project and is estimated 50-80 feet under the surface, and on my property it's a mere 10 feet. The plans do not adequately address the water tunnel. For example in the last meeting, my wife Elaine informed you of one family, not the Caires family, to the east of our property that utilizes this water for household purpose everyday, having attached a pump system to the tunnel, opening the water from this tunnel that used to flow out of the side or supporting its own ecosystem, flowing in a mini-waterfall from the top of the gulch into a small stream to the bottom of the gulch emptying into Awalau. That no longer happens because this has been capped off. The increased sewage of this project will generate without public . . . (*inaudible*) . . . could potentially impact the water tunnel and the source of this family in the surrounding water table. We support a revised plan which only includes the store expansion, a road setback. Council, your decision today will have a significant impact on the future of this area. Let's take the opportunity to correct the current

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issues. Hopefully the wisdom of Kupuna Lindsey will not be overlooked. Let's create a win-win for all. Mahalo.

CHAIR BAISA: Thank you very much. Members, questions for our testifier? Mr. Nishiki.

COUNCILMEMBER NISHIKI: Thank you. Was that your wife that says she jogs that area?

MR. MURASKO: Yes, we're both heavy runners. Yeah.

COUNCILMEMBER NISHIKI: Oh, okay, okay. A statement was made at the last meeting about various meetings that the applicant had with the community. Did you attend any of them?

MR. MURASKO: Yes, I attended several. They were actually quite hostile. I mean there was, you know, fistfights that almost broke out. I mean there's a lot of...trust me I moved to Haiku, I been visiting for 15 years, I moved here to raise my family and my young son, and it's a pretty dangerous neighborhood up in Awalau. There's a lot...I mean it's like you're either...it's, it's not a...it's pretty dangerous place to live.

COUNCILMEMBER NISHIKI: No, my question is at the meeting was there a discussion about the project?

MR. MURASKO: The...I mean at the Haiku Community meeting?

COUNCILMEMBER NISHIKI: Yeah.

MR. MURASKO: Which? I mean there were so many I can't remember.

COUNCILMEMBER NISHIKI: Okay.

MR. MURASKO: I mean there was a number of meetings at the Haiku Community Center.

COUNCILMEMBER NISHIKI: And, and the concern about how big the area should be where commercial would be allowed, was that ever brought up at any kind of compromise?

MR. MURASKO: Yes, 'cause Mr. Spencer, he, they presented some really nice renderings of what they, you know, proposed, but we don't support that. We...they have a wonderful store. Like I said, myself and my family, we go there at least once a week, if not twice a week. They have a fantastic store, we support the store the way it is. That road safety really needs to be taken care. If you guys, if no one has been up there, I urge you to go up there and take a fieldtrip. The road is very narrow, there's no shoulder. It's just, it's very, you know, it's very unsafe. The road is not straight, you know, there's curves before you enter the store on both ways, so the limited

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sight visibility is, is not the best. And the County does maintain that very well, cutting back the grass and whatnot.

COUNCILMEMBER NISHIKI: Thank you.

MR. MURASKO: You're welcome.

CHAIR BAISA: Any other questions? If not, thank you very much. Our next testifier will be Janet Mercer, and she'll be followed by Georgia Pinsky.

MS. MERCER: Hi, my name is Janet Mercer, and I've lived in Hanzawa's Store area for the last 25 years. I think Hanzawa's Store is a great service for the Hanzawa's area, for that area of Haiku and I'm fully in support of them being able to expand their store and put in a small commercial area. I would very much appreciate to have a few more stores in the area. I would hope that they would have to stay in the town and country design so that it blends in with the area there, but I would like to see, you know, Postal Plus, maybe a bank, maybe a restaurant there, you know, for takeout and stuff like that. Because now when I need to go to the bank, I either have to drive up to Pukalani, I gotta drive down to Paia. If I wanna grab anything to eat if it's not, you know, groceries, I've gotta drive over to one of the canneries, and I think it would save a lot of gas. And I would also like to be able to walk up there, you know, and do things. I don't find that road as dangerous as the previous man did nor the neighborhood. I love, I love Haiku area and I love living there, and I do believe that they should be granted the right to expand their store and put in a small commercial area so they can stay in business. I mean how can you compete against Costco, how can you compete against Walmart if you can't have other sources of income coming in, which would be the rental from the stores, you know? I mean, don't we all shop at Costco and Walmart? You know and look at the prices there, there's no way that these guys can have those kind of prices. So they've gotta be able to generate some income some other way to support their store. And I very much support the small family-owned stores that are disappearing here on Maui. That's all I have to say.

CHAIR BAISA: Thank you very much. Members, questions for our testifier? If not, thank you very much for coming. Our next testifier is Georgia Pinsky, and she'll be followed by Stephanie Kaiwi...Kaiwi, I think. Good afternoon.

MS. PINSKY: Good afternoon, ladies and gentlemen. My name is Georgia Pinsky and I'm here today to testify on behalf of LU-22. Unlike many of our mom-and-pop groceries that have closed down their doors, Hanzawa Store has remained open to our community and they've been there for almost 100 years now, and Sandy and Matt are trying to up the zoning so that they can be zoned Commercial because they're not appropriate in that situation right now. And they want to stay with us into the next century and into the next period of time, and they can't do that the way that they're set up now. It's not feasible for our island's economy. I think it's important to the health of our island community that the Maui County Council, the Mayor's Office and

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subsequent departments show support for small, locally-owned businesses at every opportunity that you guys get. And I think that today is a great example, an ideal opportunity for you guys to show your support for small, locally-owned businesses, especially now that we're facing these tougher economic times than we've been used to in the past. Thank you so much.

CHAIR BAISA: Thank you very much. Members, questions for our testifier? If not, thank you very much.

MS. PINSKY: Thank you.

CHAIR BAISA: Our next testifier is Stephanie Kaiwi, and she'll be followed by Margaret Leach. Go right ahead.

MS. KAIWI: Hello.

CHAIR BAISA: Are you together? Are you the two people I mentioned?

MS. KAIWI: Yes.

CHAIR BAISA: Okay. So if you'll start and say your name and give your testimony, and then you just say your name and give yours. Okay.

MS. BARTON: Hello, my name is Jane Barton. I've been with Hanzawa's for 27 years and I'm for the changes for Hanzawa's.

CHAIR BAISA: Thank you.

MS. KAIWI: Aloha, my name is Stephanie Kaiwi. I've been employed for almost two years now. Hanzawa's isn't just a job for me or a source of income. The Daniells, along with my co-workers, have become family to me and to my children. Hanzawa's has a lot to offer our community. We do shopping for some of our customers that aren't able to go downtown and get what they need. So we go downtown, we bring it up to the store, and they come up and they get it. We also offer one-on-one with our customers; we know a lot of our customers by first names. I've only been there for two years and I know at least ten people that will walk through the door everyday, and I'm there five days a week. I stand here today as not just a member of the community or an employee, and I just want to say that representing the store I'm for the zoning 100 percent, I back the Daniells up in what they do and what they represent; and I just, I would appreciate it if would you see the goodness that they're offering. Thank you.

CHAIR BAISA: Thank you, Ms. Kaiwi. Hold on. Members, any questions for the testifier? Seeing none, thank you very much.

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MS. KAIWI: Thank you.

CHAIR BAISA: Our next testifier will be Rosoneli Curell or Curell--I'm not really sure--and Helen Bowman. They'll correct us.

MS. LEACH: I know so many of you already.

CHAIR BAISA: Good afternoon. Would you please state your name?

MS. LEACH: Good afternoon.

CHAIR BAISA: State your name so we have it for the record and then you may begin.

MS. LEACH: Right here?

CHAIR BAISA: Yes, ma'am.

MS. LEACH: Okay. Our names are Margaret and Willis Leach. We have lived on Maui for nearly 40 years. Hanzawa's has been our store for all that time. . . .(end of tape, start 1B at 2:02 p.m.) . . . Our family has been both an employee and a customer of the store. My son Matt Daniells worked for Ralph Hanzawa when he was going in high school. We love Hanzawa's and would hate to see it go the way of many other mom-and-pop stores. We think it is a shame that all our competitors were given their zoning for free and Matt and Sandy have to struggle so much and spend so much money that could go to improving the store. Please give Matt and Sandy their proper zoning so that they may stay in business. Okay.

CHAIR BAISA: Thank you very much. Members, questions for our testifier? If not, thank you very much. Sir, will you be saying anything?

MR. LEACH: No.

CHAIR BAISA: Thank you, you're a wise man. I'm assuming that our next testifier--we got a little off the, off the cue here--will be Rosoneli Curell, and the next person after that will be Helen Bowman. Good afternoon.

MS. CURELL: Good afternoon. I'm Rosoneli Curell. I'm very proud and happy to work in Hanzawa's Store. I've worked there for eight years or more, I even lost the count. I don't count. It's so much fun, I forget to count. Anyhow let's go to business. Hanzawa's is very important for all the neighborhood around for old Kaupakalua visitors and members and people that live over there. I don't know if you remember when had a big rain, big storm and the bridge broke...if didn't have Hanzawa's in there, I don't know how that people would do. So just think about when have a storm just like was mentioned before, Hanzawa's is there to help

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you. And I do believe by having a new buildings in there will definitely help even more. We need there some medical, we need there some post office. We need there some more things that the elderly people instead be driving around and in dangerous roads, things like that, in the rain. They can just walk and go in there. And we are that happy to help you. If you need, just give a call and we'll do the shopping for you. There we go, much better.

CHAIR BAISA: Thank you very much.

MS. CURELL: You are so very welcome.

CHAIR BAISA: Members, questions for our testifier? I just have one quick question for you?

MS. CURELL: Yes?

CHAIR BAISA: Can you help us, you know, we need to get a little bigger picture here. You mentioned that they were very helpful when there was a big storm.

MS. CURELL: Yes.

CHAIR BAISA: What did they do?

MS. CURELL: Well, because first of all when the power goes off, Hanzawa's Store have that, the generator --

CHAIR BAISA: I see.

MS. CURELL: --and the power keeps going, keep going. So people go in there to heat their food. People go in there and buy food and heat and have, take home, you know.

CHAIR BAISA: I see.

MS. CURELL: And, and when have the water, they need water, they need gasoline, we are there, you know, and we open Monday through Saturday, 7 o'clock in the morning to 8 o'clock at night with a big smile, and we open also on holidays. Yeah.

CHAIR BAISA: Okay. Thank you very much. Members, any additional questions? If not, thank you very much.

MS. CURELL: You're welcome.

CHAIR BAISA: Next testifier is Helen Bowman, and she'll be followed by Dave DeLeon.

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MS. BOWMAN: Good afternoon.

CHAIR BAISA: Good afternoon.

MS. BOWMAN: My name is Helen Bowman. I've lived in Haiku for 40 years with my family, my husband Scott and our daughters Kelly and Jodie. We've lived on West Kuiaha Road, about two or three minutes from Hanzawa Store, and we definitely are in favor of their rezoning request. Many of my 32 years have spent with the DOE and a lot of them were spent at Haiku School, so I'm familiar with the Haiku community. Hanzawa's has served us as a gas station, a grocery store, a retail outlet for a cookie business that we had, a retail outlet for fruit and a bank, because they'll cash our checks. But that's not the only thing that goes on at Hanzawa Store. When I walk into Hanzawa Store, I'm greeted by name, I'm oftentimes given a hug, and I don't remember experiencing any of that at the stores downtown. Hanzawa's will order special products. Once I was doing a Chinese stir-fry and I didn't want the canned black bean sauce, I wanted the black bean, Sandy had 'em the next day, and she encouraged me to do the cookie business. So I really appreciated her support. And if Hanzawa's goes, we will be driving more, we'll be spending more on gasoline unnecessarily, and there'll be a huge hole in the community. Please allow the zoning change so our community can be assured that Haiku, one of the many small and unique communities on Maui, will remain whole. The support of the unique store, we will remain whole with the support of Hanzawa Store. They're a gas station, as I mentioned before, and they fill a unique hole that a lot of stores don't fill and that is they fill it with aloha. And don't let a few negative voices be the voice of the Haiku community. Thank you very much.

CHAIR BAISA: Hold on a second. Members, any questions for our testifier? If not, thank you very much. Our next testifier will be Dave DeLeon, and he'll be followed by Gregg Blue.

MR. DeLEON: Good afternoon, aloha.

CHAIR BAISA: Good afternoon.

MR. DeLEON: Dave DeLeon speaking for himself. Noda's, Suda's, Nagata's, Wakamatsu, Toda's, Peggy & Johnny's--let's not add Hanzawa's to that list. While the other stores went out of business because of family or economic issues, Hanzawa's has a fine chance to stay around for at least another generation. The difference this time is the local store has the right combination of a strong customer base and a strong family management. All they need is for government to get out of the way. An example of government getting in the way appeared on yesterday's Planning Commission agenda, Hana's Hasegawa's General Store was once again requesting a time extension on their permit request. It has been at least 15 years since that store burnt down and they had to move to rental property. But they're still not able to get, the complete, able to complete the process for getting the permits they need to rebuild on their own land. That's a shame, and it makes me wonder if government in Hawaii is actually interested in preserving

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our small business sector. No wonder we are losing so many of these irreplaceable community assets. Please keep in mind what, what is before you today is not a zoning request for a museum. Hanzawa's is retail and it has to grow to survive. I want to mention as a bicyclist, who actually cycles Kaupakalua Road weekly, that it is what it is and you're not gonna be putting a bypass on it anytime soon. So, I mean this is what it is, and I literally ride it every week. What they are proposing is supported by the Haiku-Paia Community Plan and by the community at large. The Daniells are just a local family trying to make an honest living serving our community. Please give me them your support. Noda's, Suda's, Nagata's, Wakamatsu's, Toda's--please make sure that Hanzawa does not end up on that list. Thank you.

