

**PLANNING COMMITTEE**  
Council of the County of Maui

**MINUTES**

**Council Chamber**

**March 14, 2013**

**CONVENE: 9:07 a.m.**

**PRESENT: VOTING MEMBERS:**

Councilmember Donald G. Couch, Jr., Chair  
Councilmember Michael P. Victorino, Vice-Chair (left at 11:44 p.m.)  
Councilmember Gladys C. Baisa (left at 11:51 p.m.)  
Councilmember Elle Cochran  
Councilmember Stacy Crivello  
Councilmember Mike White

**EXCUSED:** Councilmember Don S. Guzman

**STAFF:** Regina Gormley, Legislative Attorney  
Pauline Martins, Committee Secretary

Ella Alcon, Council Aide, Molokai Council Office (via telephone conference bridge)  
Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)  
Dawn Lono, Council Aide, Hana Council Office (via telephone conference bridge)

**ADMIN.:** Michael Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel  
William Spence, Director, Department of Planning  
Joseph Alueta, Administrative Planning Officer, Department of Planning

**OTHERS:** Thomas Croly

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

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**CHAIR COUCH:** ... (*gavel*) ... Will the Planning Committee meeting of March 14, 2013, please come to order? It's 9:07. Sorry we're a little late. Wanna tell everybody in the Chambers that to remind them to turn off their...silence or their ringers on their cell phones and make sure all your noisemaking devices are silenced. I wanna welcome our Committee voting Members today. First, Committee Vice-Chair Mike Victorino.

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VICE-CHAIR VICTORINO: Good morning, Chair.

CHAIR COUCH: Good morning. Council Chair Baisa is excused for now, she'll be here shortly. Elle Cochran.

COUNCILMEMBER COCHRAN: Good morning.

CHAIR COUCH: Good morning. Stacy Crivello.

COUNCILMEMBER CRIVELLO: Good morning, Chair.

CHAIR COUCH: Good morning. And excused for the moment are Don Guzman and Mike White. We have Administration. From the Administration, we have Will Spence, Planning Director.

MR. SPENCE: Good morning.

CHAIR COUCH: Good morning. Joe Alueta from the Planning Department. Good morning, Joe.

MR. ALUETA: Good morning.

CHAIR COUCH: Michael Hopper, Deputy Corporation Counsel.

MR. HOPPER: Good morning, Chair.

CHAIR COUCH: Good morning. Committee Staff, Legislative Attorney, Gina Gormley.

MS. GORMLEY: Good morning.

CHAIR COUCH: Good morning. And Committee Secretary, Pauline Martins. Good morning. All right Members, we're gonna continue and wanna acknowledge Mike White has joined us.

COUNCILMEMBER WHITE: Good morning, Chair.

CHAIR COUCH: Good morning. We're continuing to work on Items PC-5 which B-2 Community Business Districts, PC-6 which is B-1 Neighborhood Business District; PC-7 which is B-3 Central Business District, and PC-8 which is Business...B-R Business Resort Commercial District, and PC-24 Country Town Business Districts. We're gonna pick up where we left off last meeting. Assisting us this morning from the Hana District Office is Dawn Lono.

MS. LONO: Good morning, Chair. This is Dawn Lono in Hana.

CHAIR COUCH: Good morning. From the Lanai District Office is Denise Fernandez.

MS. FERNANDEZ: Good morning, Chair. This is Denise Fernandez at the Lanai Office.

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CHAIR COUCH: Good morning. And from Molokai District Office is Ella Alcon.

MS. ALCON: Good morning, Chair. This is Ella Alcon on Molokai.

CHAIR COUCH: Members, should you have any questions or need clarification from any of the testifiers, please speak directly into your microphone. This will help to ensure that the testifiers in the district offices will be able to clearly hear and understand your questions and comments. All right, we're about ready to start public testimony. For individuals who will be testifying in the Chamber we have one who has already signed up. So we don't have to deal with that portion. If you will be testifying from the remote testimony locations, please sign up with the Council Staff at that location, and please remember that we're only discussing what is on our agenda today. Pursuant to the Rules of the Council each testifier will be allowed to testify for up to three minutes per item with one minute to conclude if requested. We have a lighting system here in the Chamber. The light will stay green for three minutes and then go to yellow for one minute and when it goes to red, please finish your remarks immediately. When testifying please state your name and the name of organization you're representing. Members, without objection I will now proceed to have public testimony.

COUNCIL MEMBERS: No objections.

CHAIR COUCH: All right, thank you. First to testify in the Chamber is Thomas Croly.

MR. CROLY: Aloha, Chair. Aloha, Committee. I'm Thomas Croly. I'm speaking on behalf of the Maui Vacation Rental Association to specifically to the part of the bill that is adding transient vacation rentals up to eight bedrooms to these Business Districts. I just want to make it clear that this is not something that the Maui Vacation Rental Association had brought forward. We don't have any members who were looking for this or that have properties in the Business Districts that would be looking for this. And then just from a consumer standpoint, I'm not sure that that's necessarily the district that people visiting Maui are necessarily looking to stay in, but there may be places, exceptions. However, I do wanna make comment on some of the ambiguities that might be caused by this. This Committee defined what a bed and breakfast home is five years ago with the bed and breakfast ordinance. And last year, clearly defined what a short-term rental home is with the creation of the short-term rental ordinance. And as we know, each of these is distinct and they're distinctly different than a hotel as well. Now we're throwing into the mix here transient vacation rentals up to eight bedrooms and it brings up a whole bunch of new questions. Aren't all these transient vacation rentals? A short-term rental home is, a bed and breakfast is, and so forth. So when we bring this into play, does it then mean that someone with a residence in a Business District no longer can get a Bed and Breakfast Permit, because he would want to get that Bed and Breakfast Permit if that's his home? Would it mean that someone in a Business District would not be able to get a Short-Term Rental Permit, because that's defined as the same thing as a transient vacation rental and therefore that's allowed so you don't need a permit? We treat these things differently in our Tax Code, and because we treat these things differently in the Tax Code, we now have to consider what is the Real Property Tax

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Department going to think about this? If we define a use in the Business District of transient vacation rentals that then I would assume becomes the highest and best use in the Business District. So I would assume the interpretation then by the Department of Finance would be all properties in the Business District would be subject to Hotel Resort taxation since the highest and best use that they can make of their property now is transient vacation rental. That is interpreted as hotel use so there you go. So there's some ambiguities that are set up by this. I would argue that each of these uses is distinct and should be treated separately. Perhaps if we're going to add this use to the Business District, if there is a need to do that, there should be a permitting process like there is for short-term rentals and transient vacation rentals. And then each of those uses can be distinct, and if someone chooses to do those uses, they'll go through the permitting process necessary to establish that use. Okay, thank you.

