

LAND USE COMMITTEE
Council of the County of Maui

MINUTES

Council Chamber

November 23, 2009

RECONVENE: 9:02 a.m.

PRESENT: Councilmember Gladys C. Baisa, Chair
Councilmember Michael J. Molina, Vice-Chair
Councilmember Jo Anne Johnson, Member
Councilmember Sol P. Kaho`ohalahala, Member
Councilmember Danny A. Mateo, Member
Councilmember Bill Kauakea Medeiros, Member
Councilmember Wayne K. Nishiki, Member
Councilmember Joseph Pontanilla, Member

EXCUSED: Councilmember Jo Anne Johnson, Member
Councilmember Michael P. Victorino, Member

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

Kelly McGinnis, Executive Assistant to Councilmember Pontanilla

ADMIN.: James Giroux, Deputy Corporation Counsel, Department of the
Corporation Counsel
Paul Fasi, Planner, Department of Planning
Jeff Hunt, Director, Department of Planning
Erin Wade, Planner, Department of Planning

OTHERS: Will Spence, The William Spence Company
Jim Niess, Maui Architectural Group
Jocelyn Perreira, Wailuku Main Street Association Executive
Director/Tri-Isle Main Street Resource Center Coordinator
Leo Caires
Bobby Caires
Carrie Ann Shirota
Dana Naone Hall
Sandy Daniells
Plus (9) other people

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PRESS: *Akaku Maui Community Television, Inc.*
 Harry Eager, The Maui News

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: . . . (*gavel*) . . . Will the meeting of the Land Use Committee please come to order. Members, today is November 23rd and we are resuming the adjourned meeting, no, I'm sorry, the recessed meeting of November 18th, and it is just a few minutes after nine. And the Chair would like to welcome all of you this morning and thank the Members very much for being here early and everyone else who is here on a Monday morning. Thank you very, very much. Chair would like to note that there is a quorum present and the Chair, again, would like to ask everyone in the room if you would please disable your cell phone ringers or any other noise making devices that you have. This morning we have with us voting members of the Committee. We have my Vice-Chair, Michael Molina.

VICE-CHAIR MOLINA: Good morning, Madam Chair.

CHAIR BAISA: We have with us Chair of the Council, Danny Mateo.

COUNCILMEMBER MATEO: Good morning, Madam Chair.

CHAIR BAISA: Good morning. We also have with us Sol Kaho`ohalahala.

COUNCILMEMBER KAHO`OHALAHALA: Good morning.

CHAIR BAISA: We have Member Bill Medeiros.

COUNCILMEMBER MEDEIROS: Aloha and good morning, Madam Chair.

CHAIR BAISA: Good morning. We also have Member Wayne Nishiki.

COUNCILMEMBER NISHIKI: Morning.

CHAIR BAISA: Good morning. And Member Joe Pontanilla.

COUNCILMEMBER PONTANILLA: Good morning.

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CHAIR BAISA: Excused this morning Member Jo Anne Johnson who will be joining us later in the morning, and Michael Victorino. From the Department of the Corporation Counsel, we have our Deputy Corporation Counsel, James Giroux.

MR. GIROUX: Good morning, Madam Chair.

CHAIR BAISA: Good morning. And we also have from the Planning Department this morning, we have Jeff Hunt, the Planning Director.

MR. HUNT: Good morning, Chair.

CHAIR BAISA: Good morning. And we also have Paul Fasi, Planner, from the Department of Planning.

MR. FASI: Good morning, Chair.

CHAIR BAISA: And we also have with us, Erin Wade, the Small Town Planner.

MS. WADE: Good morning.

CHAIR BAISA: Good morning and nice to see you.

MS. WADE: Me too, thank you.