CHAIR BAISA: Thank you. Members, questions for our testifier? If not, thank you very much. Our next testifier would be Gregg Blue, and Gregg will be followed by David Lee. Good afternoon.

MR. BLUE: Good afternoon. My name is Gregg Blue, I'm a 25-year resident of Haiku. Hello, Council Members. I presided as President of the Haiku Community Association over the two meetings where the Daniells came down and presented their plan openly to the community. I don't know if you folks have ever seen the films of those meetings, but basically they got viciously attacked. And, you know, when you come to testify at a meeting like that and someone presents their plan openly, they're quite vulnerable and there was quite a few people from the neighborhood that came down there and just got really nasty and there was, you know, there was no reason for that. They could have been civil and polite and address the same issues. But it caused a lot of bad feelings in the community and since then I think its quieted down a little bit, but there are some people with their own agendas. Having said that, I've seen the plans. What's dangerous is the existing parking, in my opinion, in front of the store. You pull in right off Kaupakalua and if you have to back out, there's traffic coming from each direction. They plan to mitigate that with parking with an ingress and egress that would completely eliminate that situation and that, in my opinion, besides people driving too fast, is the main issue as far as safety goes. They could charge a lot more for their gasoline than they do. They're cheaper than the gas stations in town, but they keep the prices low. I have a farm, I sell them produce, I used to sell them produce and, you know, we cannot afford to lose that store, and even with the expansion that they're planning with the economy going the way it is, it may not even be a good idea to build some of those units that they want to rent out. I don't know, you know, if anybody's even going to rent them, but just having the space there. The only other commercial zoning in Haiku is the Pauwela Cannery, which I live right next to, and the two canneries down on Kokomo road. Besides that, there is no more commercial zoning in Haiku, that's it. And in fact if I understand correctly, they do not have commercial zoning. So if they go the way that Hana store went, if they go up in smoke, it's all over for Hanzawa's and we just cannot afford to lose it. So I'm in total support. I have quite a few friends that asked me to speak on their behalf, which I can't, but there's a lot of community support. There's a couple of people with their own agenda and they're certainly entitled to their opinions, and I just hope that you folks can see the big picture and realize that Hanzawa's is just a such a part of Haiku that you've gotta support it. Thank you.

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CHAIR BAISA: Thank you very much. Members, questions for Mr. Blue? Mr. Nishiki?

COUNCILMEMBER NISHIKI: How you doing, Gregg? You said you presided over those meetings and you used the word nasty and vicious? Take away that from the meeting, what were some of the concerns raised that you may not agree with, but people from the community raised issues?

MR. BLUE: Well I didn't say that I disagreed with any of them. What I disagreed with is in the way that the people presented themselves.

COUNCILMEMBER NISHIKI: Okay.

MR. BLUE: Okay. One of the concerns was how many lots the Daniells originally proposed and as soon as those concerns came up, at the next meeting they had downsized it. Okay. Another concern, of course, was the road and the existing parking in front. And so all of the concerns from that meeting, they took into consideration. They bent over backwards, they came back to the next meeting with a totally downsized and revised plan addressing all of those issues and they still got attacked again. Since then there was no public meetings, there may have been some private ones after that where they tried to work out some of the issues from these people with these concerns. And although most of those people lived very close to the store in a new subdivision, interestingly enough, and after they got their little piece that was subdivided, they simply didn't want Daniells to do it because they thought it would ruin the neighborhood. But they have, you know, in my opinion from what I saw of that second presentation tried to mitigate every concern that was brought up at the previous meeting.

COUNCILMEMBER NISHIKI: So the downsizing of the lots --

MR. BLUE: Correct.

COUNCILMEMBER NISHIKI: --was a concern. What about the sizing of the two...well, one was the expansion of the store, the other was another new building, commercial building. Was that size ever a concern or was that size bigger and then made smaller in the compromise or whatever?

MR. BLUE: I don't believe that the size of the development came up. The people that were opposing it were just opposing it, period.

COUNCILMEMBER NISHIKI: Okay.

MR. BLUE: Okay. There was, most of the concern was the ingress/egress and the existing parking and the initial amount of lots, and they, you know, they took away some of the lots and, and

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just left the minimum that they needed to do, what they needed to do; and then came back and said hey, you know, here's our new plan, we hope that, you know, these mitigations make everybody happy and if not, we're open for, you know, more discussion on it.

COUNCILMEMBER NISHIKI: Thank you so much.

MR. BLUE: Okay.

CHAIR BAISA: Any other questions for Mr. Blue? If not, thank you very much for being here. Our next testifier is David Lee, and he'll be followed by Ann Wittenbrock.

MR. LEE: Hello, my name is David Lee and thank you for your time. I am in favor of them being able to expand and do what they need to, to stay in business. They're an asset to the community. I've never really had an issue pulling in and out of the parking lot there and so on. It seems like the community knows it's there and knows what's going on. I've never felt danger. Caution is definitely a concern, but it is for all the roads in Haiku, and but just it is more than just a store, it's part of our community. It's a place where you meet people you don't ever get to see, except for when your in the gas lines. Things like that will be missed. And, you know, there'll be a lot more people running out of gas on their way to town. And just they've always been of service and I don't know them real well personally, but I know they have the community in mind just because I see them in other functions around the community. I see how they treat the people in the store, and there's not many places we get to be treated like people instead of a number. And I think they add that to our community in a very big way, and I appreciate having them there and will--like Dave did the list of people who have disappeared, you know. And O'okas going out was a big day for me, that last day of O'okas. So, you know, I'd hate to see them go that way too, and I support them in them doing what they need to do to expand and give us better service and be a bigger asset to our community. That's all. Thank you.

CHAIR BAISA: Thank you, Mr. Lee. Members, any questions for the testifier? If not, thank you. Our next testifier will be Ann Wittenbrock, and she'll be followed by Debra Myers. Good afternoon.

MS. WITTENBROCK: Good afternoon. I'm Ann Wittenbrock. My husband and I have lived in Haiku for 20 years. I'm here to support the Hanzawa Store and I fully agree with all the wonderful previous, positive statements that have made, every one of them is absolutely right on. The store provides products and services and jobs to the people in our area, and I ask that you vote in favor of the Hanzawa Store, its expansion, the necessary amendments in zoning which is long overdue, so that this great, small business can continue to provide these local jobs, expanded products, and services. Thank you very much.

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CHAIR BAISA: Thank you. Any questions for our testifier? If not, thank you very much. Our next testifier will be Debra Myers, and Ms. Myers will be followed by Leina Shirota-Purdy. Chair again invites anyone in the audience who has not signed up, who is feeling moved at this moment to testify. If you'd please register with the table in the back there, we'll be very happy to receive your testimony. Go ahead.

MS. MYERS: Hi, my name is Debra Myers and before I read my short statement, I would like to address something that one of the other people had said. The gentleman who said that his property is flooding, this is not Hanzawa's fault, this is the property that he bought. If he has a problem with flooding in his property, that's something that he needs to address. None of the roads are safe for kids on bikes. We know that because the crossing guard got hit, the kids on bikes get hit. That's why you put the speed bump in there, someone in the back suggested put a speed bump, but we know the roads aren't safe for kids on bikes. Reasonable parents don't let their kids ride their bikes down those roads. And so he needs to address his own flooding and the roads, and then I will go on to my little statement. That Hanzawa Store supports the community in many different ways, they provide employment, they support the local farmers, they support the local vendors by purchasing the local produce and they donate to a lot of local charities. In addition to that, everyone who shops there does that for the convenience of not having to go to town, even the people that are against the expansion don't want to drive to town, they come to Hanzawa's, it's much easier. The existing stores in Haiku are miles away; they do not service this area of Haiku. If you're gonna come up from the beach, then it would make sense. But in this part of Haiku there is nowhere else to go. If there's a major storm or a fire, Hanzawa's is gonna be tied up in so much red tape they will not be able to rebuild within the time limitations provided by the insurance company. So after 94 years of serving the community, rezoning shouldn't be an issue for them. They should be able to rebuild if there's a disaster, and again I do support the expansion of the stores. As far as flooding issue I believe, and I'm not positive, but I believe that they're going to have to get a sewer if they're gonna do this expansion, they're gonna have to be attached to the sewer. So I don't see how this would affect the other people in the neighborhood. And with all the bankruptcies and all the businesses going out and all the employment, unemployment, where are your tax revenues gonna come from when all these businesses are closing up? And I think that's everything I wanted to say other than we need to support the ongoing business and everything that Helen Bowman said, and that's it.

CHAIR BAISA: Are you done? Thank you very much. Members, any clarifications, questions? If not, thank you very much for coming.

MS. MYERS: Thank you.

CHAIR BAISA: Our next testifier is Leina Shirota-Purdy, and Ms. Purdy will be followed by Carina Ann Caires Shirota.

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MS. SHIROTA-PURDY: Good afternoon.

CHAIR BAISA: Good afternoon.

MS. SHIROTA-PURDY: My name is Leina Shirota-Purdy. I am a landowner right in front of Hanzawa's Stores on Kaupakalua Road. I'd like to address what the previous testifier had said as far as what she commented on that person having his own responsibilities from the flooding. I want it to be noted that that parcel that he was on, that he owns was Hanzawa property, so it goes back to them. Parking stalls, okay. First of all, what they're proposing is removing that...I think its about six or seven parking stalls in front of the Hanzawa Store. There's at least four employee cars that are parked to the side in front of the house that remains on the side of the store. They're only proposing adding 25 stalls to this, I guess, three buildings. If you minus the six plus you add all the employees that will be at these other commercial buildings, how much does that leave for the actual people who's gonna visit the store? That's one concern. Two, on the street side on our property, the Caires property, directly across Hanzawa Store, there's at least three or four cars that are parked there at any given time because there's not enough parking for Hanzawa Store. The two-lot subdivision as far as Business Country Town Zoning, they are allowed to have at least one house and one cottage on those two areas which will be more cars, more traffic. The lighting on Kaupakalua Road is very poor. If you go there at nighttime, I think there's only one streetlight; the next street light is all the way down the road around a bend. So my safety on that roadway is, is a concern also because the store is open until 8:00 p.m. at night. There isn't very good lighting at, after hours also. The roadways is a big issue that I have. People do walk on Kaupakalua Road. It may not be a lot of people, but there are people that walk there. And if you don't walk on the road, it's because it's dangerous. As a testifier has said before, she was in a wheelchair, I would see her on the road also too. So in order for you to get around her, you have to go into the middle of the lane. As far as the store being convenient, yes it is convenient for our community. Is it affordable for us to go there? No, it's not, and some people had just...I had spoken with them recently and they had said, you know, to go there to buy a gallon of milk, \$7 or \$8, or actually today I called it was \$8. If I...I'll put a plug for Pukalani Superette, their gallon of milk, \$6.89 today. As far as gas, Kula Ace Hardware cheaper than Hanzawa Store. Calasa Service Station, cheaper than Hanzawa Store. But are we gonna be giving them the plug just because they're a part of Haiku and they have this one gas station? There's other small businesses too that have...that contribute to our community also. Accidents on our street every year, multiple. There's a cross in front of our property on Kaupakalua Road, a person had died a couple years back. Every year there is at least two or three people miss West Kuiaha Road, East Kuiaha turn, they go into the other adjacent property, which is our property, hit into the fence. You know, that's things that we have to endure every year. In the middle of the night we're out there fixing our fence, trying to move our cattle, making sure that no one's hurt, that no cattle is on the road, horses on the road. That's our concern, too. Speed bumps, recently...

CHAIR BAISA: Ms. Shirota, can you conclude shortly, please?

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MS. SHIROTA-PURDY: Speed bumps were recently put on West Kuiaha Road. The last time Ms. Jocelyn Perreira had said that traffic was not an issue, she lives on West Kuiaha Road, and the article that I attached to your paper will reflect that there are four speed tables right now. If there was no traffic and no speeding, then why are they there? Stipulations from my family to subdivide, we had 17. Hanzawa Store will have one, no drain system. I'm almost done. If they can't give back to the community by at least having them do roadway improvements and all that stuff, then why should we have to give them a grant in zoning? Ourselves, we have to do roadway improvement, hydrants we have to put in, waterlines--

CHAIR BAISA: Ms. Shirota, you need to conclude. I'm sorry.

MS. SHIROTA-PURDY: --water lines, and also cutting trees. And that's just for us to give, from my parents to give land to me so I can build my home. And lastly, there are people who live in the area who've lived there longer than the Hanzawa's. Are they not as important as the Hanzawa's. And if you count acre by acre how much property these people own, by far into the thousands that they have, and they are against this. Thank you.

CHAIR BAISA: Members, questions for our testifier?

COUNCILMEMBER NISHIKI: Yeah.

CHAIR BAISA: Mr. Nishiki?

COUNCILMEMBER NISHIKI: Leina, you bought up three areas of my concern. On Kaupakalua Road --

MS. SHIROTA-PURDY: Yes.

COUNCILMEMBER NISHIKI: --you mentioned people parking fronting the store, that's going to be eliminated. So --

MS. SHIROTA-PURDY: Correct.

COUNCILMEMBER NISHIKI: --that concern is gone. Where on Kaupakalua Road do other patrons park?