CHAIR COUCH: Thank you, Mr. Croly. Members, any questions to the testifier? Seeing none, thank you, Mr. Croly. Let's go to the...let's go to Molokai District Office. Is there anybody waiting to testify?

MS. ALCON: There's no one here on Molokai waiting to testify.

CHAIR COUCH: Okay, thank you. Lanai District Office, is there anybody waiting to testify?

MS. FERNANDEZ: The Lanai Office has no one waiting to testify.

CHAIR COUCH: Hana Office, has anybody...is anybody there waiting to testify?

MS. LONO: The Hana Office has no one waiting to testify.

CHAIR COUCH: Okay, thank you, ladies, for hanging there with us. Members, since there's nobody else in the Chambers, and nobody in the remote offices waiting to testify, without objection I'll close public testimony.

COUNCIL MEMBERS: No objections.

CHAIR COUCH: Okay, thank you.

**PC-5        B-2 COMMUNITY BUSINESS DISTRICT (C.C. No. 11-83)**

**PC-6        B-1 NEIGHBORHOOD BUSINESS DISTRICT (C.C. No. 11-84)**

**PC-7        B-3 CENTRAL BUSINESS DISTRICT (C.C. No. 11-85)**

**PC-8        B-R RESORT COMMERCIAL DISTRICT (C.C. No. 11-104)**

**PC-24      COUNTRY TOWN BUSINESS DISTRICT (C.C. No. 11-229)**

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CHAIR COUCH: All right, Members, we have these five items on our agenda. We started discussion on these items on the meeting on February 28<sup>th</sup>. I would like to continue that discussion today. Again, we're gonna consider all five items together. We have our matrix here or your chart dated February 20, 2013. If you...we've been going through the first chart and we're on Page 3. We just left off with amusement and recreational activities. Does everybody have that page on their charts and are we ready to go? Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. I think it would be helpful if the...if either you or the Department could just provide a recap not just for us, but for the--

CHAIR COUCH: Right.

COUNCILMEMBER WHITE: --for the viewing public of what the discussions were and some of the items that we wanted further discussion on. I'm trying to pull it up in my memory and I'm having a really tough time. So...

CHAIR COUCH: Okay. Mr. Alueta or Mr. Spence, do you have any comments you'd like to make?

MR. ALUETA: Thank you, Mr. Chair. Yes at the...as they say, the last-bat, bat-time, and bat-channel that we all got together we were...we started out with a summary of all...with a purpose and intent of, I guess, all of the different Business Districts, why they came about, and why you basically have different business zoning and the limitation. Our intent again is primarily was to create a standardized table form as well to make it easier to understand not only for the uses, but also for the different development standards. This is part of our normal Title 19 update which you've all seen before. Where we're trying to create a purpose and intent for each one, what is going to be the permitted uses, what's gonna be considered the accessory uses for those different districts, what's gonna be considered special uses in those areas, and then you create...then the standard development or development table or standards that show for each of those districts. We've attempted to consolidate many of the alphabet uses and maybe some of the older uses into more generalized terms that currently exist such as general office or personal and business services. So we are trying to consolidate in those districts which have more of a broader commercial uses such as B-CT and B-2 which is your more, your broadest Commercial Districts we tried to insert those definitions and then tried to consolidate the 60 or to 70 uses that are alphabetically listed down to a more manageable number. And so we've also provided you a table that shows you all of those uses under the B-2 District where many of those specific uses are then consolidated down to a more general term such as general retail or general office, personal and business services or business services or eating and drinking establishments, those kind of things. But again, some of the new things that we're trying to accommodate besides a structural...besides a overall simplification of the structure and easier to use tables is we're trying to insert some of the things such as energy systems, small scale as an accessory use to the Business District. This allows for either net metering or grid tied systems. It makes it clear that you can do that within the Business District as an accessory use. We're also trying to accommodate HI5 or redemption centers as well as recycling, recycling collection facilities, not recycling centers 'cause that's an industrial use, but collection facilities we currently process

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either variances and/or Special Use Permits for some of those facilities. Again, those are the types of uses we're trying to encourage. Again, there are some minor additions. At the first meeting, so two meetings ago, when we first brought it to you, this body had asked is there any more? Can you do more as far as in the consolidation and comprehensive look at all the uses? You also requested a table and that's the table we're currently working from. We've provided you with five different tables. One is a generic one that covers all of the uses, and then during that whole process it was very enlightening for the Department to go back and do that, because we also found that we sometimes have the same use but some of the times it will be plural, sometimes it will be...it's the same thing, but just stated slightly different and we've tried to consolidate or make all of those same uses spelled the same way and say the same things where possible. And again, we've already gone through the all three planning commissions with their support on it, and hopefully we can make a step or a leap forward in the process and get this out of Committee. Thank you.

CHAIR COUCH: Thank you, Mr. Alueta. And I'd like to recognize the presence of Council Chair Baisa. Good morning.

COUNCILMEMBER BAISA: Good morning, Chair.

CHAIR COUCH: Okay, Members on your list, I know I did this, we're on Page 3. I put the headings up there just so we don't have to go back and forth. So column one of the white columns is B-CT which is business country town. Column two is B-1 which is neighborhood businesses. Column three is B-2 which is general commercial businesses. Column four is B-3 which is office, high rise, and dense uses. And column five is B-R business resort uses. Just so you don't have to keep flipping back and forth and this is on the major table, on the February 20<sup>th</sup>, and it's the matrix that we started on. All right, and we're down to on Page 3 to bed and breakfast homes. And Joe, you want to tell us what the...we, you know, we had some testimony today so can you kinda clear that up for us or the testifier?