CHAIR BAISA: And with me I also have applicant representatives . . . should be here any time. We also have with us my Committee Staff, Pauline Martins, she is my Committee Secretary; and I also have Carla Nakata, our Legislative Attorney. Members, we would like to resume, of course, discussing the matter that we were discussing before we adjourned. We have before us, of course, the matter of the Land Use 22, which is a District Boundary Amendment and Change in Zoning for Hanzawa's Variety Store and adjacent property in Haiku. Members, over the weekend the Committee received a flurry of testimony concerning the application and the compromise proposal that was offered on Wednesday by the applicants. At the last meeting, the Members had invited comments from the neighbors concerning the scaled down proposal that was being offered. Written testimony has been received which neither the applicants nor this body has had an opportunity to review. The applicants have also submitted additional information, including a rough site plan reflecting the proposed project. Because some of the Committee members have expressed a strong desire to receive additional public testimony, and due to the very recent receipt of additional information that the Chair would like the Committee members to have time to fully consider, including myself, I didn't receive any of these proposals until 6:43 this morning because my Blackberry was on or I wouldn't have seen it until now, the Chair would like to recommend deferral of this matter -- absent objection. The Chair

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is open, however, to considering alternative recommendations at this time. What is the body's pleasure? Mr. Mateo?

COUNCILMEMBER MATEO: Chairman, uh, Madam Chair, thank you very much and I can support the Chairman's recommendation for a deferral of this particular item. And, obviously, in the list of communications that we have been receiving there is also a proposed consideration by the ohana who has been in opposition to the project, and perhaps the consideration of their proposal as well is something that we can digest during our period off as well as looking at the new concept that has been recently submitted for our consideration. So there still are any number of scenarios that could be available to the body at this point up until the time we reconvene, Madam Chair.

CHAIR BAISA: Thank you, Mr. Mateo. The Chair shares your sentiments. I don't think it's a really productive thing to sit here and we haven't had time to really look at all of the proposals, and neither have the parties involved had time to digest or re-evaluate or even put dollars on any of the proposals before us. Vice-Chair, did I see your hand?

VICE-CHAIR MOLINA: Yeah, Madam Chair. So your recommendation you're open to deferring this then we're not going to basically go into discussion and consider any decision making based on the fact that the new design or compromise has not been fully studied? I'm just trying to understand.

CHAIR BAISA: You're absolutely correct.

VICE-CHAIR MOLINA: Okay.

CHAIR BAISA: For today we would be deferring this until some other date when we can put it on the calendar.

VICE-CHAIR MOLINA: Okay. There were some issues brought up on Monday, and I noticed that you have another individual from the Planning Department that wanted to provide additional clarification. Could we at least have that opportunity to question and find out what's . . . maybe I guess . . . it might be an opportunity to I guess substantiate what was said at the previous meeting because we have this individual here I guess, Ms. Wade, and I sort of would like to get some questions answered based on what was said at the testimony. So I would at least like that opportunity, since she's here and at least, you know, for me anyway as the area representative.

CHAIR BAISA: Okay. We'll see what the rest of the Members think. Member Kaho`ohalahala?

COUNCILMEMBER KAHO`OHALAHALA: Thank you, Chair, just a matter of clarification. When we recessed this meeting there was a motion on the floor, we were in discussions. So at this

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time and the reconvening of the recess I just need to know how we're going to proceed with the motion that is currently before us.

CHAIR BAISA: Mr. Kaho`ohalahala, it's the Chair's intent that we would ask you to withdraw that motion if you would not mind because it needs so much more clarification.

COUNCILMEMBER KAHO`OHALAHALA: Okay. And at the removal of that motion then you will be deferring this matter then?

CHAIR BAISA: Yes.

COUNCILMEMBER KAHO`OHALAHALA: So there will be no more discussion today?

CHAIR BAISA: Unless that's what the Members want to do and we already have a request from Vice-Chair Molina.

COUNCILMEMBER KAHO`OHALAHALA: Okay. Otherwise, the discussion should be focused around the motion that's currently before us then.

CHAIR BAISA: Correct.

COUNCILMEMBER KAHO`OHALAHALA: Okay.

COUNCILMEMBER NISHIKI: You're going to withdraw?

COUNCILMEMBER KAHO`OHALAHALA: . . . *(inaudible)* . . .

COUNCILMEMBER NISHIKI: Jo Anne.