MS. SHIROTA-PURDY: Right across the street --

COUNCILMEMBER NISHIKI: Right across the street.

MS. SHIROTA-PURDY: --there's a little strip there --

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COUNCILMEMBER NISHIKI: Oh, okay.

MS. SHIROTA-PURDY: --and it's, there's a big gate, it's pastureland and there's two houses on the side. They park right in front over there.

COUNCILMEMBER NISHIKI: Okay. And that, that's close to the roadside so there's a concern there?

MS. SHIROTA-PURDY: It's right across the store, yes.

COUNCILMEMBER NISHIKI: Okay. The other concern is speeding and I don't know whether we can put any kind of traffic-calming devices on it. You said that some were put on West Kuiaha Road.

MS. SHIROTA-PURDY: Yes.

COUNCILMEMBER NISHIKI: So, so obviously you're right, we put it in because of the concern for speeding. I guess we'll ask Public Works whether we can put those on Kaupakalua Road. But I don't know, being, being a major roadway that may help also? Yes, no?

MS. SHIROTA-PURDY: Yes, it would. People do speed on Kaupakalua Road, yes, and that's where most of the accidents happen is when they don't realize that there's a corner or a turn up ahead, it's dark, nobody can see, they miss the turn and they hit into something. And that's where the bulk of the accidents is right within Hanzawa Store area.

COUNCILMEMBER NISHIKI: Okay. Let me ask you just because you hear two sides of the story on, on flooding. When there is a big rain, where does the flooding occur and how long does that water stand, if any?

MS. SHIROTA-PURDY: There's been several times where the road...there's a little, I guess, a culvert by the store over there, a drain system on the side and more on Kaupakalua Road towards West Kuiaha, that has flooded over several times. And I remember even from when I was a little girl, we'd have to go all the way around because you couldn't pass, it flooded over. On our property itself it does flood down from the upper properties down into our area. Of course, it's...gravity is one, but because of all the bulldozing and everything that's been done over the past years, it's come right into our property.

COUNCILMEMBER NISHIKI: Okay. So the flooding doesn't stay very long because...

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MS. SHIROTA-PURDY: No. Well, usually what happens is, I guess, Public Work comes out the next day and they clean, they clean the drain system so that it's clear, but most of the time it's full of rubbish and other stuff in there that it does flood over.

COUNCILMEMBER NISHIKI: Okay. The parking stalls, 24, I think we'll, well address that, but you also mentioned that the Hanzawa employees park now where?

MS. SHIROTA-PURDY: I've seen at least four cars parked on the side of Hanzawa Store. If you're looking at the store, it's to the left where the old house is.

COUNCILMEMBER NISHIKI: Okay, but that doesn't block any traffic on Kaupakalua Road?

MS. SHIROTA-PURDY: No, it doesn't --

COUNCILMEMBER NISHIKI: Okay.

MS. SHIROTA-PURDY: --but they have to reverse into the road also from there.

COUNCILMEMBER NISHIKI: Right, okay.

MS. SHIROTA-PURDY: And then they're proposing to eliminate that, but as, as you eliminate that and in their pictures it shows that they will put tables and chairs there--this is what I'm going from the picture--you're eliminating the parking, but instead of putting, you know, blocking it off there for nothing, they're putting these tables and chairs. So if there is a car driving on the road and they veer off, they're into the tables and chairs where the people are sitting.

COUNCILMEMBER NISHIKI: Okay. Thank you.

MS. SHIROTA-PURDY: Welcome.

CHAIR BAISA: Any other questions for our testifier? If not, thank you very much.

MS. SHIROTA-PURDY: Thank you.

CHAIR BAISA: Our next testifier will be Carina Ann Caires Shirota, and Mrs. Shirota will be followed by Robert Mitnick. Good afternoon.

MS. CAIRES SHIROTA: Good afternoon, everyone. My name is Carina Shirota. I represent myself as a landowner, right across from Hanzawa Store. . . .(end of tape, start 2A at 2:34 p.m.). . . and another parcel just down the road is less than a quarter of a mile away. I'm here on behalf of my husband also--Ted Shirota--sparing his dignity. He's also wheelchair bound, but he sends his blessings and gives me support to testify. I am against this proposed change for

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Hanzawa Store. I've lived there since I was 3 ½ years old, so I have witnessed much change in the neighborhood. I'm one of eight children, raised by Joseph and Virginia Caires. I can go on with my family's testimony and flag raising issues of who served in the war and so forth, but I'll spare you that. I grew up with many family values. One, respect, respect for yourself and your neighbors; and the other, keeping your word. When you Council Members got elected this last election, my family and I had a lot of hope, hope in the new faces that someone would finally listen to us. We are people too, we're landowners, we're taxpayers, we're law-abiding citizens. But the hope soon faded. I wasn't here in the last testimony. I worked for my daughter in order to let her come. This afternoon, I'm almost tempted to pick up a dustpan and a brush to get the wool off of the desk and carpet, because the wool has been pulled over your eyes through testimony. Posing on behalf of a mom-and-pop store, granted Hanzawa's name go back 94 years, but also don't forget, wearing the sheep's clothing is the developer and realtor by the name of Matthew Daniells. I have witnessed that property that we're talking about where neighbors are disgruntled with each other, that's Hanzawa's property. In the last 5 years, 15 ½ acres plus have been subdivided, 7 ½ of which my adjoining neighbor has cut it into three more lots, putting three houses, ohana dwellings, cottages and you name it. These neighbors can't get along with each other. There's issues of trust...gone, lost from the country, no longer; arguing; TROs on each other; police coming into the neighborhood. This has replaced the quiet and tranquility of what my neighborhood was. Instead we have new vocabulary, not country, not round-up, not topics of grasses. We have mediation, we have arbitration and pending battles that are currently on the court, in the courts--all from this little development called Hibiscus Acres. They have created community association rules that are jokes. Traffic is tremendous. We had statistics given of a 300 percent increase in population, yet they claim there's not much traffic. The day after that last hearing, I stood at my bay window with a cup of coffee in hand and counted 64 cars in front of my house. One motorcycle, one pedestrian, one bicyclist in a total of five minutes from 7 o'clock to 7:05. At that point, I put my coffee down and went to work. Now that's the statistics of what's passing on Kaupakalua.

CHAIR BAISA: Ms. Shiota, can you conclude, please?

MS. CAIRES SHIROTA: Yes, I will. Accidents are numerous. Personally there have been five airborne vehicles going off of the East Kuiaha onto my property within the last five years: one, a police officer; two accidents within the last year on Kaupakalua fronting my property; the third involved a fatality my daughter spoke about. We are against the additional commercial buildings. I have no qualms of their expansion. But, again, taking into consideration of protecting the people who live there, there needs to be improvements. You are assigned the jobs as Council, from what I understand, of the people and for the people. Never once did I see for some of the people. There's a big difference between hearing and listening, and I pray that you have listened to the other voice also. We live there; we don't live up on, in Kula or ten miles away. We live there, across, above, below, and I thank you for your attention.

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CHAIR BAISA: Thank you very much. Members, questions for Mrs. Shiota? Carina, can you hold on? I have a question.

MS. CAIRES SHIROTA: *(NOTE: Speaking while returning to her seat.)* Oh, sorry!

CHAIR BAISA: Mr. Pontanilla?

COUNCILMEMBER PONTANILLA: Thank you. Thank you, Mrs. Shiota, for being here.

MS. CAIRES SHIROTA: You're welcome.

COUNCILMEMBER PONTANILLA: Your last comments, so you're not opposed to the expansion of the store, but you're opposing the new commercial buildings?

MS. CAIRES SHIROTA: That's correct.

COUNCILMEMBER PONTANILLA: Everything else is okay?

MS. CAIRES SHIROTA: That's okay. But what I oppose is the fact that with the hearing that I listened to many times on *Akaku* station is that they need, they want to be grandfathered in and not make improvements. Now children ride the bus, they're dropped off in front of the store. The situations are horrendous. I drive there every day, sometimes three times. I have the opportunity to pass...utility trucks, delivery trucks, towing trucks, you name it. It's there on Kaupakalua. I have faced Mr. Mateo's sister who drives a bus and this is every single day. The roads are just not cut out for that type of expansion.

COUNCILMEMBER PONTANILLA: Yeah. Mrs. Shiota --

MS. CAIRES SHIROTA: Yes.

COUNCILMEMBER PONTANILLA: --I think you answered my question.

MS. CAIRES SHIROTA: Thank you.

COUNCILMEMBER PONTANILLA: And I'm gonna be asking the Chairman of this Committee the possibility of a site inspection, because what I'm hearing on some of your issues are basically the safety on Kaupakalua Road. So thank you again.

MS. CAIRES SHIROTA: Thank you.

CHAIR BAISA: Members, any other questions for Mrs. Shiota? Mr. Nishiki.

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COUNCILMEMBER NISHIKI: Yeah. And, and I know that you guys are probably related, aren't you?

MS. CAIRES SHIROTA: No.

COUNCILMEMBER NISHIKI: No?

CHAIR BAISA: No, but we do know each other.

COUNCILMEMBER NISHIKI: Oh, okay.

CHAIR BAISA: We're Makawao girls, country girls.

COUNCILMEMBER NISHIKI: Thank you.

MS. CAIRES SHIROTA: The fact that I'm long, long-winded does not make me a relative.

COUNCILMEMBER NISHIKI: No, no, no, no. . . .*(laughter)*. . .

MS. CAIRES SHIROTA: . . .*(laughter)*. . .

CHAIR BAISA: Now wait a minute. . . .*(laughter)*. . .

MS. CAIRES SHIROTA: Sorry . . .*(inaudible)*. . .

COUNCILMEMBER NISHIKI: I, I, I know that just by your, your voice and some of the things that you've brought up, I think these are not something that is to be taken not seriously.

MS. CAIRES SHIROTA: Exactly.

COUNCILMEMBER NISHIKI: I think it's really heartfelt. I think that living there and giving us some stats brings up even now Mr. Pontanilla's concern for a site inspection. The concern I have just because we've been hearing the survival of this store, and I think that when you do a business for surely you have to have that concern that you surely don't want them to disappear off the map. But I think that you brought into play was the--not, not against Matt, okay.

MS. CAIRES SHIROTA: Exactly.

COUNCILMEMBER NISHIKI: Matt has the right to do what he feels as far as being a realtor and a developer. But I think --

MS. CAIRES SHIROTA: But when it infringes on the rest...

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COUNCILMEMBER NISHIKI: --the, the concern of where this development took place has my concern. Now can you be more specific in regards to where this subdivision is located --

MS. CAIRES SHIROTA: Yes.

COUNCILMEMBER NISHIKI: --in regards to Hanzawa Store?

MS. CAIRES SHIROTA: Hanzawa Store is at the corner of Kaupakalua and Awalau.

COUNCILMEMBER NISHIKI: Okay.

MS. CAIRES SHIROTA: Our property, estate property is directly across the store and below. We're about maybe 500-plus yards away. Where the other parcel of our family property--now up until just a few years ago that entire back strip, including my youngest brother Brian, my brother Robert and myself, all abuts Hanzawa's property until the gulch in Kaupakalua before it gets to the dip.

COUNCILMEMBER NISHIKI: Okay.

MS. CAIRES SHIROTA: So if you can visualize the whole back strip. So this plan was very strategically, had a strategy in mind, if you change the neighbors and you get them all on your side, then you eliminate the Caires's and their objection. That's my opinion.

COUNCILMEMBER NISHIKI: Okay. And, and that land was old Hanzawa land?

MS. CAIRES SHIROTA: Old Hanzawa land, yes.

COUNCILMEMBER NISHIKI: Okay.

MS. CAIRES SHIROTA: To my knowledge, Sandy is now, besides her mother, maybe one of the only heirs and her child. And there's no more, everyone's deceased or...

COUNCILMEMBER NISHIKI: Okay. And then finally you, you spoke about the accident that, that have occurred. Is it close to the vicinity of Awalau and --

MS. CAIRES SHIROTA: Yes.

COUNCILMEMBER NISHIKI: --Kaupakalua?

MS. CAIRES SHIROTA: Yes, very, very close. Any of you driving back there, you will see right in front of our driveway there is a cross that the family members put up along with our, one of

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those solar powered lamps that illuminates all night in memory of this 22-year old gentleman. The accident...I can specify a refuse truck within the last year lost control of the vehicle, sheered off my water meter. So at 5:30 in the morning there's a geyser on my property. Not even six months later, another car with...she claim she went hydroplated [*sic*] off of Kaupakalua, airborne into my property, ran away. But I have a young brother named, who could be a Columbo, he solved the mystery, found the license plate and we puzzled together exactly who it was. So eventually we found the perpetrator and got compensated for all the damages, the whole front fence was sheered and they just sped off.

COUNCILMEMBER NISHIKI: Okay. Now schools located in that area.

MS. CAIRES SHIROTA: Yes. There's no schools in that area directly, but the children are picked up because Kaupakalua School was closed many years ago. Children are picked up right at the corner of Kaupakalua and East Kuiaha, and in front of the store and dropped off.

COUNCILMEMBER NISHIKI: So the people in that general area for high school, they have to go to Kekaulike?

MS. CAIRES SHIROTA: To Kekaulike, Kalama Intermediate.

COUNCILMEMBER NISHIKI: So they have to pass Kapalua, Kaupakalua?

MS. CAIRES SHIROTA: Kaupakalua, exactly.