MR. ALUETA: Sure. Yeah, B&Bs are allowed within the Business District within a single...existing...a legal single-family home. So if one was already built in the Business District they could apply for a Bed and Breakfast Permit if they choose to. Transient vacation rentals was actually the first definition. That is how we always defined visitor industry accommodations or hotels basically. A TVR is a hotel and regardless of the size. It's the duration in which someone stays. The bed and breakfasts came about and they wanted to be separate because how they say, someone pays you money to stay at your house, you're basically a mini hotel, but they wanted to parse that out and say, that's a B&B and say it's slightly different. So the definition was added for B&Bs as well as that it was separate and distinct from a transient vacation...from other transient vacation rentals therefore the whole B&B process came about. Later on people were doing transient vacation rentals in their homes or in the Agricultural District or other areas. They wanted to also to be parsed out from your resort hotels and be separated. So the term, "short-term rental" came about to separate it and that basically says that it's in a residential home--

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CHAIR COUCH: Single-family, yeah.

MR. ALUETA: --single-family home, and again, similar to a B&B in the sense that it's in a single-family home; so therefore, we created a new definition and a new permit process. Transient vacation rentals is just a hotel. Transient vacation rentals in a form of motels were always, were prior to the '80s, prior to the early '90s were always allowed in the Apartment, excuse me, in the Business Districts as well as in the Apartment Districts. So in '89 they amended the law. The last big hotel you could say or transient vacation rental that was built within the Business District I believe is...was the Haggai Institute or the one down on Lipoa Street. Very controversial at the time, but it was the last...it had gotten permits at the time to build that and they were legally established. Then again, the decade and a half of hotel is the new "F" word, you don't say it. Hotels are bad. You don't say it. So nobody wanted to call anything a hotel. There was no hotels built on this island for basically a decade or two. And so again, like I say, it was taken out of Business Districts, taken out of the Apartment Districts and for some, for very good reasons. Now we've come back full circle and saying hey, maybe in the Business Districts a small-scale hotel would be appropriate. You see that in the desire in...by the Airport District where you have a new hotel that originally was Industrial. It got changed so that they could build a business class hotel. You're seeing in Paia in the Business Districts they have a small mini hotel, the Paia Inn, very popular and business, I guess you could say business class hotels or people who are staying for work. Coming here for work or wanna be...the hotel is closer to their family and they don't wanna necessarily pay what a transient vacation or a short-term rental home will get, I mean, as far as the costs. Here in Wailuku, it's kinda the whole push that we had was that in the Wailuku area, in the Maui Redevelopment Area, hotels up to 20 rooms or transient vacation rooms up to 20 rooms are a permitted use. So if you have a single-family home or a business or a building and you wanted to convert to a hotel, no permits are required, just your building permit, up to 20 rooms you're allowed, and that's where it comes from. You see that with your Northshore Hostel, you see that with the Banana, Banana Bungalow, you see that with...and there's also quite a few down in Happy Valley that had been converted for your backpackers or even business class people. I used to have a property right in Wailuku. It was in the Business District and people were telling me I should convert it to do short-term because...and I was gonna call it, The Shark Shack because so many attorneys come from off-island and they wanted me to say, hey I need a place to stay, why don't you just have your house and I'll just rent that as a...and I guarantee you'll get a lot of clients because...and I think there is a market in certain areas. And so we see it in Paia, we see it in other areas, we just feel that it's a niche market that could be and we want to open it up in the Business District, because in all truth be told, the whole concept it's a commercial activity. Renting a home with TVR is a commercial activity. It should be in the Business District on a limited scale. You don't wanna push out all the businesses, but you feel that we wanna...we feel that it's an appropriate especially for small towns it's a good mixed use. And so that's the concept behind it. It is separate and distinct. It's basically what every other hotel, but just we're limiting it in the Business District to a smaller scale.

CHAIR COUCH: Okay, so right now a bed and breakfast by definition is a single-family home as well, is that correct?

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MR. ALUETA: That is correct.

CHAIR COUCH: And single-family homes at this point are no...new single-family homes aren't allowed in the Business District, B-1 and B-2?

MR. ALUETA: If you look at the B-2 and B-1 District, right, in the B-1 District, single-family homes are allowed--

UNIDENTIFIED SPEAKER: Really?

MR. ALUETA: --provided...if you read the definition, one single-family dwelling per lot; provided lot is sufficiently large to provide a lot area of 6,000 square feet for the dwelling after the area for the business, parking, and other accessory areas for the business has been subtracted; or living and sleeping quarters for a single-family constructed above the ground floor of the business building.

CHAIR COUCH: Okay.

MR. ALUETA: That's currently. So, and again, because of the pyramiding that we're trying to eliminate in this proposal, right, right now anything allowed in the B-1 District is also allowed in the B-2 District so you would get that same limitation. So and that's why if you look at bed and breakfast homes, we're saying yes. We're specifically saying yes as well as for the B-2 District. So it has to meet that single-family.

CHAIR COUCH: Okay. Members, any questions on that? Any concerns? So we're okay with what he has under bed and breakfast homes? Mr. White?

COUNCILMEMBER WHITE: The question I have is the same I had on earlier items where we have yes in Country Town but then we have nothing in the other categories, but it sounded to me in the discussion that we were applying it to all Business categories. So is the intent just to allow it in Country Town or is it to allow it in the other Business Districts as well?

CHAIR COUCH: Well, actually we're on the one above that. That says--

COUNCILMEMBER WHITE: Oh, I'm sorry.

CHAIR COUCH: That's all right. And Mr. Alueta, what's the difference? You know, he did mention, you know, you have it separated with Business Country Towns.

MR. ALUETA: Again, it has to be within a lawfully existing building.

CHAIR COUCH: But doesn't it have to be that way anyway?



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MR. ALUETA: We wanted to...because in the B-CT it was an existing nonconforming.

CHAIR COUCH: Okay.

MR. ALUETA: Single-family homes weren't allowed.

CHAIR COUCH: Okay.

MR. ALUETA: Okay, but we wanted to recognize that as long as...you may have built one prior to the law changing, but if it was existing, nonconforming you could still apply for the permit. But remember this is...we wanna allow it, but we're allowing transient vacation rentals. So that's what's being allowed across the board.