COUNCILMEMBER KAHO`OHALAHALA: How do you do that?

CHAIR BAISA: Um . . . Ms. Nakata, can . . . or Mr. Giroux maybe can you help us? If we take this motion off the table, do we need the seconder to take it off? Ms. Johnson is the seconder; she's not here.

MR. GIROUX: Madam Chair, my understanding is that a second was made and that the Chair had received it so it's up to the body to . . . it's in the hands of the body.

CHAIR BAISA: Right.

MR. GIROUX: So it's actually for the body to allow for the withdrawal. So if there's a motion to withdraw, then the body can just take a vote to do that.

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CHAIR BAISA: So we need a motion from somebody to withdraw the motion?

MR. GIROUX: Yeah, the maker.

CHAIR BAISA: Not . . . the maker?

MR. GIROUX: Yeah.

CHAIR BAISA: Oh, okay. But it doesn't necessarily have to have the seconder to do that? It made the original motion.

MR. GIROUX: Yes.

CHAIR BAISA: We need that?

MR. GIROUX: Um, no, no.

CHAIR BAISA: Okay. Okay. Are we clear?

COUNCILMEMBER NISHIKI: Yes.

COUNCILMEMBER KAHO`OHALAHALA: Madam Chair, then I will withdraw my motion.

COUNCILMEMBER NISHIKI: Second.

CHAIR BAISA: Thank you very much. We have a motion to withdraw the motion. Any objections from anybody? If not, all those in favor, please say aye.

COUNCIL MEMBERS: Aye.

CHAIR BAISA: We have seven ayes. All those opposed?

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

NOES: **None.**

ABSTAIN: **None.**

ABSENT: **None.**

EXC.: **Councilmembers Johnson and Victorino.**

MOTION CARRIED.

ACTION: **WITHDRAW previous motion made at the November 18, 2009 meeting**

CHAIR BAISA: So it's unanimous and the motion is withdrawn. Okay. Mr. Medeiros?

COUNCILMEMBER MEDEIROS: Mahalo, Madam Chair.

CHAIR BAISA: I'm going to go right down the row here.

COUNCILMEMBER MEDEIROS: Yeah. And I support your recommendation just because it will give us time to digest all the new information. And like you, I was up early this morning going through my e-mail and trying to figure out things. But I share the same sentiments as Council Chair Mateo. I think we need time to look at both contributions from those that have concerns about the application and from the applicant themselves. So I would support your recommendation for deferral. Mahalo.

CHAIR BAISA: Thank you. Member Nishiki?

COUNCILMEMBER NISHIKI: Thank you. I'm going to support your motion also, Madam Chair. You know, during this whole process I just want to thank you because your handling of this quite sensitive matter and I'm sure that it's been very stressful. But I think that it has been fair and objective. When you mentioned today the fact that this compromise before us that we just received, I think a lot of us need to digest this. I think even the applicant would need to look at this and the Planning Department also. Why it's a lot different is again because of this 40 percent rule and I believe that that rule was here just because you've got neighboring residents there that have protested. And I think that there needs to be a little more sensitivity towards it otherwise that rule wouldn't be there. We need to consider those residents that live within that

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500 feet parameter. And because of this, I would hope that no discussion would take place until another day so that questions that may be generated from what we've been provided for maybe we can get a clearer answer from the applicant to see if maybe there would be a compromise in store for us. I would hope, Madam Chairman, that Will would meet with the area residents that have some concern and make it easy on use for a compromise. I just feel a bit concerned because of the . . . *(sighed)* . . . I guess the events that have happened when I read this morning about a TRO being served. It's quite serious and so, you know, cool down people and please, Mr. Spence, try to meet with the area residents. I think this would be very nice. And I thank you for your suggestion, Madam Chairman. You are to be commended for this quite heavy issue that you are chairing right now. So, again, deferral.

CHAIR BAISA: Thank you, Mr. Nishiki. Mr. Pontanilla?