COUNCILMEMBER NISHIKI: Okay. Maui Waena, the only intermediate school.

COUNCILMEMBER VICTORINO: Kalama.

COUNCILMEMBER NISHIKI: People that living in...

MS. CAIRES SHIROTA: No.

COUNCILMEMBER PONTANILLA: Kalama.

COUNCILMEMBER VICTORINO: Kalama.

MS. CAIRES SHIROTA: No.

COUNCILMEMBER NISHIKI: Oh, Kalama. Excuse me.

MS. CAIRES SHIROTA: The feeder schools would be in that area, from what I understand, Makawao School, Kalama Intermediate, and Kekaulike. There are other children that may go to Haiku

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School, but somehow years ago when they closed the school, they designated these children would be supported by Makawao School. So they all travel on Kaupakalua.

COUNCILMEMBER NISHIKI: Whether you ride a bus or drive a car and take your child?

MS. CAIRES SHIROTA: Exactly. Yes.

COUNCILMEMBER NISHIKI: Okay. So that, that time that you may have taken that survey --

MS. CAIRES SHIROTA: Yes.

COUNCILMEMBER NISHIKI: --could have been probably peak time in the morning.

MS. CAIRES SHIROTA: No, the buses start at 6:30 in the morning, Mr. Nishiki.

COUNCILMEMBER NISHIKI: Okay.

MS. CAIRES SHIROTA: I, I sat down at 7 o'clock and in five minutes time, that's my calculation.

COUNCILMEMBER NISHIKI: Okay. Thank you very much. Thank you so much.

MS. CAIRES SHIROTA: You're welcome.

CHAIR BAISA: Any other questions for Mrs. Shirota? Mr. Victorino?

COUNCILMEMBER VICTORINO: Thank you and thank you, Mrs. Shirota, for being here.

MS. CAIRES SHIROTA: You're welcome.

COUNCILMEMBER VICTORINO: The question I had for you was, your property that abuts this area, does anyone use your property for parking?

MS. CAIRES SHIROTA: Right now it's estate property --

COUNCILMEMBER VICTORINO: Yeah.

MS. CAIRES SHIROTA: --so yes, the answer is yes because it's...

COUNCILMEMBER VICTORINO: That's the property they're talking about the cars were lined and parking?

MS. CAIRES SHIROTA: Yes. Yes.

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COUNCILMEMBER VICTORINO: Okay. And the second question, you're talking about the mornings. Is the afternoon just as bad as far as traffic?

MS. CAIRES SHIROTA: Exactly. In fact I have a post, a mail box directly across the street and by law of the postal service, I have to walk across the street for their convenience because it's only a one-way drop-off. I get my mailbox, I mean my *Maui News* also. There are days that my life is in the drivers' hands, and I run across wait, jump up, on my embankment to retrieve my mail, or my *Maui News*. Speed bumps may help, traffic lights certainly would. There's one that I begged for and finally with a lot of...people in that area supporting me, I was able to get for the safety of the children waiting on East Kuiaha and Kaupakalua, a street light there.

COUNCILMEMBER VICTORINO: Okay. Thank you. And I, too, would like to, even though I was just up there last weekend and drove through the area--and when you go on weekend, I guess it's different than weekdays 'cause it was not quite as busy as you are referring to.

MS. CAIRES SHIROTA: Uh-huh.

COUNCILMEMBER VICTORINO: So I cannot speak for the weekdays, but I too, Ms., Madam Chair, would probably be in favor of a site inspection during the week where we could really see all these various demographics that they're talking about because safety's gotta be paramount if you're gonna do anything. You know, maybe more parking, maybe more improvements in the area would satisfy you and your, and those who are opposing it. But I don't wanna comment anymore than just I think we need to go and take a look at it and, and get a better feel. But I'll leave that up to you, Madam Chair. Thank you.

CHAIR BAISA: Thank you very much. Ms. Shirota, question, one last question --

MS. CAIRES SHIROTA: Yes.

CHAIR BAISA: --before I'll let you go, and thank you for being here.

MS. CAIRES SHIROTA: Uh-huh. You're welcome.

CHAIR BAISA: If we were to schedule a site visit, which I'm not sure we're gonna do that, but if we were, I, myself, was there on a weekend and it's a different picture.

MS. CAIRES SHIROTA: Yes.

CHAIR BAISA: So can you tell us more or less what might be the opportune time to be there so we get a good picture? You know, I know like in Makawao there's times in the morning where you cannot get through, Kula same thing, you know, where all the kids are on the road and

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everybody's going to work...or Wailuku even coming up Kaahumanu, there's times when you can't move on Kaahumanu Avenue. So when is the best time for us to get a good picture? And we're not good at 6:00 in the morning. So I'm thinking that's not an option.

MS. CAIRES SHIROTA: Sorry. Country people get up early.

CHAIR BAISA: Yeah, I do. But I don't know about everybody else.

MS. CAIRES SHIROTA: Six thirty to 7:30 in the morning excellent. Also just before the store closes there's a beeline of traffic, those that want their beer just before closing time and especially on the weekends.

CHAIR BAISA: And that would be about what time?

MS. CAIRES SHIROTA: They close at 8:00, I'd say about 7:30 in the evening.

CHAIR BAISA: How about after school?

MS. CAIRES SHIROTA: After school it gets to be a bit...there's children that I would assume walk up on Awalau. They're dropped off in front of the store after that and who they belong to, I have no idea.

CHAIR BAISA: Well, thank you very much. I thought that it was really important that we try to get an idea that if that should materialize, we need to be there at the right time.

MS. CAIRES SHIROTA: Thank you.

CHAIR BAISA: Thank you. Our next testifier is Robert Mitnick, and Mr. Mitnick will be followed by Leo Caires. And after our testifiers, right now we have only three more testifiers signed up, the Chair would like us to take our afternoon break. If you're wondering, Members, I'm aware of the time. Go ahead, Mr. Mitnick.

MR. MITNICK: Good afternoon, I'm Robert Mitnick. I own the Maui Taro Company. I've lived here for around 28 years. I go to Hanzawa's a lot, I'm just a mile or so away, and I have never ever not been able to get a parking spot at Hanzawa's, never. I don't think people need to park in front of Leo's house or wherever. I think it's just convenient for them to run across the street, they don't wanna go through the trouble of going to the parking lot perhaps. I, I'm very confused. I fail to see what accidents down the road, East Kuiaha, West Kuiaha, flooding from Hanzawa's towards West Kuiaha have anything to do with Hanzawa's at all. I don't see that at all. Awalau is not a dangerous neighborhood. And Kaupakalua, I don't consider it a dangerous road. By statistics, many more large accidents happen on straight wide highways than they do on country roads, because when you're driving the country road, you're watching what you're

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doing. People tend to drift on, on highways and straight roads. And one of the things that people that are against Hanzawa's is they want to maintain the rural feel of the community. Well, I don't think that's gonna change with what little bit they're gonna add, about 3,500 square feet, and it's nicely designed. I think it's gonna look pretty there. One of the alternatives that I heard being batted around is that they just expand the store way bigger and put these new services within the store. Well, that's gonna be an eyesore if you, you'll have a giant warehouse there. I think the way it is, is much nicer. They talk about the parking problem and it's true where you drive in headfirst into the store with your taillights right on Kaupakalua Road and when you back out and you can't see right or left if there's a lot of cars parked along side you, and that's gonna be alleviated as pretty much as everyone has said, 'cause people are gonna be coming out of the parking lots heading out where you can see, where you can see. It's much safer. There's never been a major accident in front of Hanzawa's and, you know, there's accidents, there's accidents, not that many there any more than any other place on the island really, and they have nothing to do, to do with Hanzawa's. And so the fear that I keep hearing about all this huge traffic, you know, 65 cars going by in five minutes at going to work time, that happens everywhere. I don't think it's a big deal and my main point is when you are a designer, you're gonna design a small mall or a large mall or anything, a retail shopping area, you usually...you have a bunch of smaller stores and you have one big space or two big spaces that you try to bring in a known entity, a brand name store to bring more traffic to that area for all the other little stores also. Well, that's already taken care of, Hanzawa's is the draw store. So I don't think a Postal Plus and a bank and a whatever are gonna draw a lot of traffic. Everybody that goes to Hanzawa's, and there's a lot of this, will then say oh, when I go to Hanzawa's, I'm gonna go to the Postal Plus and take care of that or I'll go make a deposit at the bank. That's what's gonna happen. I don't think it's gonna increase traffic in the area at all, I really don't. And all the, the opposition always say, oh we love the Hanzawa Store...

CHAIR BAISA: Mr. Mitnick.

MR. MITNICK: Oh, okay. We love the Hanzawa Store and we want it to be there and so on and so forth, but we don't want it to be able to make money and survive, and that's what's being said right here. And this is the only way they're gonna survive, period, or the store's going to leave and somebody's gonna build three or four houses there, which is gonna take up a lot more water because you don't take showers at Hanzawa's, and nothing else is gonna work as well as the store. Thank you very much.

CHAIR BAISA: Thank you very much. Members, any questions for Mr. Mitnick? If not, Bob, thank you very much for being here. Our next testifier is Leo Caires, and Mr. Caires will be followed by Kimberlyn Scott, and after Ms. Scott there's only one other person signed up. If anyone else is considering testifying, would you please sign up so that we can judge our time here. Go right ahead.

MR. L. CAIRES: Thank you. Good afternoon, Chair. Good afternoon, Members.

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CHAIR BAISA: Good afternoon.

MR. L. CAIRES: My name is Leo Caires. I'm testifying as an individual today. You know, it's interesting as you can see there's a lot of diverse group of people that live in our community. We have a lot of good people in our community, you know, I don't think it's a dangerous place. I think I find value in having all of these different perspectives on, you know, the project that's in front of us. In reflecting back on my earlier testimony, I think my, I feel that my position has remained the same. I feel that there's some concerns that have risen out of the last hearing that I heard with regards to the road improvements. My understanding what I heard last time was the road improvements would make the project not feasible because of the lack of real estate, as I can say, required to satisfy those road improvement requirements. So, therefore, if the project is exempt from the roadway improvements, does that automatically mean that our family neighbors have to by default absorb the shortfall that would be required in the future? So that means our family would have to carry the burden or defer that burden to the landowners adjacent to the property. That's something that's still a concern to me. You know, the traffic, everybody has different recollections of what happens and, you know, there have been accidents, you know. I think it's safe at times and at times it's not safe. I remember I used to, and I still do, I, I travel, I ride my horse up through Kaupakalua and up through Awalau. Typically these days, since I've grown up, I usually select maybe a Sunday when there's no traffic. These days I rarely have a desire to, to ride my horse going up, up, and up to Awalau road. I trailer my horse up. So, you know, there's just been an evolving and, it's true there, you know, there is an increase of traffic in the area. You know, I wanted to point out, I, I do support, it's been difficult for me because I do have a family member that's employed by the store, and I think it's something important to highlight that. You know, a lot of good people who work at the store, you know, are asking for this. And, you know, for my family it's, it's provided an opportunity for me and I looked at it as a partnership that, you know, employment was allowed to my family member to allow me to do certain things. So, you know, there's a, there's a passion there for my, from my standpoint. You know, in the services there is, there is a lot of valuable stories, services, I don't think that's a question here, but I, I think the philosophy on what the future should be is, varies in my opinion, you know. It's, you know, it's also about the past, but it's also about looking into the future. I find that, you know, a lot of the testimony doesn't really encompass what's happening or being requested on the adjacent parcel to resubdivide from Ag to Rural that 1.9 acres, you know, that hasn't been really addressed as well. So my position stands where, you know, doing a site visit would be encouraged from my part to get a better understanding and also if the expansion of the store and the zoning would be awarded for just the expansion of the store, I think that would be fair. And I think it's, you know, its an opportunity for compromise for everybody. That's all. Thank you.

CHAIR BAISA: Thank you very much Mr. Caires. Members, questions for Mr. Caires? If not, thank you for being here. Our next testifier is Kimberlyn Scott and she will be followed by

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Bobby Caires. Mr. Caires is the last person who signed up to testify. Chair again will invite anybody who wants to testify to please sign up.

MS. SCOTT: Good afternoon. Hello, my name is Kimberlyn Scott and I am a 20-year resident of Huelo and I'm basically one of the many who rely on Hanzawa Store. I'm asking that you rezone and approve the expansion request. Hanzawa's provides a service to the community that is necessary. The Haiku population has increased with what I could find 47 percent just in the '90s, and obviously it's gonna continue to grow. With this increase as well as their location between Makawao and Huelo on Kaupakalua Road, which is a thoroughfare between Pukalani, Makawao, Haiku, Huelo, and Hana, Hanzawa's represents a major commercial venue that we of these communities cannot afford to lose. If it weren't a necessity, it wouldn't have stayed in existence for 94 years. For these 94 years, Hanzawa's has answered the needs of the local population with professional service and a smile of aloha. They provide locally-grown fruits and vegetables as well as medical supplies. It's one of only two places locally that I know of that provide drinkable water in large amounts. It's also one of only three small grocery stores for our growing community. It's also one of only two gas stations in our community, the other one being Toma's, which though also an important part of this community, it only has four pumps which will not service all the people who live in this area. It also provides jobs for our community, and closing Hanzawa's would instead of increasing spending in our community make us part of the snowball effect in our downward spiraling economy, which is pretty obvious. Vendors who supply Hanzawa's soft drinks, frozen foods, canned goods, the fuel company, the water company, the local farmers who provided fresh produce and local meats, they're all gonna suffer with the closing of Hanzawa's as well as the actual employees who we all know on a first-name basis. The issues that have been raised here with regards to flooding, parking, speeding, school buses, these exist all over Haiku. They're not limited to Hanzawa's and, or right in front of Hanzawa's, there everywhere there. And basically, from what I have seen of the owners of Hanzawa, they've displayed a willingness to work with the community and do whatever they can once these issues are presented. I think that's, that's it. Thank you for your time.