CHAIR COUCH: Now, and what the testifier said was, you know, transient vacation rentals are...we have separated and you mentioned too we have separated the definitions now. So do the...do bed and breakfasts and short-term rentals fall under your...still fall under your definition of transient vacation rentals or are they...in this case here? 'Cause further on down, we see transient vacation rentals are allowed in every Business District. And so does that mean, a bed and breakfast would be allowed in every Business District even though here it says it's not allowed in B-3 and B-R?

MR. ALUETA: No, but a transient vacation rental would be allowed.

CHAIR COUCH: Okay. So everything but a bed and breakfast and short-term rental?

MR. ALUETA: They're both allowed depending on how they would...they qualify.

CHAIR COUCH: Okay.

MR. ALUETA: Because like say the Paia Inn is not a bed and breakfast, okay?

CHAIR COUCH: Right, it's a--

MR. ALUETA: It's a transient vacation rental.

CHAIR COUCH: Okay.

MR. ALUETA: All right. It's managed as a corporation. It's run that way.

CHAIR COUCH: Okay.

MR. ALUETA: And I'm not sure if an STR, short-term rentals, right--

CHAIR COUCH: Uh huh.

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MR. ALUETA: --are not listed as a permitted use within the Business Districts right now. It would be a TVR.

CHAIR COUCH: Okay. Are there any further questions on bed and breakfasts? So we're okay with actually bed and breakfast homes and bed and breakfast homes in lawfully existing single-family dwelling?

COUNCILMEMBER COCHRAN: Mr. Chair?

CHAIR COUCH: Yes, Ms. Cochran?

COUNCILMEMBER COCHRAN: I think my...and this is what's, I don't know, confusing me anyway is that transient vacation rental is that transients come and rent a place for vacation?

CHAIR COUCH: Yes.

COUNCILMEMBER COCHRAN: So, B&B, STR, you know all these would fall into that general heading? I mean, isn't that correct? And you're saying that it...I guess Mr. Hopper has...and I made a note here because we wanted specific definition of what short-term rental means. I mean, I think I had made note in our last discussion here and...but I think Mr. Hopper's chomping at the bit to try and chime in which I'd love to hear what he has to say.

CHAIR COUCH: Mr. Hopper?

MR. HOPPER: Yeah, thank you, Mr. Chair. Nothing, nothing groundbreaking. I'm just going to read the Code which makes things easier for me obviously. The Council went and passed the Short-Term Rental Home Ordinance, the most recent one and when it passed the Bed and Breakfast Ordinance clarified these definitions a bit and made clear that a transient vacation rental or use, it says, means occupancy of a dwelling or lodging unit by transients for any period of less than 180 days excluding bed and breakfast homes and short-term rental homes. Making it clear that those are different things. And I think the reason was for the Short-Term Rental Home Ordinance and for a Bed and Breakfast, you were talking about single-family dwellings rather than either condominiums or apartments or those types of hotels. So in this case if the desire was to also allow bed and breakfast homes and short-term rental homes in these districts, those would have to be stated I think as separate definitions because those have been separated. It's not necessarily the case where using the term, "transient vacation rentals" includes all of the sub categories. The Council can certainly include those sub categories, but short-term rental homes and bed and breakfast homes are required to be within single-family homes, and in the case of bed and breakfast homes, they need to actually have a resident who owns that property live on the same lot or in an ohana unit in a separate lot which is different than a short-term rental home in that case which also needs to be a single-family dwelling, but the owner's not required to actually live on site there. So those are kind of the various definitions, but yes, if the Council wants to allow all three of those uses, short-term rental homes, transient vacation rentals and bed

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and breakfast homes, I would say put all three of them in there as listed permitted uses. So I think that that's something that should be done if that's the desire. If the desire is only to have transient vacation rentals or use which would exclude bed and breakfast homes and short-term rental homes then, you know, that's another option as well.

CHAIR COUCH: And that's kinda what we're doing here. We are calling out bed and breakfast homes are okay in B-CT, B-1, and B-2. Is that correct, Mr. Alueta? Everybody follow that?

MR. ALUETA: Correct.

COUNCILMEMBER BAISA: Again?

CHAIR COUCH: Okay, we are allowing...we're calling out bed and breakfast homes are being legal...as being legal in B-CT, B-1 and B-2, but not B-3 and Business Resort.

COUNCILMEMBER BAISA: I don't see it in the B-CT?

CHAIR COUCH: It's the next one down.

COUNCILMEMBER BAISA: Oh, okay. They have two lines for that, okay.

CHAIR COUCH: Yeah. Okay, Members? Everybody okay with that? Mr....Okay, next is books, stationary or gift stores, and it basically says it's...classified as general merchandise in B-CT, B-2, and B-3 and allowed in neighborhood B-1 and Business Resorts. That's fairly self-explanatory.

MR. ALUETA: Right. And we're adding it to B-R also as...it's not specifically listed in B-R, so we're just adding it.

CHAIR COUCH: Any questions, concerns, Members?

COUNCIL MEMBERS: No.

CHAIR COUCH: Okay, so moving right along. Next page, Building...Joe, you wanna continue on?

MR. ALUETA: You're doing such a great job, Mr. Chair.

CHAIR COUCH: I know.

MR. ALUETA: Buildings and premises used and owned and operated by government agencies including community centers. So basically it's currently allowed in the B-CT. It's listed as a use in the B-CT, and we're adding it to B-1, B-2, and B-3. The general thought was that any use...any governmental...if the government needs to locate themselves in one of these Business Districts, it should be allowed. So we're just making it clear that it could be allowed. Business

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and financial and professional offices is yes, but it would be covered...it's currently listed in the B-CT but it would be allowed under general office. And the same thing with we will allow for it in the B-2 and the B-3 District as general office.

CHAIR COUCH: Okay, for those two items, any questions? Mr. White?

COUNCILMEMBER WHITE: Yeah, one of the, the question I had last time I think applies to this as well. But if you have a doctor's office such as the doctor's office in Whaler's Village, I'm assuming they would be under the Business Resort category. So I would think we would wanna add, add the resort category to this as well.

CHAIR COUCH: With limitations possibly? Would you want a whole bunch of businesses...a business, financial, and professional offices to take up resort space? I mean, just those are some of the things to throw out there.