COUNCILMEMBER PONTANILLA: Thank you, Chairman. I will be supporting your recommendation of deferral of this particular item. As most of the Members have already spoken, you know, we received new materials that we need to review. Also, the Planning Department need to review, and this is a very sensitive matter that is before this Council. I haven't seen anything like this other than a subdivision for affordable housing seven years ago that everybody was so passionate about. So, I'm going to be supporting your recommendation. Thank you.

CHAIR BAISA: Thank you, Mr. Pontanilla. Mr. Kaho`ohalahala, I'm sorry we got off on taking care of the motion and we did not get your manao.

COUNCILMEMBER KAHO`OHALAHALA: No, that's fine, Madam Chair. I just think that as a matter of process I was just trying to make sure that we began and we began with a motion based on the fact that this body had asked the applicant for a compromise.

CHAIR BAISA: Correct.

COUNCILMEMBER KAHO`OHALAHALA: And so what was placed on the floor was a compromise and I thought it was appropriate to discuss it properly. We'd make a motion and that's what, in effect, happened.

CHAIR BAISA: Right.

COUNCILMEMBER KAHO`OHALAHALA: But at this time, that's been withdrawn. I have no problems with that. I think if we're going to defer the matter then we should defer it all together rather than adding further discussion to this and give the Committee a chance to review all of the materials before we go into further discussions. So, that's my thoughts.

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CHAIR BAISA: Thank you very much. Member Molina, you've heard the comments of your colleagues. I'd like some feedback from you.

VICE-CHAIR MOLINA: Yeah, thank you, Madam Chair, and thank you for extending me this privilege as the area representative.

CHAIR BAISA: You are our area representative.

VICE-CHAIR MOLINA: And since you've seen from the last meeting there was this, um, . . . you know, seemed like everybody was enthused to have this discussion here on Monday. And initially, I had told the Committee that I wasn't going to be here but I had obviously had a change of heart and I felt it important to be here. And it appears that this meeting is going to end after only ten minutes. And there was mention on the floor about a TRO being filed against someone. I won't get into details but the thing is we need to leave the personal stuff out of this matter. Let's look at the project. Leave out the personal issue because obviously it's become very, very personal as we saw in *The Maui News* on Saturday. So, let's leave the personal stuff out. And if Members are uncomfortable about discussing today, well so be it. I'll support your recommendation for deferral but I am disappointed to hear that Members not wanting to at least continue the discussion, you know, because this has become such a firecracker, if you will, in my district. And I was just reflecting the other day about the North Shore and some of these markets that have gone out of business, we've all talked about keeping the Hanzawa Store alive. Just in Paia alone, look at the markets that went out of business -- Bersamins, Paia General Store, Horiuchi Market, and Nagatas. Is this what we want for Maui? I hope not. You know we've all talked, all of us, well I'll say for myself, we've talked to citizens out on the street. When we go to our campaign forums and when that issue comes up about small business we'll all say, yeah, you know. So our feet is being held to the fire as Council Members. We better darn well show our support. Put our money where our mouth is when it comes to supporting small business, Madam Chair. So and I did want to . . . you know, I did mention that Ms. Wade is here. She was brought here for a purpose and if anything else, Madam Chair, at least if we could hear from Ms. Wade. I'm guessing maybe it may be in response to what was said at the meeting last week. I would at least like to hear what she has to say, why she was brought here to maybe add some clarification to what was said. So, anyway, those are my thoughts. And you know there was also the issue of the A & B development that if Hanzawa gets this, A & B is going to develop. We did receive an e-mail from an A & B official stating that it wasn't. So I'm just interested in getting things clarified here. There's been a lot of hearsay, maybe speculation, maybe misinformation going out in the community. We need to put a stop to this, Madam Chair. So, anyway, I just ask for your consideration at least to hear from Ms. Wade. Thank you.

CHAIR BAISA: The Chair totally understands the seriousness of this matter and the need to resolve it. You know, I'm not enjoying this any more than anybody else is. This is a very difficult issue and obviously one that means a lot to this community. What the Chair would like to ask the

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Members is this. I would like to respect the wishes of the area representative. But if we are going to have a discussion, that it be limited only to listening to what Ms. Wade has to present, and after that we will have the deferral. Are we okay with that, Members? Mike?