CHAIR BAISA: Thank you very much for being here. Members, questions for our testifier? Member Victorino?

COUNCILMEMBER VICTORINO: Yes. And thank you, Ms. Scott, for being here. Question I have for you. The...do a lot of the residents in Huelo and the areas in the eastern end come in to Hanzawa's or do they go down to Haiku Cannery? What makes it more appealing to come to one than the other?

MS. SCOTT: Hanzawa's is where I, I live, right off of Door of Faith road.

COUNCILMEMBER VICTORINO: Okay.

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MS. SCOTT: And I go to Hanzawa's every other day. Everybody I know uses it. It is, it's huge. I'd rather go there than go, you know, the few miles further to Haiku Grocery.

COUNCILMEMBER VICTORINO: So for you guys it's closer? That's all I'm saying.

MS. SCOTT: Absolutely.

COUNCILMEMBER VICTORINO: Okay.

MS. SCOTT: Absolutely.

COUNCILMEMBER VICTORINO: That's all I wanted.

MS. SCOTT: It's also on a thoroughfare and you, actually I timed it once and it's quicker to get there than to Haiku Grocery.

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

CHAIR BAISA: Members, any other questions? If not, Ms. Scott, thank you. Our next testifier will be Bobby Caires, and Mr. Caires is the last person who has signed up to testify. If there's any one else, would you please get ready because, well, we wanna know. Hi, Mr. Caires. Good afternoon.

MR. B. CAIRES: Good afternoon. My name is Bobby Caires, and I own the property 400 feet below Hanzawa Store, 100 feet across Hanzawa Store, and I am directly affected by the water, storm water problems we have. The property I now have, my dad gave the County an easement and it has a 5-foot culvert under the property that I have. But the water comes into my property and has totally eroded and there's a big hole that I filled up a couple of times, and I've dealt with the County engineers on this, but, as usual, they just put you on the backburner and it's never, since 1994 they have done nothing for us. And it, the water can come down, it fills up the 5-foot culvert and it goes over onto the property, and there can be 2 foot of water that you have to drive through. And to me that's, when I got married back in 89', we couldn't come to my property, we couldn't come home with the limo because the road was flooded. We had to go around and come up East Kuiaha Road. That was just a good example how much water comes down there. As for whatever comes down Awalau comes to my property, whatever comes off Hanzawa runs down the road, Kaupakalua Road and goes across the street into our property again. I have a major concern for that because that, it's our livelihood. I am one of the few people Upcountry that is directly 100 percent used my property for agricultural. I have a tree farm and I work on it every day. Most people have a few ducks and a chicken and a horse and they call that "a gentleman's ranch". They should not be considered to even come up here and speak on this behalf because what we're, my family, I personally, I encourage Hanzawa Store to rebuild, get the permit, get everything done. I'm all for the development and the expansion. . . .(end of

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tape, start 2B at 3:05 p.m.). . . I'm not at all in agreement with downsizing Agricultural lots into half-acre lots. Because once that happens, across their store, just mauka of their store, is 600 acres that A&B has. All we need is for you guys to give one person a chance to make it smaller than 2-acre lots, they'll come knocking on your door in a few years and don't be surprised if we don't come knocking on your doors. Because if you're gonna grant one person the chance to, to make agricultural land smaller than 2-acre minimum, you're gonna have to do the rest. And if that was such a big concern when the Daniells subdivided the property adjoining them when Pat Currell and Matt Daniels did the subdivision, they could've kept a couple acres more and kept it and for the expansion of the store property and put a house on it. I am not against the development of the store, I'm all for it. What we need Upcountry, we need a fire station, we need a police station, we need an ambulance service. That is what we need, we need a bigger store. I'm all for it, but I don't think we need to have restaurants and other buildings that is not directly involved with the country. And that's my piece.

CHAIR BAISA: Thank you very much. Members, questions for Mr. Caires?

COUNCILMEMBER NISHIKI: I got one question.

CHAIR BAISA: Yes, Mr. Nishiki.

COUNCILMEMBER NISHIKI: You know, you say that flooding occurs there and, and you mentioned that 5-foot culvert that has been installed. What would eliminate the flooding from that area? What has to be done? Does that culvert get clogged?

MR. B. CAIRES: Well, it, it goes into that culvert and it discharges into my property.

COUNCILMEMBER NISHIKI: Oh.

MR. B. CAIRES: It goes down a big concrete apron and it, it's dug a hole that is 8, 10 feet deep, sometimes 10, 15, 20 feet across, and that water goes down into the creek right there, the river, and it used to be 4, 5 foot across. Now it's so eroded that there is the cattle falling into those things and they cannot get out of that. And I've already come down and spoke to the engineers and we had a plan drawn up, we had everything done, but one of the engineers refused to do it because he said he didn't think it was of any need because it directly involved just my needs. But I, I have also seen that people come through there with the cars and the fans get caught in the radiator and the car stalls and, you know, some day somebody's gonna get washed into that area and then it's gonna be the County's fault because they haven't addressed the problem.

COUNCILMEMBER NISHIKI: Okay. Thank you.

COUNCILMEMBER VICTORINO: Madam Chair?

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CHAIR BAISA: Yes, Mr. Victorino. Hold on, Mr. Caires.

COUNCILMEMBER VICTORINO: Oh, I'm sorry, I thought you said hold on for me. Mr. Caires, you know, you're saying and I'm talking about this, this adjacent area that they want to expand, the 3,500. You have an issue with that part, right?

MR. B. CAIRES: Well, I have a little issue just because it goes directly over the, I'm mean over the water...

COUNCILMEMBER VICTORINO: The tunnel.

MR. B. CAIRES: The tunnel --

COUNCILMEMBER VICTORINO: Yeah.

MR. B. CAIRES: --that I have one of the only entrances to it --

COUNCILMEMBER VICTORINO: Uh-huh.

MR. B. CAIRES: --besides Pat Currell on the, on the other end.

COUNCILMEMBER VICTORINO: And you use that tunnel for your agricultural purposes?

MR. B. CAIRES: I use it for irrigation to my trees. Yes, I do.

COUNCILMEMBER VICTORINO: Okay. And then the other part was you were talking about that subdivision. Are you talking about the area...?

MR. B. CAIRES: Yeah, Hibiscus Acres.

COUNCILMEMBER VICTORINO: Hibiscus Acres, right?

MR. B. CAIRES: Yeah. That used to be part of this whole one big piece of the property. We, we had this was like a 20-acre, 17-acre piece of property. We had 17 acres below it, 40 acres across of it so we surround, we use to surround 50 percent of this Hanzawa Store property.

COUNCILMEMBER VICTORINO: And through the years you guys have what, sold out...

MR. B. CAIRES: No, we haven't...

COUNCILMEMBER VICTORINO: No?

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MR. B. CAIRES: No, it's all for the family. The thing is that my parents allowed us to subdivide --

COUNCILMEMBER VICTORINO: Uh-huh.

MR. B. CAIRES: --to build a house and then now we're gonna do it for our children.

COUNCILMEMBER VICTORINO: Okay.

MR. B. CAIRES: And that's what we felt country land was for. We're still using it as ag, 100 percent ag. It's either we got cattle, horses, or trees on it.

COUNCILMEMBER VICTORINO: And the last question--and I'll conclude because I know we've been going at it for nearly 2 hours. The flooding that you are saying comes on Awalau Road, comes from, comes from Hanzawa Store and adjacent areas, I had heard one testifier early said a lot of that was due to a lot of grading and all that that was done on the upper levels. Is that true or, or...

MR. B. CAIRES: That one portion, that when it comes down Awalau and onto my property, the Hibiscus Acres does not affect it. Its effects my property which is next to Shirotas from the bottom of it. That's where all the water comes down.

COUNCILMEMBER VICTORINO: Comes down from that side?

MR. B. CAIRES: Yes. So I get it two ways. Actually, we get it three different directions.

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

CHAIR BAISA: Thank you. Any additional questions for Mr. Caires?

MR. B. CAIRES: Please invite me when you come and do the site inspection. I'll be happy to show you.

CHAIR BAISA: Well see where that goes.

MR. B. CAIRES: Okay.

CHAIR BAISA: But thank you very much for being here this afternoon. Any additional testifiers?

MS. CURELL: *(NOTE: Speaking from the gallery.)* I live right over this way . . . *(inaudible)* . . .

CHAIR BAISA: Ma'am, I'm sorry but...

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MS. CURELL: *(NOTE: Speaking from the gallery.) . . . (inaudible) . . . to the microphone?*

CHAIR BAISA: I'm sorry. You had your opportunity.

MS. CURELL: *(NOTE: Speaking from the gallery.)* Beg your pardon?

CHAIR BAISA: I'm sorry; but you had your opportunity to testify.

MS. CURELL: *(NOTE: Speaking from the gallery.)* Oh! So I thought you said . . . *(inaudible)* . . .

CHAIR BAISA: But I'll be happy...

MS. CURELL: *(NOTE: Speaking from the gallery.)* I heard you say "if you have anything else to add"?

CHAIR BAISA: No. If there's anybody else who has *not* testified —

MS. CURELL: *(NOTE: Speaking from the gallery.)* Oh! Not testified.

CHAIR BAISA: --who would like to testify, this is your last opportunity. Members, I see no one approaching the podium. And seeing no one, without objection, the Chair would like to close public testimony.

COUNCIL MEMBERS VOICED NO OBJECTIONS. (DM, JJ, SK, WN, JP, MV, MM, GB)

CHAIR BAISA: Thank you very much.

. . . END OF PUBLIC TESTIMONY . . .

CHAIR BAISA: Chair would also like to ask that we received quite a bit of written testimony, both by letter and email, that this be included as part of the record of this Committee.

COUNCIL MEMBERS VOICED NO OBJECTIONS. (DM, JJ, SK, WN, JP, MV, MM, GB)

CHAIR BAISA: Thank you very much. With, the Chair would like to take our afternoon break. I'm sorry that we're a little late; but I thought it was important to accommodate the testifiers in case they have to leave. So we will be taking a ten-minute break. I would really appreciate it if everybody could get back at least by 25 minutes after 3:00. Meeting is in recess. . . . *(gavel)* . . .

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RECESS: 3:11 p.m.

RECONVENE: 3:24 p.m. . . .(end of tape, start 3A). . .

CHAIR BAISA: . . . (*gavel*) . . . Will the meeting please come back to order. We'd like to thank everybody for all that testimony. Thank you very much. Members, on our agenda today we have Land Use 22. That's our first item.

LU-22 DISTRICT BOUNDARY AMENDMENT AND CHANGE IN ZONING FOR HANZAWA'S VARIETY STORE AND ADJACENT PROPERTY (HAIKU)
(C.C. No. 09-181)

CHAIR BAISA: Before the Committee are four proposed bills. Two bills relate to each of two properties. The Committee has proposed bills to grant a District Boundary Amendment from Ag to Urban and a Change in Zoning from Interim District to B-CT Country Town Business District for approximately 2.00 acres at 1833 Kaupakalua Road, Haiku, Maui, to allow for the expansion of Hanzawa's Variety Store and other uses. The . . . (*coughs*) . . . excuse me, the Committee also has proposed bills to grant a District Boundary Amendment--I'm going to lose my voice--from Agricultural to Rural, and a Change in Zoning from Interim District to RU-0.5 Rural District for approximately 1.945 acres at 1833 Kaupakalua Road and 21 Awalau Road, Haiku, Maui. The Committee last met to consider this matter on September 16th. At that meeting, we had a PowerPoint presentation by the applicants' consultant, and the Committee began its deliberations. The Chair distributed a memo dated September 21, summarizing the amendments made at that meeting. I have scheduled this matter to allow the Committee to continue its deliberations and hopefully conclude this matter.

Before we continue here, I'd like to call on the Planning Department, Members. Mr. Fasi, you'll give us an update?

MR. FASI: Thank you, Madam Chair. I did hand out to you the latest, a spreadsheet based on the number of opposition letters and testimony that we've received so far regarding this particular matter. And the purpose of this exercise was just to determine whether or not the opposition had the requisite 40 percent in order to trigger a seven vote, majority vote by this Council. Based on the numbers and this spreadsheet that I've handed out to you, you can see that the 40 percent threshold was not met. So, therefore, the seven-vote majority is not required. If you go to the second sheet, you'll see a map of the 500-foot buffer, and what this depicts is the highlighted parcels in yellow are the parcels that are in, opposed to the Change in Zoning and District Boundary Amendment changes. So basically what this shows you is a graphic illustration of what is on the spreadsheet. The third page is just kind of a summary of what the applicants are asking for regarding their property. As the Madam Chair just said, they're going

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from State Ag to State Urban and County Interim to Business Country Town. They're also going from State Ag to State Rural, County Interim to RU-0.5, and the purpose of this is to bring the current operation into conformance with the community plan and County zoning ordinances and also to allow the proposed expansion. Mentioned in the testimony regarding the traffic, I would just like to touch on the Traffic Impact Analysis Report that's included with the applicant's proposal. They did have Phillip Rowell & Associates do a traffic impact study and to summarize the study, the consultant says that the proposed projects are minimal and no mitigation is required regarding the traffic. It will still operate at a Level Service of A, which is at the highest level of service that is rated. I don't have anything further to offer, Madam Chair, I think it's been thoroughly discussed. Thank you.