COUNCILMEMBER WHITE: Yeah, I don't, I don't have any thoughts that we should say we should block them, but I obviously having medical facilities in resorts is far more important than having a financial office.

CHAIR COUCH: Correct.

COUNCILMEMBER WHITE: So, I'm open to whatever limitations they want to put on it.

CHAIR COUCH: Okay, and Mr. Victorino, and then we'll talk with Mr. Spence.

VICE-CHAIR VICTORINO: I'll yield to Mr. Spence if wants to go ahead. Go ahead.

CHAIR COUCH: Okay.

MR. SPENCE: Just a comment on that. 'Cause I think about Whaler's Village, I mean, you're...this is a perfect place where market is gonna dictate. If you say, yes you can have business and financials, I don't see a whole lot of office space going up because the value of the property is in the retail for the visitors.

CHAIR COUCH: Yet you have a doctor's office in Whaler's Village.

MR. SPENCE: Yeah and...yes we do. And there's a demand for that. So you know this is one of the places where I think it's perfect to allow it if that's what this Committee decides.

CHAIR COUCH: Members? Mr. Victorino?

VICE-CHAIR VICTORINO: Thank you, Chair. And my exact sentiment because in my years of working in Kaanapali and Whaler's Village was adjacent to our property, it generally was retail. There was also food establishments, real estate, and as well as medical. I mean, those were

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things that the demand was always there. I don't, I don't think Bank of Hawaii would go in there. I don't think First Hawaiian Bank. You know, but there may be a financial institution that thought it'd be wise to be in the shopping center for whatever reason. Maybe a small mini financial establishment. But anyhow, I agree that if we put it in there, I don't think you're gonna have flood of E.F. Hutton or somebody running in there taking up space, Mr. Chair. I think it's better to leave it open so that those businesses, let the market drive the demand.

CHAIR COUCH: Okay. Mr. Alueta, you have any comments on that?

MR. ALUETA: No. Again, I think I voiced my love for the B-R District anyway in the past, but yeah.

CHAIR COUCH: Okay. All right, so then, Members, without objection we'll add yes to...or GO, I guess for business, financial, and professional offices in the Business Resort District?

VICE-CHAIR VICTORINO: Yep.

CHAIR COUCH: Ms.--Chair Baisa?

COUNCILMEMBER BAISA: Yes, Chair, along those lines I notice that we don't say yes in B-1 and B-1 is a Neighborhood District...Business District. Why can't we have business, financial, and professional offices there?

MR. ALUETA: I think again, Mr. Chair and Council Chair Baisa, it's just that the Business District, the Neighborhood Business District was primarily mostly for really small-scale and immediate neighborhood businesses. I think once you start getting into a like say, financial, then look at what is allowed under general office, you will start getting into more of a regional and even maybe even island office, you know, for us. I mean, but I think it's more for a regional office. I think the traffic situation would be slightly different as far as the how much. I think it's allowed if it's a single-family house. We would be...and they wanted to do a small business, it would fall under, it could fall under the home occupation and you could have a office in that, for that aspect. But I think once you get to a more higher density in traffic generation I think in particular for the B-1 areas.

COUNCILMEMBER BAISA: So I'm a doctor and I wanna do some doctoring out of my house, no can do?

MR. ALUETA: No, not without a...or you would have to either change the zoning or get a conditional zoning.

CHAIR COUCH: Or Special...Conditional Use Permit?

MR. ALUETA: You can get also a Conditional Permit. And again, remember, remember how I set up the grand table of allowed uses. This is just dealing with the allowed uses.

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COUNCILMEMBER BAISA: Right.

MR. ALUETA: Okay, so I going put something in the back of your mind, if you think that should be something, maybe it should be a special use that can go before the Planning Commission and then they can have their own little meeting to say is that an appropriate office. So the guy wants to do a doctor's office in the B-1 District, based on his scale not an issue. But if Kaiser Clinic wanted to come in which is general office medical, Kaiser wants to open and build a three-story medical facility, would that be appropriate in the B-1 District?

COUNCILMEMBER BAISA: Well, couldn't, couldn't we define this as just a single medical practitioner or something small? You know, in the old days this was really common, and in Pukalani there is a doctor's office in the middle of Pukalani, and I know in Wailuku we had that whole humbug with Dr. Moses Office, for years, and years, and years they were illegal coming in for permits until finally we said, give it to them. So I don't know I think it's very nice to have a doctor in the neighborhood. As long as it's a doctor. I'm not talking about a medical clinic.

MR. ALUETA: Okay. Then you, you could again, add it to the list. Again, part of our, part of our quest was to get the list smaller not bigger, but in the case of the B-1 District if you wanna make the...be specific, you'll have to come up with...we'll have to come up with a new definition and say, single doctor office if that's what you want. How 'bout a single veterinary office? What about...you know, you're gonna have to really start thinking about what you want. Like I say, the other option is just to throw the definition which is already there, general office, and put it in B-1, but put it as a special use, and then that way the commissions can parse it out during a public hearing what scale is gonna be appropriate for that B-1 District.

CHAIR COUCH: Mr. Spence?

MR. SPENCE: Well, let me throw out one other possibility. One of the things we're doing in these districts is we're putting in language, other uses as...I forget the exact language, as determined by the Planning Director. We could do something like that for professional offices, and having known the last nine Planning Directors, I think all of them would say that a one or two-doctor office would be fine in B-1, but a Kaiser Clinic would not.

COUNCILMEMBER BAISA: I agree.

MR. SPENCE: So if the Committee's fine with building that discretion into the, you know, into the B-1 District, you know, that's another way. And that that makes it a lot simpler than going through special uses and all that.

COUNCILMEMBER BAISA: Thank you, Director Spence. Just a follow-up on that?

CHAIR COUCH: Sure.

COUNCILMEMBER BAISA: You know, we're trending towards building communities.

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CHAIR COUCH: Right.

COUNCILMEMBER BAISA: We're trying to get people out of cars. If I have to get in my car and drive to Pukalani to see my doctor, what's wrong with me seeing one down the road where I live, you know what I mean? I don't know. I'd like to see it in there. I'd like to see the ability to do it and make it easier.

CHAIR COUCH: Okay, Mr. White?