VICE-CHAIR MOLINA: Yeah.

CHAIR BAISA: Mr. Mateo? Mr. Mateo, yeah, I'd like to do that because otherwise we're going to go on and on and there would be no point in the deferral. One of the other things that the Chair would like to do in doing the deferral, we have had several Members make the request that they would like to have the community testify in regards to the new proposal. We cannot allow that at a recess meeting today. So, Members, that's another big factor for the Chair. So, with your permission, the Chair would like to have Member Molina discuss, and we will only discuss what Ms. Wade came prepared to discuss today and then we will go into the deferral. Is that okay? Mr. Pontanilla?

COUNCILMEMBER PONTANILLA: Um, thank you. Before Member Molina asks Ms. Wade questions about this particular issue, if Ms. Wade can provide us with some information in regards to her responsibility as the small town, I guess, expert for Maui County. Thank you.

CHAIR BAISA: Absolutely. The Chair has no problem with that and we certainly are very grateful for her being here this morning. You know, we hate to do this because we understand that people are . . . it's difficult to get here and it's everybody's time on the dime but if we're looking for the best, fairest outcome, I think this is the best way to go. So, Mr. Molina, you want to pose a question to Ms. Wade?

VICE-CHAIR MOLINA: Well, Madam Chair, first I'd like to like my colleague said, Mr. Pontanilla, I'd like her to give us an overview and from that point on . . .

CHAIR BAISA: Okay. Before we begin, the Chair would also like to note the presence of Mr. Will Spence on behalf of the applicants. Okay, Ms. Wade, thank you very much for being here this morning.

MS. WADE: Thank you, Madam Chair. My name is Erin Wade. I'm the Small Town Planner. I am on staff with Maui County. I work with Paul Fasi, who is the Staff Planner for this particular project, and I also work collaboratively with the small town expert at the Wailuku Main Street Association. In given the testimony from last week related to the project, I was asked several questions following the meeting about growth within the area and the community plan. And over the weekend, and like you, I was also rushed to produce some information. I do have some figures for you and I have something to give you to consider an addition to the information you've been provided. But an evaluation was done within a one mile radius of the store and growth patterns were analyzed for the number of housing units developed from 1920 to 2007, which is our most recent real property tax information. And I can provide to you this,

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there's two charts along with a supplementary table, which I will give to you for your evaluation during your recess. But in short, the real crux of the matter was from 1915 when Hanzawa Store was opened there were only a handful of homes within a one mile radius. And .

..

CHAIR BAISA: Excuse me, Ms. Wade. I think we better set the record correct. We are not going to recess, we are going to adjourn and defer this matter.

MS. WADE: Thank you for that correction. Each decade between 1920 and 1960 another 10 or 12 homes were built within that mile radius. In the '70s, the standard 10 homes a decade jumped to around 150 homes a decade. Today, the real property tax information shows nearly 550 homes within a one mile radius of the store. This is not to say that the one mile radius is the only service area for the store but it does provide some indication of the amount of growth that has occurred within the area. In addition, we took a look at some of the community plan statements relating to small town development and commercial business and I have a summary of those that I can provide you. I just have them today for my notes but I can provide them to the Committee in a form of a summarized staff report also.

CHAIR BAISA: Thank you very much. So that's your statement and you will be providing that to us in writing for the Committee members.

MS. WADE: I'd be happy to do that.

CHAIR BAISA: Thank you very much. Member Molina?

VICE-CHAIR MOLINA: Thank you very much, Madam Chair, and I certainly appreciate you allowing Ms. Wade to speak because I would have hated to because a majority of us want to basically end discussion on this for today, you brought her here for a purpose and I certainly appreciate what she has to say to add further clarification to this particular matter as it relates to the Hanzawa proposal. So, let me ask you, Ms. Wade, as our small town planner and as it relates to just the whole region of Haiku itself, so Haiku is now on par growth-wise since that was the topic that you mentioned, are we the fastest . . . is Haiku the fastest growing region on the island now or is it still South Maui? I mean, where does Haiku fit in, in terms of growth?