CHAIR BAISA: Thank you very much, Mr. Fasi. Members, I'm assuming that everyone understands the presentation that Mr. Fasi made and it's to clarify that there was a clerical error in computing the requirement for the seven votes instead of the normal five, and he's explained it. And I just wanted all of you to understand that so that if and when this matter reaches the full Council that, that will be the requirement. It will not be the super majority. Everybody okay?

COUNCILMEMBER NISHIKI: Madam Chairman?

CHAIR BAISA: Yes, Mr. Nishiki?

COUNCILMEMBER NISHIKI: Yeah. I, I guess the, the concern because the last time we were told that there was a super majority needed.

CHAIR BAISA: Correct.

COUNCILMEMBER NISHIKI: So where was in the spreadsheet the error made?

MR. FASI: Actually there, there was no error. After meeting with Corp. Counsel and reviewing the ordinance that dictates how the seven-vote majority is arrived at, after talking with Corp. Counsel it was determined that the formula that we used in the prior spreadsheet was wrong and it was not an equitable formula to use. So what we did instead was revise it to reflect the more accurate number of owners in opposition. So rather than counting--well, let me say this, if we can go to the spreadsheet just to make it clear. What we did is we took, we were only concerned with the area within the 500-square foot buffer. What we did previously is if there was one owner that was opposed we counted the entire parcel as counting towards opposition. So, for example...

COUNCILMEMBER NISHIKI: Which one changed?

MR. FASI: Lot, parcel 45 did change.

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COUNCILMEMBER NISHIKI: Name?

MR. FASI: And parcel 45 earlier it was counted as the entire parcel and in this second iteration it was, had been subdivided in 2004, which we did not take into account.

COUNCILMEMBER NISHIKI: Murasko?

MR. FASI: So if we took...

COUNCILMEMBER NISHIKI: Murasko?

MR. FASI: Yes.

COUNCILMEMBER NISHIKI: Okay.

MR. FASI: If we took Mr...for example, if we took Mr. Murasko's lot, the total square foot within the buffer of 75,000 square feet, we used his entire portion because he is one single owner.

COUNCILMEMBER NISHIKI: Which was?

MR. FASI: Seventy five thousand square feet. Now, for example, if we go to--let's go to the very top, parcel 56, Brian Caires, that parcel 56, the very top of the spreadsheet. We have on record in our files there are 14 owners, but only eight of those owners did we receive any communication regarding opposition. So the total square foot of the parcel is 255,000 square feet. The total square feet within the buffer is 181,796. What we did was we took the, the eight owners that are opposed and divided it into the total square foot within the buffer. I'm sorry, we took the 181,000 square feet divided by 14 to guess kind of an equitable share per owner and then we multiplied that by the number of people that were opposed, and that gave us a 103,883.

COUNCILMEMBER NISHIKI: So I would take $8/14^{\text{ths}}$ of 255 and you come out with 103?

MR. FASI: Correct.

COUNCILMEMBER NISHIKI: Okay. So in Murasko's case...

MR. FASI: Since he's the only owner --

COUNCILMEMBER NISHIKI: Yeah.

MR. FASI: --we had to use his, his portion.

COUNCILMEMBER NISHIKI: Which was 89,864.

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MR. FASI: That's his entire parcel. But we're only counting the portion that's in the buffer.

COUNCILMEMBER NISHIKI: In the buffer --

MR. FASI: In the 500 foot...

COUNCILMEMBER NISHIKI: --represents within that blue parcel that you're talking about?

MR. FASI: That is correct.

COUNCILMEMBER NISHIKI: That blue line --

MR. FASI: That is correct.

COUNCILMEMBER NISHIKI: --or that blue kind of circle, rectangle. And that in essence is within the 500 feet of the Hanzawa Store?

MR. FASI: Yes, sir.

COUNCILMEMBER NISHIKI: Okay. So then you go from the edge of the Hanzawa Store property, is that what it is --

MR. FASI: Yes.

COUNCILMEMBER NISHIKI: --that you're showing us?

MR. FASI: That is correct.

COUNCILMEMBER NISHIKI: Okay. And the calculation you used prior to that was what?

MR. FASI: The calculation I used prior to this was using the entire portion within the, within the buffer, 181,000.

COUNCILMEMBER NISHIKI: Oh, okay. . . .*(inaudible)*. . . All the property?

MR. FASI: Correct.

COUNCILMEMBER NISHIKI: Okay. And then point me out the law that Corporation Counsel is quoting from.

CHAIR BAISA: Mr. Giroux, maybe you can help?

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MR. FASI: Well, the ordinance says “the owners or lessees of 40 percent or more of the land located within a 500-foot distance from the boundaries of the subject parcel that have written protests”.

COUNCILMEMBER NISHIKI: Can you quote me the law, the, the ordinance?

MR. GIROUX: Chair, it’s 19.510.040.

CHAIR BAISA: Mr. Giroux, are you, are you saying that it’s okay what the Planning Department has used as their formula? Is it okay?

MR. GIROUX: Yeah. They, they did consult with us and we did look at how, how it was being applied as far as equitably.

CHAIR BAISA: Thank you.

COUNCILMEMBER VICTORINO: Madam Chair?

CHAIR BAISA: Just a second. I don’t know if we were through with Mr. Nishiki.

COUNCILMEMBER VICTORINO: Oh, okay.

COUNCILMEMBER NISHIKI: Yeah I, I, I, I’ll, I’ll just redo this whole thing and see how--is there any legal opinion written on paper from Mr. Giroux?

CHAIR BAISA: Mr. Giroux?

MR. GIROUX: No, Chair. This is, this is coming out of the Administration’s...basically they’re being asked to administrate this portion of the law. We were consulted in that we were asked whether or not they felt that the way they interpreted it whether it would felt with, fell within the scope of the law, and when we reviewed it, we found that what they did was not illegal the way that they did it. What you have to understand is that in reading Section B, the Administration, you know, they could come up with a variety of ways to calculate this, some of them being fair and some of them being unfair, and what we found was that the, the way that they’re doing it now, we felt that it, it would be evenly applied to a variety of situations thereby being very equitable.

COUNCILMEMBER NISHIKI: Okay. I, I, I just wanna see if there were only, it seems like there’s more than two parcels involved in this, Mr. Fasi. And so when you say you only looked at 045, Mr. Murasko, are you saying that, that is the only calculation that was different that ...*(inaudible)*...

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MR. FASI: Oh, no. What I'm saying is that we used a totally different formula in this case. In the previous formula if, like for example, there are 14 owners and eight were opposed, if there was just one opposed we would have, we use the entire parcel within the buffer --

COUNCILMEMBER NISHIKI: Got it.

MR. FASI: --which is not an equitable way of doing it because what happens to, you know, that kind of disrespects the other 13 owners. You can't take the entire portion of the parcel within the buffer just based on one opposition vote, that wouldn't be fair. So in order to make it a little more equitable, we divided that portion within the buffer by the number of owners which makes it equitable.

COUNCILMEMBER NISHIKI: So in other words let's say in Brian Caires's --

MR. FASI: So...

COUNCILMEMBER NISHIKI: --property.

MR. FASI: So, for example, the parcel 56 --

COUNCILMEMBER NISHIKI: Right.

MR. FASI: --within the buffer there are 14 owners. We took that portion within the buffer and divided it by 14 to give everyone an equal share to make...

COUNCILMEMBER NISHIKI: Yeah. But, but this is the difference, Madam Chairman, if I may proceed, okay. You, you take for granted, you take for granted, okay, that eight are opposed and they've told you that. Okay. You don't take for granted that six said that they are not opposed. You're taken for granted that, that those people because they didn't say they oppose it, therefore, are for it. And, and that is my concern.

MR. FASI: And that is correct. We have to...

COUNCILMEMBER NISHIKI: And that is my concern.

MR. FASI: But what we did, what we did is we assumed that since we have no...

COUNCILMEMBER NISHIKI: ...*(inaudible)*...

MR. FASI: Right. We had to assume because there was no communication and they didn't put forth any communication against it, that they had to be for it and we're assuming that furthermore, furthermore...

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COUNCILMEMBER NISHIKI: It should be, it should be to me--if I may explain to you--to me it should be if eight opposed but six did not, then you only take the eight because the six you don't really know.

MR. FASI: That's...

COUNCILMEMBER NISHIKI: You are, now you are playing God and that's not fair.

MR. FASI: Well, no we're not. We're trying to be, we're trying to be equitable and we're trying to be fair. We can only assume that if they didn't come forward, that they would be not in opposition. Now the other thing that we're assuming, which could be argued as well, is that of the eight, they may not have equitable shares in that piece of property. So without going in and doing a huge costly title search at Title Guaranty, we'll never know that. You know, one owner of the eight could own 90 percent of that parcel within the buffer, but we can't, we can't go down that road because it involves a title search that will go into thousands, could be tens of thousands of dollars.

COUNCILMEMBER NISHIKI: No.

MR. FASI: So what we did was to make it as equitable as we could and come up with the formula that was fair to both sides. It's not perfect, but it's the best that we could do under the circumstances, and we think it's fair to both parties. We tried to be as neutral as we could in this whole process, and it's the best we could come up with.

COUNCILMEMBER NISHIKI: Yeah. Well, if you really examined, Mr. Paul Fasi, your, your, your thinking, that's not being fair. That's all I can say. For six that don't answer, you answer for them and say it's yes, or for six that doesn't answer, they don't answer. They're not voting yes or no. That is what, if I was trying to be fair, would be a fair way of doing it.

CHAIR BAISA: Mr. Nishiki.

COUNCILMEMBER NISHIKI: Yeah.

CHAIR BAISA: If we could kind of move on here. I wanted to ask the Planning Director a question. Mr. Hunt, when you publish a notice like we're doing with the bed and breakfast and we put up a big sign in the community, do you not then only respond to the people who say no, I don't want it or do you have to go poll everybody in the neighborhood and make sure that you have a yes or a no?

MR. HUNT: Madam Chair, we don't, we don't normally reach out to the public and ask them for their opinion or solicit opinions beyond the normal notification process, that to do that would raise

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issues of unfairness. So essentially the standard process is you send out notices and the people who respond, you, we, that becomes part of the record.

CHAIR BAISA: I just wanted to make sure that, you know, we're not doing something exceptional here by doing it the way you're doing it, and, you know, I don't have enough tenure in this place to understand that at all. But I've been here long enough to know that generally people who have objections register them and if they don't then, you know, I guess it's the saying silence implies consent. And so you gotta speak up if you're upset. Mr. Victorino, you were trying to say something?

COUNCILMEMBER VICTORINO: Thank you, Ms., Madam Chair. And, you know, I just wanted to get a clarification from Mr. Fasi just, just to make sure I understood this. Going back to the very top, okay, the final figure we came up with 103,883 which was based on the eight who opposed divided not by the 255 as you had stated when Mr. Nishiki answered, but by the 188. Is that correct or am I wrong in, in doing that? In other words, the final figure you came up with...

MR. FASI: Here's the math right here.

COUNCILMEMBER VICTORINO: Okay, go ahead.

MR. FASI: Here's the formula we used. We took the 181,000 --

COUNCILMEMBER VICTORINO: Right.

MR. FASI: --we divided it by 14.. --

COUNCILMEMBER VICTORINO: Right.

MR. FASI: --to give everyone an equitable share. Now we counted up the number of owners opposed, which was eight, we took that number and multiplied it by eight and that gave us the 103,883.

COUNCILMEMBER VICTORINO: Okay. ...*(inaudible)*...

MR. FASI: We took the ordinance and we wrestled with this for hours. We dissected it word by word and this was, we thought, would be the most equitable way of calculating the number short of having to do a humongous title search.

COUNCILMEMBER VICTORINO: Uh-huh. Okay. Again, because when the question was asked earlier you, they had mentioned the, the first figure and you said yes to it, maybe you wasn't

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paying attention. I just wanted clarification that we're only using what's within the buffer zone, right, nothing else?

MR. FASI: Yes, sir.

COUNCILMEMBER VICTORINO: Okay. And that's what I wanted to get clear. As far as how you did it, so long as it's an equitable way. And, and assuming if somebody says yes or no, I don't know how to assume that, but if somebody says no, then you know it's no. If they don't say anything, like you said, Madam Chair, silence is assumption of okay.

COUNCILMEMBER NISHIKI: No.

COUNCILMEMBER VICTORINO: No, it's not.

CHAIR BAISA: Mr. Hunt?

COUNCILMEMBER VICTORINO: No, it's not. Don't go there.

CHAIR BAISA: Gentlemen, let's not have a debate, please. This is not appropriate in here. Mr. Hunt?

MR. HUNT: The way the ordinance is worded is it says 40 percent or more have filed a written protest. So that's, that's the trigger. And so it's not whether you assume the others are for it or ambivalent or whatever, it's...that's how the ordinance is written, if 40 percent file an objection or opposition, and so we're just, we're just going on that. Now there's other interpretation and Paul's explained the approach regarding that, and I think it's, that is open to interpretation and somebody could argue otherwise. But in terms of the 40 percent, I think the law is fairly clear.

CHAIR BAISA: Mr. Molina?