COUNCILMEMBER WHITE: And I think that's also important if I'm understanding it correctly, what you're saying is that as long as you feel that the scale is appropriate that it's an administrative authorization?

MR. SPENCE: Right.

COUNCILMEMBER WHITE: Does that avoid Special Use Permit or a Conditional Use Permit?

MR. SPENCE: Yes, that would.

COUNCILMEMBER WHITE: Okay. 'Cause my concern, Chair is that we have these people that come in for these special uses and we, the government, tend to use that as a hammer over somebody's head to make them do improvements that have very little do with their actual operation, but because they're asking for something, they gotta pay up. Put in a fire line and a fire hydrant or pave a section of the road or something of that sort. So I'd like to...I would feel much better if we could avoid that kind of thing unless it's something that is driven specifically by their particular, you know, demand for space like parking or traffic ...*(inaudible)*...

CHAIR COUCH: Right. Mr. Victorino?

VICE-CHAIR VICTORINO: You know, and I think as our communities start to move in different directions especially Central Maui, we start to move away from the central spaces and move out into what we call walkable, livable communities. Some our master plans call for these, you know, particular what we're talking within a residential area. And so now to say, no it's not or it's a special management, I think I'd like to see it in there. I'd like to see it maybe like Ms. Baisa said, as easy as possible, within reason that you have one or two doctors, not a Kaiser Clinic, not a dental clinic. I don't know, but you know, what I'm trying to get to is where these facilities can be so if I live there, I can walk down the street, bike down the street, you know, whatever and not have to drive into Kahului and Wailuku. Not to say that I don't wanna do that, but it is nice like right now they're building this complex right here which is gonna be professional offices, right, and retail. This is the one right here at the corner of Kehalani and Honoapiilani.

CHAIR COUCH: Right, but the zoning there probably is B-2, huh?

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VICE-CHAIR VICTORINO: Well, but I'm just saying we wanna do more as we go out. It's all residential right now. It was changed, but it was originally residential.

CHAIR COUCH: Okay.

VICE-CHAIR VICTORINO: So, I mean, I'd like to include it somehow, Mr. Chair.

CHAIR COUCH: Okay. Mr. Alueta?

MR. ALUETA: If the intent is to add medical facilities, right, then to the B-1 District then, yeah, in a more general or holistic view then you need to add it as a...under personal and business services.

COUNCILMEMBER BAISA: Fine.

MR. ALUETA: --because general office doesn't include it.

COUNCILMEMBER BAISA: That's fine.

VICE-CHAIR VICTORINO: That's fine, Chair.

MR. ALUETA: It excludes medical and dental facilities, so--

VICE-CHAIR VICTORINO: That's fine.

MR. ALUETA: --when we get to...we could add it with limitations or you know...

COUNCILMEMBER BAISA: Okay. Good.

CHAIR COUCH: Okay, so we're gonna still leave it out here and then move it over in personal, business services, is that what you're saying?

MR. ALUETA: No, I'm just...it's up to the...you may wanna add it both ways, because I'm saying is the discussion is focused around a medical facility.

CHAIR COUCH: Right.

MR. ALUETA: But personal and business services are where it's, it's where medical and dental facilities are added, are listed.

COUNCILMEMBER BAISA: Okay.



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MR. ALUETA: So general office is more financial, business and financial. Actually I'll read...if you look at the very front of that table, you'll see what general office covers, and you'll see what...and what personal and business services cover.

COUNCILMEMBER BAISA: Okay.

VICE-CHAIR VICTORINO: Yeah.

MR. ALUETA: Okay. So if you feel general office is appropriate with limitations maybe in the B-1 then you should, we could add it, we can still add it.

VICE-CHAIR VICTORINO: Mr. Chair?

CHAIR COUCH: Mr. Victorino?

VICE-CHAIR VICTORINO: I'd like to see it put in there with limitations.

CHAIR COUCH: In, under business for financial and professional offices?

VICE-CHAIR VICTORINO: Yeah.

CHAIR COUCH: Okay. Members, I tend to like Mr. Spence's comment as far as let it be an administrative call as opposed to going into the Planning Commission, because the administrator would be able to say, no you can't have a Kaiser Clinic versus a two-doctor office.

COUNCILMEMBER BAISA: Yes.

VICE-CHAIR VICTORINO: We hope.

CHAIR COUCH: We hope. Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you. And along those lines, you know, I believe I fairly trust Will Spence as a Director and making calls--

MR. SPENCE: Thank you.

COUNCILMEMBER COCHRAN: --you know, common sense and fair enough judgment calls and what have you. But I mean, you just never know in the future, but...so I am just...the only thing that I'm not...I don't like is when the voice of the community's input is being cut out. And so if this means that it's just gonna have director, you know, say yea or nay, there's not gonna to be any community input and vetting out in that particular area where this is gonna be impacting then I kinda have a little, you know, it doesn't sit well at this point. But again, yes, I would love to be able to trust wholeheartedly my directors in the future, present and future, but so I'm hoping maybe a question to Will Spence at this point that he will...the Department will take into

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consideration the surrounding stakeholders when such, you know, something of this nature comes to your table for consideration.

MR. SPENCE: Right.

CHAIR COUCH: Mr. Spence?

MR. SPENCE: And thank you for the compliment. And that's also why I threw in having known the last nine or so planning directors. We would be, I'm really comfortable in saying we would all be consistent on making that kind of determination that a couple of doctors is fine and a Kaiser Clinic is not. But in this context, remember we're talking about something that's already zoned. We're talking about...I'm not familiar with too many parcels that are actually zoned B-1. There's a couple places in Pukalani that I'm aware of, maybe a couple other places. So we're saying...basically we're saying retail is fine, but a doctor's clinic or a doctor's office that is generally considered more benign than retail, you know, would have to go through some kind of process. So I think, I think professional offices would be less of an impact, but then if you're talking about a Change In Zoning, you know, that process isn't gonna change. So this Council is gonna make a determination on what is appropriate in a particular neighborhood and that totally involves the community.

CHAIR COUCH: And if I might add Mr. Spence, at that time when you change it to B-1 if it were to come to Council that's when you can say, in a condition say--

MR. SPENCE: Yeah.

CHAIR COUCH: --what can and cannot be.