MS. WADE: In the General Plan Update that is occurring right now and simultaneously, the reality is there are a whole lot, there's a whole lot of construction in the Haiku area that is unpermitted. So we can't make a confirmation about which is the fastest growing. The most permitted area is still the South Maui area but certainly the amount of homes going up in Haiku continues to be very dramatic.

VICE-CHAIR MOLINA: Uh-huh. And from a small town perspective, this application that Hanzawa is putting out there, you know, being that you're the small town person from Maui, is it

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appropriate, I mean, well, it must be I guess since the Department has taken I guess a somewhat supporter stance on it. Is there anything you want to elaborate on that part? I mean, does it fit the term "smart growth" with what they're trying to do here?

MS. WADE: I think there are two issues to consider related to smart growth and one is the immediate impact on the neighborhood and primarily that can be resolved through design . . . designing a store and a serviced area because it is a central node within that community, that it is in character with the surrounding area, that the store is designed with an aesthetic that matches the existing store and sort of pays honor to the birth of Hanzawa's itself in that time and that era, which we feel as the Planning Department that their proposal did that very well. The second is, for the region and the impact from smart growth perspective how this particular establishment would affect the overall region. The reality is, the Hanzawas is used as a super market and now that day-to-day things have changed significantly within that area because it used to be an agricultural area primarily. There were a lot of people that were very self-sufficient and they had very minimal daily needs. They met a lot of their own needs themselves. Now that Haiku has expanded, there's a different demographic living in that area, there's not necessarily a lot of self-sufficient agriculture occurring any more, people need to purchase the majority of their daily needs and will need to drive to get those needs met. At this point, if Hanzawa is unable to provide for daily needs in that area, that means the people living in the region are driving somewhere. Some of those needs may be met at Haiku Cannery but for the deeper Haiku area it's equal distance from the deep Haiku area to Haiku Cannery as it is up to Pukalani. So if even go to the Google maps and you can use the measuring tool, it's just as far to go to the Superette as it would be to go to the Haiku Cannery Mall from deep Haiku. So, that means all the traffic is going through, you know, through Kokomo, Makawao, and Pukalani. So instead of just impacting the Haiku node that needs to be serviced, they're now affecting all the communities along the way.

VICE-CHAIR MOLINA: Thank you very much for that perspective, Ms. Wade, because if traffic increases in those areas, myself and my successors certainly are going to get a heck of a lot of calls from those communities. So this is why, Madam Chair, we need to help maintain the viability of Hanzawa Store because if they go out business then guess what, all that traffic is going to start going through your region, Madam Chair, Pukalani, Makawao, and so forth, and just another small business with a very wonderful family name going out of business; another strategy for Maui County in the area of small business. Thank you very much, Ms. Wade. Thank you, Madam Chair.

CHAIR BAISA: Thank you very much, Ms. Wade. And thank you, Mr. Molina. I think that this is a very good time for the Chair to adjourn the meeting. We will be deferring this matter. Chair would like to inform everyone who is involved with this that we will be picking this up at some point as soon as we're ready and the calendar allows. The Chair's intent is to bring this matter to closure. We are not going to defer this forever. It is just that I felt that there was too much new information this morning that had not been properly scrutinized and that everybody had

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not had a chance to really take a look at it. I'm not sure all of the Members have had the opportunity to even read it. I don't know that the applicant has had the opportunity to look at the proposal and that the neighborhood folks who have concerns have had the opportunity to really spend time looking at things. The Chair would respectfully beg you to try and get together and come together for some kind of a compromise so that we can come with a successful outcome for the community. And that's all I ask you. Please, please, please, leave the personal stuff outside the door and let's focus on the application before us. And with that, the Chair will declare this meeting adjourned. . . .(gavel) . . .

ACTION: DEFER.

ADJOURN: 9:30 a.m.

APPROVED BY:



MICHAEL J. MOLINA, Vice-Chair
Land Use Committee

lu:min:091123r

Transcribed by: Jo-Ann C. Sato