VICE-CHAIR MOLINA: Yeah. Thank you, Madam Chair. Just more of a request. I appreciate Mr. Fasi providing us the numbers and names. But as we've heard the formulas or how we got to the assumption or not assumption but the determination that the seven-vote majority is not needed. I'd really appreciate this under your signature, Madam Chair, if the Department and Corporation Counsel can provide for us an explanation in writing. I mean something like this needs to be memorialized for future reference, if and when we do have another Committee meeting on this.

CHAIR BAISA: Chair will be most happy to do that.

VICE-CHAIR MOLINA: Thank you.

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CHAIR BAISA: Members, during the break, Chair...and during the earlier part of this meeting, the Chair heard several Members make a request for a site visit. Does anyone want to address that at this moment before we move on? Mr. Pontanilla?

COUNCILMEMBER PONTANILLA: Thank you, Chairman. I said that, you know, I'll bring up the subject to you in regards to a site visit. And my whole intentions to the site visit...you know, listening to all of the testifiers, some of 'em, you know, don't oppose the expansion, some oppose the expansion because of the, the new commercial area. But for me, Madam Chairman, you know, I've heard some testimony in regards to the safety of the road and, you know, the pedestrians that traverse that road, and that's the reason why for my site inspection just to, you know, to look at the area and, and what had been said, you know, because we need to be conscious that safety's a big factor for the County of Maui.

CHAIR BAISA: Thank you, Mr. Pontanilla. Chair would like to quote from Council Rules on Page 7, Item J., Site inspection. At the request of three Voting Members of a Committee made orally at a meeting of the Committee or separately in writing, the Chair of a Committee shall convene a site inspection on a matter referred to that Committee. A site inspection is the meeting and is subject to the Sunshine Law. So the Chair, if the Members are feeling that they would like to do a site inspection, the Chair will entertain such a motion and let's see if we have three people that want it. And if that is the case, then I think that, that is a very important thing that we do before we proceed because it will solve a lot of the questions and issues that you folks have.

COUNCILMEMBER VICTORINO: Okay.

CHAIR BAISA: And then the next meeting we have might be more productive.

COUNCILMEMBER PONTANILLA: Thank you. So at this time, Madam Chairman, I'd like to move that we do a site inspection --

COUNCILMEMBER VICTORINO: Second.

COUNCILMEMBER PONTANILLA: --of this particular area and project.

CHAIR BAISA: We have a motion by Mr. Pontanilla, a second by Mr. Victorino. Mr. Pontanilla, anything else?

COUNCILMEMBER PONTANILLA: No. Again, I ask for, you know, one of the...I told one of the testifiers that I would be asking you for a site inspection, and I think it would be beneficial for this Committee to do that and the reason is, for me, the highest priority is safety.

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CHAIR BAISA: The Chair is going to call for a very short recess. Do not leave your seats. Meeting is in recess. . . . (*gavel*) . . .

RECESS: 3:49 p.m.

RECONVENE: 3:50 p.m.

CHAIR BAISA: . . . (*gavel*) . . . The meeting will come back to order. We have a little procedural glitch here. Mr. Pontanilla, if you would kindly withdraw your motion. All I need to find out is if there are three Members who want to do this and it's passed.

COUNCILMEMBER PONTANILLA: Madam Chairman, I withdraw my motion.

COUNCILMEMBER VICTORINO: I withdraw my second.

CHAIR BAISA: Thank you very much. Now the Chair will ask--will three, are there three Members that are interested in a site inspection?

COUNCILMEMBER VICTORINO: Yes, Madam.

CHAIR BAISA: I know we have two. Mr. Victorino?

COUNCILMEMBER VICTORINO: Yeah. Madam Chair, I would like to also ask you, your indulgence, if we do have a site inspection, it'll be preferable in the morning and I know getting up there early going be tough. But to really see what has been discussed, it'll really have to be in the morning or else we'd miss the real ambiance of the challenge. So something 7:00, 7:30 where we can actually see the challenge, I mean the traffic as been stated by many of the testifiers, I think will be important. But I will...whatever you say, but I want a site inspection, yes.

CHAIR BAISA: Any other Member? Member Mateo?

COUNCILMEMBER MATEO: Madam Chair, I would support a site visit. I believe in the last Committee meeting I, too, cited safety issues versus, regarding traffic that I wasn't comfortable with and perhaps this is the opportunity to get things cleared out.

CHAIR BAISA: Thank you very much. Anybody else want to speak on this issue? Member Nishiki?

COUNCILMEMBER NISHIKI: Just with my vote.

CHAIR BAISA: Thank you very much. Well, it appears to me that we have our three Members that would like to have a site inspection. Based on the fact that we need to do this site inspection

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and we will have to schedule that, I'll work with Staff to see as soon as we can do that, that is practicable, and I'm asking the Members to please work with us because it may be an early morning meeting and I hope that you guys are willing to make that sacrifice to get up there early because that's the only way that, you know, it's going to be productive. If we're gonna do this, let's make it productive. And so based on the need for that site inspection, without any objections from the Committee, the Chair would like to defer this item.

COUNCIL MEMBERS VOICED NO OBJECTIONS. (DM, JJ, SK, WN, JP, MV, MM, GB)

ACTION: DEFER.

CHAIR BAISA: Thank you very much, Members. The item is deferred. Members, we have a second item today.

LU-21 CONDITIONAL PERMIT FOR CONCIERGE SERVICES AT KAUAHALE MAKAI (VILLAGE BY THE SEA) CONDOMINIUM (KIHEI) (C.C. No. 09-180)

CHAIR BAISA: And the second item on our agenda today is Land Use 21. Before the Committee is a proposed bill to grant a request from the Association of Apartment Owners of Kauhale Makai for a five-year Conditional Permit to operate concierge services. Excuse me, Chair would ask the folks that are leaving if you could please be a little quiet so we can proceed. Thank you very much. Concierge services in the existing, 397-square-foot lobby of Kauhale Makai (Village By The Sea) Condominium Complex, located at 938 S. Kihei Road, Kihei. And we would like some opening remarks from the Planner, who is here today. Good afternoon. If you could go ahead.

MR. PRUTCH: Good afternoon, Chair. Thank you. Good afternoon, Council Members. Got before you the Kauhale Makai AOA application for concierge services as was mentioned. I'd like to say since this application came in, the, the applicants themselves has changed names, it's an AOA Board. Chuck Jackson is now the Board President, but Chuck is not here today. The Board Secretary is Linda Paul, she is in the audience today and she will be here to represent the AOA also. Any questions come up, she'll be up there to answer any questions you have. The Maui Planning Commission reviewed this approval or recommended approval of this project back in January 13, 2009. There were under our five standard conditions of approval and they had six project specific conditions of approval for this concierge desk. At the meeting, there were no letters of support or opposition before the meeting. At the meeting itself there was public testimony, three people spoke in support of the concierge desk, there was no opposition to the desk. Since then our Planning Department has received no testimony or no letters on this application. That's all I have for now, I know the, like I mentioned Linda Paul is out in the audience if there's any question of the applicant, and I'll be happy to answer anything as well.

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(NOTE: Ms. Nakata is distributing a copy of the ordinance with conditions attached.)

CHAIR BAISA: Thank you very much. Members, what is being passed out to you right now is the proposed ordinance and in that ordinance you will see the, the conditions that have been attached to the approval. The Chair will call your attention to Condition No. 8. Condition No. 8 says "That no signs shall be posted on the exterior of the building, or on along Kihei Road, or within the parking area advertising the concierge desk." . . .*(end of tape, start 3B at 3:56 p.m.)*. . . The problem tends to be grammatical. It really doesn't read very well and it probably should say, instead of building, "buildings" because this is the way Kauhale Makai is built, it's a bunch of buildings, not a building. The other thing is that "Kihei Road" should be "South Kihei Road". And if we were to disarrange the sentence so it reads better, it says "That no signs advertising the concierge desk shall be posted on the exterior of the buildings, on or along South Kihei Road, or within the parking area.", it would sound much better and make more sense. Does everybody get that?

COUNCIL MEMBERS VOICED AGREEMENT.

CHAIR BAISA: Can we...Ms. Nakata, do we need a motion to correct that? I need a motion to that effect.

COUNCILMEMBER VICTORINO: So moved.

COUNCILMEMBER PONTANILLA: Second.

CHAIR BAISA: A motion by Mr. Victorino, seconded by Mr. Pontanilla. Any discussion, Members? If not, all those in favor, please say "aye".

COUNCIL MEMBERS VOICED AYE.

CHAIR BAISA: Opposed, "no"?

VOTE: AYES: Councilmembers Johnson, Kaho`ohalahala, Mateo, Nishiki, Pontanilla, and Victorino, and Vice-Chair Molina, and Chair Baisa.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Medeiros.

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MOTION CARRIED.

ACTION: AMEND CONDITION NO. 8.

CHAIR BAISA: Chair will mark it with eight “ayes” and one Member excused—Member Bill Medeiros. And that takes care of that condition. On Condition No. 11, Chair is concerned that it says is the intent of Condition 11 to limit sales of sundry items to occupants/guest of Kauhale Makai, or does it mean that, you know, some means something else? It says right now “That sales of sundry items shall be allowed for occupants or guests of Kauhale Makai”. Did we mean only guests or do we mean occupants are guests? You know what I’m trying to say? What was the intent of this? Planning can you help us?

MR. PRUTCH: Yeah. I can see that now that you’ve read it again as you mentioned. My understanding was that the sale of sundry items to the occupants/guests of Kauhale Makai, that the AOA would essentially be able to sell or give away newspapers, soaps, maybe sodas or waters, different things to just go along with the resort hotel guest. So really it is the sale of sundry items shall be allowed to be sold to occupants/guests of Kauhale Makai as opposed to being able to sell to outside of the hotel.

CHAIR BAISA: So what you’d recommend is that it says “That sales of sundry items shall be allowed to be sold *only* to occupants/guests of Kauhale Makai”?

UNIDENTIFIED SPEAKER: Yes.

CHAIR BAISA: So if I’m walking by and I want to come into the store and buy a paper, that’s not what they wanna do?

MR. PRUTCH: No, that is not what they want to do. It’s specifically for their guests only as is the concierge business for their guests only.

CHAIR BAISA: Okay, thank you. Members? Are, would anybody want to suggest that new wording? Ms. Johnson.

COUNCILMEMBER JOHNSON: Yes, you know, and my wording would be just say “That sales of sundry items shall be restricted to occupants/guests of Kauhale Makai”.

VICE-CHAIR MOLINA: Sounds great.

CHAIR BAISA: Okay. Do we have a second?

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COUNCILMEMBER VICTORINO: Second.

CHAIR BAISA: Okay. Let's repeat that again. "That sales of sundry items shall be restricted to occupants/guests of Kauhale Makai".

COUNCILMEMBER JOHNSON: Uh-huh. Yes.

CHAIR BAISA: Discussion? Everybody okay? All those in favor, please say "aye".

COUNCIL MEMBERS VOICED AYE.

CHAIR BAISA: Opposed, "no"?

VOTE: AYES: Councilmembers Johnson, Kaho'ohalahala, Mateo, Nishiki, Pontanilla, and Victorino, and Vice-Chair Molina, and Chair Baisa.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Medeiros.

MOTION CARRIED.

ACTION: AMEND CONDITION NO. 11.

CHAIR BAISA: Motion is carried with eight "ayes" and one Member excused—Member Bill Medeiros. Members, those are the suggestions that the Chair has. Is there anything else that you would like to bring up? Member Nishiki?

COUNCILMEMBER NISHIKI: Yeah. I just want to ask the Planning Department whether or not at the time of the request for this Conditional Permit, did you know of how many units were being used for TVRs?

MR. PRUTCH: At, at the time the application came in was over two years ago now. At the time the application came in, believe the application said 90 percent TVR, 10 percent owner occupied.

COUNCILMEMBER NISHIKI: Yeah, okay.

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MR. PRUTCH: Nowadays I've noticed...I've just had the applicant crunch those numbers before me, before the meeting and now it looks like it's about approximately--what is this?--about almost 80 percent...I'm sorry, about 75 percent look to be either TVR or timeshare units, about 25 percent, 26 percent look to be either apartments or, or rentals, owner occupied or rentals, long-term rentals.

COUNCILMEMBER NISHIKI: Okay. And, and the reason why I asked this question, Madam Chairman --

CHAIR BAISA: Yes.

COUNCILMEMBER NISHIKI: --is because, you know, when you look at what the real zoning is here of these units, it's, it's pretty much TVR, and so I, I guess my question is why didn't we ask them to apply for a really a Change in Zoning, you know, when the majority of the uses is that? And why I'm looking at it in this manner is because I, I see where 90 percent in the binder--well, in the binder it says 152. Today the lady that came and testified said that 109 TVRs and 13 timeshares, which is about 122. So the majority of the uses is basically coincides with the proper zoning which would be probably Hotel, and that's what perhaps they should be applying for. Two reasons why, and I don't know why the property tax people aren't here, Madam Chairman, but number one would be revenues. Yeah, number one would be revenues and, and, and, and the overwhelming majority use of TVRs and timeshares. Secondly, my concern as we pass this ordinance is what is being represented today with the type of uses and what we are generating in property tax I think definitely has to be looked at in regards to revenues that we are losing. And I, I, I personally feel that in the granting of this there is definitely an implication of how we should be getting more in taxes, and, and I think just as we pass different ordinances whether it be the TVR ordinance or whatever, we never look at the property tax implication and in this situation I think they are, there's a great concern. Even my next-door neighbor here to the left, Mr. Pontanilla, was looking at that and said oh, wow, look at this, a great discrepancy in what has being reported by the Association and what our Property Tax Division is getting. So as a side issue I was wanting to talk to the Property Tax Division--I don't see this as being something that we have to rush through--to ask them if someone is volunteering that these are truly the units, then perhaps we need to look at how the taxes specifically, specifically for this property is being, is being assessed and someone is not telling the truth. So that was something that I had hoped that we can generate from this meeting, maybe at the next juncture. And I ask the Planning staff perhaps why again the, the zoning would not be Hotel?