MR. SPENCE: Yeah. So if...and just maybe to expound on it a little more, say if the--I don't know-- say if Minit Stop in Pukalani were to close down because some doctors wanted to go there, I think that would actually improve traffic conditions in Pukalani. You know, it is a much less intense kind of use, so I'm not too concerned that a professional office would be objectionable to the community.

COUNCILMEMBER COCHRAN: Okay. Okay, thank you.

MR. SPENCE: If it was the other way, I might agree.

COUNCILMEMBER COCHRAN: Right. Okay, very good.

CHAIR COUCH: Okay, Members, so I guess the intent...Mr. Alueta, you had something to say?

MR. ALUETA: I just was gonna read from what the existing Code and what we had been originally proposing, and so I just wanna make sure if you're gonna make some changes down the line...is that currently, other similar retail, business or service establishment that supply commodities or

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perform services primarily for the residents of the surrounding neighborhood, provided such uses shall be approved by the Commission as conforming to the intent of this title. That's currently how it reads, and that's how we're currently proposing it. From what we're hearing is that this Council would change that to the Director. Okay.

CHAIR COUCH: I'm going to take a look at...you know, Mr. Alueta had said that, you know, since in general office there are no medical or dental or any of that. It's in PBE [*sic*], personal business, PE [*sic*] I think. I will ask the Members once again, do you want something like that? You know, you've got the clinics, veterinary clinic, the dental clinic, eye clinic, not clinic but doctor's office or a regular doctor's office. Those kind of things do fall under personal services and not this business, financial, professional offices. However, you know, a bank does. So, you know, it's one of those situations where I think the yes, should go under PBE [*sic*] and not business, financial, professional offices, but if the Members want to change that I'm, you know, to the will of the Committee is my thought. Ms. Baisa?

COUNCILMEMBER BAISA: See in my mind the line between the professional office and the personal business service is just the word, "personal". Normally it's one lady and/or one gentleman and they have...they do hair in their home. One individual, one auditor that does taxes, one doctor that may see some clients, but not a big clinic. To me there's a whole difference between a single practitioner and a big office where you have multiple people. That would bother me in a neighborhood. But I have nothing with the single practitioner who serves one client or two clients at a time. They're not causing traffic, they're not causing parking problems, but it's a service that is readily available and makes the neighborhood, really enhances the neighborhood because it's available, like maybe a veterinarian and it's only one guy and he takes care of all the dogs in the area, so fine. Yeah.

MR. ALUETA: Okay, then...

CHAIR COUCH: Yeah, and if you look at the definition of personal and business services again, Members, personal and business services means, establishments that offer specialized goods and services frequently purchased by individual consumers and businesses. Examples include but are not limited to barbershops, beauty shops, medical, dental or similar healthcare services, massage services, photography, laboratories, and studios, financial institutions, tailor and seamstress businesses, post office. So those all fall under personal and business services, and it's not a big, huge clinic. So--

COUNCILMEMBER BAISA: No.

CHAIR COUCH: Mr. Alueta?

COUNCILMEMBER BAISA: It could be.

MR. ALUETA: It could be, and that's why you have to think if it has to be from...it can be Joe and Mary Souza and their home occupation to Supercuts--

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COUNCILMEMBER BAISA: Right.

MR. ALUETA: --with 20 salon spaces. So you gotta understand is that what you...if that's what you want...I'm trying to figure out exactly what. I'm glad you kinda sorta clarified it, and I always joked and laughed when we...in our Code, 'cause we have it in our Code now, dairy processing not employing more than 25 employees or plumbing shops not employing more than 8 people, and I've always wondered what the heck were these people thinking, and I now I know. Somehow at the Council 1963, they were thinking well, I'm okay with it, but if it only is this size.

COUNCILMEMBER BAISA: Yes.

MR. ALUETA: And so where I would direct I guess this body if that's what you're thinking of, Council Chair Baisa's thinking is what you're thinking in the B-1 District then I would say put it under as a home occupation.

COUNCILMEMBER BAISA: Okay.

MR. ALUETA: Okay, or a home...home...and home-based business 'cause we...then if someone's got a home-based business, the uses, that's why we're keeping home-based business in there, okay. So that if somebody has an accounting office or you have a sole, only one maybe one employee, you know, limited in size, we can somehow fit that into the B-1 District and maintain the limitation of the scale, but broaden the types of uses that could be done under that rather than just say, PSE or leave it up to the discretion of the Director. I mean, so you have multiple choices here. You can just leave it as other similar retail, businesses and service establishments, supply commodities, performing services that could be a doctor's office and then the Director would then determine it.

CHAIR COUCH: And I'm fine with that, but that would be again, under PBE, right? PBS?

MR. ALUETA: No, it would be other similar...it's under, it's currently under O. If you look at the B-1 District itself, right?

CHAIR COUCH: Right.

MR. ALUETA: The Code. There is that current thing. So you have all the uses, but then if somebody came in and says, I wanna do this, right now they would go before the Planning Commission and get that use determined by the Commission. So if somebody wanted to do a one or two doctor office they would go to the Commission right now. You would change it, if you wanted to, you could change it to being the--

CHAIR COUCH: Discretion of the--

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MR. ALUETA: --discretion of the Director.

CHAIR COUCH: Okay. Members, without objection, that's what I'd like to do.

COUNCIL MEMBERS: No objection.

CHAIR COUCH: Okay. So you got that instruction, Mr. Alueta?

MR. ALUETA: Yeah, so you don't necessarily need to add--

CHAIR COUCH: Right.

MR. ALUETA: --business, financial institutions to the B-1 or personal business service establishments to B-1. What the uses that you're envisioning could be still allowed but under the "O" with the Director making the call.

CHAIR COUCH: Yep.

MR. ALUETA: Okay.

CHAIR COUCH: Okay.

COUNCILMEMBER BAISA: Thank you.

CHAIR COUCH: All right. Thank you, Mr. Alueta for straightening that out for me. So any other things under both buildings and premises used, owned, operated by government or business, financial, professional offices?

COUNCILMEMBER COCHRAN: So wait, Chair?

CHAIR COUCH: Yes?

COUNCILMEMBER COCHRAN: Before we move on. So now with Director having the say, a person wants to do something they would just give you a ring, Mr. Spence?