MR. PRUTCH: If you look at the conditional plan, the community plan is Multi-Family Residential. And it's Multi-Family Residential, and I don't have the map with me, but I believe it's Multi-Family Residential for a few of the parcels on either side of this one as well. So to change the zoning and to change the community plan amendment for this one particular lot

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would be spot zoning just one specific spot. The other thing as well at least with this application for the concierge service is, is that the Kauhale Makai was built '76. Back then you were allowed vacation rental units, and then the Code was changed I believe to allow or A-2 was changed to prohibit TVRs. At that time these guys were grandfathered in because they were doing vacation rental units prior to the change, so it just continued on. So at this stage the actual vacation rental units themselves are okay as a grandfathered in use. So for the concierge service I guess that when this came in a few years ago our thought was it's only the concierge service since it's not an allowed use in the A-2 District, even though the vacation rentals are, we went forward with the idea of well, you're gonna have to go in for a Conditional Permit to at least be able to establish that type of use, which is a use I guess they had been doing on the property for some, the 25, 30 years before this anyways.

COUNCILMEMBER NISHIKI: And, Madam Chairman, I just want to read from the zoning, Apartment Zoning District. It says...A., Multiple-family apartment districts are generally established outside of the high density core of the central portion of a town. It is applicable to areas where multi-family, family units are indicated; yet, the areas have not reached a transitional stage wherein public, semi-public institutional and other uses are desirable. B., Apartment districts shall consist of two types: A-1 apartment district and A-2 apartment district. C., Buildings and structures within the apartment district shall be occupied on a long-term residential basis. So here goes, the use here in which...

CHAIR BAISA: Mr. Nishiki?

COUNCILMEMBER NISHIKI: Yeah.

CHAIR BAISA: If you don't mind.

COUNCILMEMBER NISHIKI: Okay.

CHAIR BAISA: I really feel that the issue of the taxation and how this is zoned or whatever is probably an issue for another day, and we really need to look at it because if there are tax implications, we probably should be looking at this. I would really appreciate it today if we could make a decision on the decision to give them the concierge concession or not.

COUNCILMEMBER NISHIKI: Yeah.

CHAIR BAISA: But I have no problem with looking at what you're bringing up because it's a very important issue. But I don't know if we need to do it now.

COUNCILMEMBER NISHIKI: That's fine.

CHAIR BAISA: If you don't mind.

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COUNCILMEMBER NISHIKI: No, I don't mind.

CHAIR BAISA: Thank you very much.

COUNCILMEMBER NISHIKI: You're welcome.

CHAIR BAISA: Is there--Mr. Pontanilla?

COUNCILMEMBER PONTANILLA: Thank you, Chairman. The Planning Department is correct, you know, back in the late '70s early '80s when all of these condos and apartments, you know, starting to sprout out, you know, they utilize a lot of the units as hotels, and that's the reason why for this Conditional Permit extending to five years. But Mr. Nishiki brings up a pretty good point and hopefully the Finance Director is listening so that--I don't know if the Planning Department can work with the Finance Department because, you know, like you guys say, we do have a lot of condo apartments that are being run as hotels and we should be taking a look at that, especially on the TVR side and the timeshare side. So, you know, like you say, it's gonna be another time, you know, in the future. But hopefully, the Planning Department can communicate with the Finance Department in regards to, you know, Conditional Permits, you know, similar to this particular one that we're facing, that they be involved in the approval process also. Thank you.

CHAIR BAISA: Thank you, Mr. Pontanilla. I think it would be a very worthy thing, Mr. Nishiki, if you were to create a letter --

COUNCILMEMBER NISHIKI: Yeah.

CHAIR BAISA: --bringing this up as an item, and that way we can follow-up on it, in the proper committee, whoever's job it is to look at this kind of situation 'cause, you know, it's relevant. We're gonna be facing really tough real property tax situations. So where we are aware of things that should be looked at, we should look and not just look at this one, maybe there's a whole bunch of 'em.

COUNCILMEMBER NISHIKI: Yeah. Yeah. Thank you, Madam Chairman.

CHAIR BAISA: And thank you, Mr. Nishiki, you know, this is what we're doing here, we're trying to get collective wisdom. Thank you. I wanted one more condition. If you would please look at No. 6 before we're done with these conditions. That one is the same kind of thing and it talks about "That the concierge desk shall provide services only to guests of the Kauhale Makai". We're wondering if we should say "guests and occupants" like we have in No. 11. Mr. Prutch, what do you think?

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MR. PRUTCH: Yeah.

CHAIR BAISA: Is that the intent? We were not at this meeting so --

MR. PRUTCH: Yes. I, I, I...

CHAIR BAISA: --we don't know.

MR. PRUTCH: I don't think it would hurt to have occupants/guests. I guess the assumption was that the occupants themselves to be meaning owners or long term are probably not going to use the concierge services as much as the guests would be using it, but there's no harm in having both. I would think that makes sense.

CHAIR BAISA: Okay. Members, any comments? If not, the Chair will entertain a motion to correct the condition to include "occupants".

COUNCILMEMBER VICTORINO: So moved.

COUNCILMEMBER PONTANILLA: Second.

CHAIR BAISA: Thank you very much. We have a motion by Member Victorino and seconded by Mr. Pontanilla to change this condition to read, "That the concierge desk shall provide services *only* to occupants/guests of the Kauhale Makai". Any discussion?

COUNCILMEMBER VICTORINO: Madam Chair?

CHAIR BAISA: All those in--yes.

COUNCILMEMBER VICTORINO: Before we do that, and if I...can we just make it concurrent with the last one and just basically say "That the concierge desk shall be restricted to services *only* to guests and occupants of Kauhale Makai"? Just make it consistent.

CHAIR BAISA: Who made that motion.

COUNCILMEMBER VICTORINO: Actually, I moved.

CHAIR BAISA: Okay.

COUNCILMEMBER VICTORINO: So could I withdraw my motion and, and...

CHAIR BAISA: If you would please and, and restate it.

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COUNCILMEMBER VICTORINO: Yeah. And so it'd be basically "That the concierge desk shall be restricted to provide service *only* to the guests and occupants of Kauhale Makai".

COUNCILMEMBER PONTANILLA: Second.

COUNCILMEMBER VICTORINO: And...

CHAIR BAISA: Okay.

COUNCILMEMBER VICTORINO: And my rationale is just to be consistent with No. 11 and then that won't, you know, won't be anything different.

CHAIR BAISA: Everybody okay with that?

COUNCIL MEMBERS VOICED AGREEMENT.

CHAIR BAISA: If not, all those in favor, say "aye".

COUNCIL MEMBERS VOICED AYE.

CHAIR BAISA: Opposed, "no"?

VOTE: AYES: Councilmembers Kaho'ohalahala, Mateo, Nishiki, Pontanilla, and Victorino, and Vice-Chair Molina, and Chair Baisa.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Johnson and Medeiros.

MOTION CARRIED.

ACTION: AMEND CONDITION NO. 6.

CHAIR BAISA: Motion carries. We have seven "ayes" and two Members excused—Member Johnson and Member Medeiros. Those are all of the changes that the Chair has, would like to

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discuss. Members, anything else that you'd like to bring up in regards to the conditions? Seeing nobody raising their hand...

VICE-CHAIR MOLINA: Recommendation?

COUNCILMEMBER VICTORINO: Recommendations?

CHAIR BAISA: The Chair will be more than happy to make a recommendation, if she can find the paper. . . .*(chuckle)* . . .

COUNCILMEMBER VICTORINO: It's been a long afternoon, Madam Chair.

COUNCILMEMBER NISHIKI: A long day.

CHAIR BAISA: It's been a very long afternoon.

COUNCILMEMBER VICTORINO: Long day, I should say.

CHAIR BAISA: Okay. Members, the Chair will first entertain a motion to recommend passage on first reading of the proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING THE ASSOCIATION OF APARTMENT OWNERS OF KAHALE MAKAI A CONDITIONAL PERMIT FOR THE OPERATION OF CONCIERGE SERVICES IN AN EXISTING LOBBY OF KAHALE MAKAI (VILLAGE BY THE SEA) CONDOMINIUM COMPLEX WITHIN THE COUNTY A-2 APARTMENT DISTRICT FOR PROPERTY SITUATED AT KIHEI, MAUI", incorporating any amendments made at today's meeting, and to file County Communication No. 09-180.

VICE-CHAIR MOLINA: Madam Chair, I move to approve "A BILL FOR AN ORDINANCE GRANTING THE ASSOCIATION OF APARTMENT OWNERS OF KAHALE MAKAI A CONDITIONAL PERMIT FOR THE OPERATION OF CONCIERGE SERVICES IN AN EXISTING LOBBY OF KAHALE MAKAI (VILLAGE BY THE SEA) CONDOMINIUM COMPLEX WITHIN THE COUNTY A-2 APARTMENT DISTRICT FOR PROPERTY SITUATED AT KIHEI, MAUI, HAWAII".

COUNCILMEMBER VICTORINO: Madam Chair, I second that motion.

CHAIR BAISA: Thank you very much. I have a motion made by Mister—I'm sorry.

COUNCILMEMBER VICTORINO: Yeah.

CHAIR BAISA: Oh.

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COUNCILMEMBER VICTORINO: Yeah.

CHAIR BAISA: Did you remember --

COUNCILMEMBER VICTORINO: Yes, amended.

CHAIR BAISA: --about the amendments?

VICE-CHAIR MOLINA: Yes, as amended. Thank you, Madam Chair.

CHAIR BAISA: And to file?

VICE-CHAIR MOLINA: Which includes the filing of the communication, Madam Chair.

CHAIR BAISA: Thank you very much.

COUNCILMEMBER VICTORINO: Yeah, I second the motion.

CHAIR BAISA: We have a motion made by Member Molina, seconded by Member Victorino. The Chair will restate this long motion so that we're sure we know what we're doing. A bill, we're going to recommend passage on first reading of the proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING THE ASSOCIATION OF APARTMENT OWNERS OF KAUHALE MAKAI A CONDITIONAL PERMIT FOR THE OPERATION OF CONCIERGE SERVICES IN AN EXISTING LOBBY OF KAUHALE MAKAI (VILLAGE BY THE SEA) CONDOMINIUM COMPLEX WITHIN THE COUNTY A-2 APARTMENT DISTRICT FOR PROPERTY SITUATED AT KIHEI, MAUI, HAWAII", incorporating any amendments made at today's meeting, and to file County Communication No. 09-180. Is there any discussion?

COUNCILMEMBER VICTORINO: None.

CHAIR BAISA: All those in favor, please say "aye".

COUNCIL MEMBERS VOICED AYE.

CHAIR BAISA: Opposed, "no"?

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VOTE: **AYES:** **Councilmembers Kaho`ohalahala, Mateo, Nishiki, Pontanilla, and Victorino, and Vice-Chair Molina, and Chair Baisa.**

NOES: **None.**

ABSTAIN: **None.**

ABSENT: **None.**

EXC.: **Councilmember Johnson and Medeiros.**

MOTION CARRIED.

ACTION: FIRST READING OF REVISED BILL AND FILING OF COMMUNICATION.

CHAIR BAISA: Motion carries. Mark it seven “ayes”; two excused—Member Johnson and Member Medeiros. Chair would also ask if you would please allow the Chair to make technical or nonsubstantive revisions to the bill as needed.

COUNCIL MEMBERS VOICED NO OBJECTIONS. (DM, SK, WN, JP, MV, MM, GB)

ACTION: ALLOW NONSUBSTANTIVE REVISIONS.

CHAIR BAISA: Thank you very much. Members, that completes our agenda work for today. Chair would like to thank everyone for their hard work. It’s been a very challenging afternoon, and again we will be contacting you in setting up that site visit, and I hope that you’re all ready for an early morning, maybe a Komoda donut when you’re done.

COUNCIL MEMBERS: Oh, yeah.

VICE-CHAIR MOLINA: Hanzawa. . . .*(chuckle)*. . .

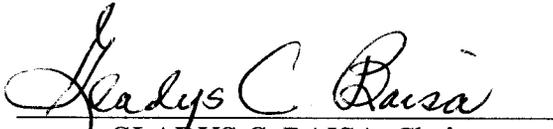
CHAIR BAISA: I know I could get you Upcountry. I’d like to thank the Staff and I’d like to thank the folks from Administration, all the testifiers and everyone who came today to help this Committee do its work. The meeting is now adjourned. . . .*(gavel)* . . .

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ADJOURN: 4:15 p.m.

APPROVED BY:

A handwritten signature in cursive script, reading "Gladys C. Baisa", is written over a horizontal line.

GLADYS C. BAISA, Chair
Land Use Committee

lu:min:091014

Transcribed by: Chante Diaz

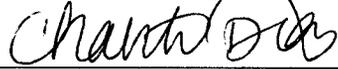
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CERTIFICATE

I, Chante Diaz, hereby certify that 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 this 6th day of November 2009, in Wailuku, Hawaii.



CHANTE DIAZ