MR. SPENCE: No.

COUNCILMEMBER COCHRAN: I mean, you know, what's the...say hey--

CHAIR COUCH: You'd probably get a letter.

COUNCILMEMBER COCHRAN: --hey Will, this is what I wanna do, yes or no?

MR. SPENCE: No, what they would--

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COUNCILMEMBER COCHRAN: What's the process?

MR. SPENCE: What they would do, somebody would do...say I own this piece of property, this is my zoning, what I want to do doesn't entirely fit within this category or it says you can make the determination, we would get a description of what the use is, the limitations of that use, just because we're talking about doctor's offices, we would get a plot plan, we would get a to scale drawing of the site layout, where parking is gonna be, how it's gonna be operated, hours of operation, all those things, so we have a good feel for what is being proposed. And we're just gonna have, you know, my husband and wife are, you know, doctors, and this is what we wanna do. And we go, okay, that's fine. And you know, so it's with a knowledge of exactly what's being proposed, and then conversely if we get a letter from Kaiser's corporate architect we would go probably, sorry. But it's...there's a process to it. There's an evaluation of it internally as planners would look at things, but it's not just a phone call.

COUNCILMEMBER COCHRAN: Okay. And there's not gonna have any area where you would need to notify so many people at so many square footage of the establishment being proposed or anything of that nature? You would make the call if you feel there's a huge impact or not kinda?

MR. SPENCE: Right. I mean, because we're talking about properties that are already zoned in this particular case. In the future if somebody comes before the Council, there is all that notification. I mean, people who live within the vicinity of B-1, Business right now, they're used to...I mean, they're fully aware that there's retail going on or whatever else. That's already established. We're just talking about changing the use from one thing to another.

COUNCILMEMBER COCHRAN: Right. Okay, thank you. Thank you, Mr. Spence and Chair.

CHAIR COUCH: Thank you. Mr. Alueta?

MR. ALUETA: I just wanted to expand on that. Once...if the ordinance gets approved as it is, the next two-step process is that we would then have administrative rules 'cause that's being authorized also within the thing. Also, 19.510 is another bill that will be coming before you hopefully this year, and that outlines all of the different permit processes. One of the new permit processing that we're going to establish is the process in which the Director can make these other uses, because we at...like I say, in some other districts, we're adding that power to the Director's ability, others is still within the Commission and we're trying to parse out uses determined by the Commission and special uses, okay. And so we're trying to set up a special...a different type of process that is not as onerous. It also will outline the timelines as well as what type of documentation will be needed and justifications.

COUNCILMEMBER COCHRAN: Okay. Thank you, Mr. Alueta.

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CHAIR COUCH: Okay, Members moving on. Camera shops, do they still have 'em? Everybody's got 'em on their phone now. Camera shops, you say everything except for, again, B-1 'cause of the high intensity potential traffic.

MR. ALUETA: Yeah, again it just wasn't something that we listed as a being in the B-1 District. Again, general merchandise, it's covered under general merchandise in the B-CT, B-2, and the B-3, and in the B-R it's a specific use. So that's why it's listed because it was one of those uses in...if you went through all of the Business Districts, camera shops was listed and it was only listed in the B-R District.

CHAIR COUCH: Okay, Mr. Victorino?

VICE-CHAIR VICTORINO: Thank you, Chair. And I'm glad you clarified that. But I wanna...as you can tell my voice is going in and out. Hang on a second.

CHAIR COUCH: The meeting might go faster.

VICE-CHAIR VICTORINO: Unnecessary comments. Just to let you know, Mr. Chair, on my flight from Washington to Vegas, there was a photo conference, 16,000 photographers were coming in from all over the world. So if you say it's a dying industry then you're talking about the wrong industry, and many of them have their own studios now because that's become a big thing.

CHAIR COUCH: But these are camera shops that sell cameras.

VICE-CHAIR VICTORINO: And they also do that as a part of their...because you gotta have the total package.

CHAIR COUCH: Okay. So the issue is no in B-1. Any objections to that? Okay. Yeah, all right.

MR. ALUETA: So candy stores, again, general merchandise. It's a specific listed. It's allowed in the B-1 as a permitted specifically...general merchandise again in B-2 and B-3, and it's specific...we are proposing to add it as specific use to be allowed in the B-R.

CHAIR COUCH: Sure.

MR. ALUETA: Okay.

CHAIR COUCH: Any objections to that? Comments?

COUNCILMEMBER BAISA: No. No.

CHAIR COUCH: Catering establishments.

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MR. ALUETA: Currently catering establishments are listed in the B-2 and B-3 and then we're proposing to add it in the B-R, because you would think...because some hotels may not have onsite facilities. They may be strictly a hotel. They may not have the ability to provide all of the catering facilities or maybe somebody wants to bring in outside catering and so we felt that should be allowed in the B-R District. That makes sense. Churches, we're just striking them all.

CHAIR COUCH: Whoa, whoa, whoa, we're still going catering establishments. I think Mr. White and then Ms. Cochran had...

COUNCILMEMBER COCHRAN: No.

CHAIR COUCH: Oh, Mr. White has a comment.

COUNCILMEMBER WHITE: Just a question. I'm assuming that in CT and 1, we are allowing...okay, in 1 we're not allowing eating and drinking establishments, but my question is if somebody has a restaurant in a Country Town District and they are asked to provide catering for a function, is that in conflict with what this is currently showing?

MR. ALUETA: No.

COUNCILMEMBER WHITE: Or is this strictly a catering establishment?

MR. ALUETA: Yeah.

COUNCILMEMBER WHITE: Catering only establishment.

MR. ALUETA: Right.

COUNCILMEMBER WHITE: I guess is what...

MR. ALUETA: It was listed specifically...don't know what the thought process was back in the day. I don't wanna remove it, but I'm thinking more like, you know, a cake catering. Maybe it's...it's like I say purely a catering operation where they provide all of the facilities so they have...you know, store tables, chairs, linens, dishware, provide the food, everything.

COUNCILMEMBER WHITE: Yeah, I just wanna be cautious that we don't eliminate a restaurant from being able to do catering to augment their revenues.

MR. ALUETA: No. Definitely not. That would be to go and we'd just call it, "to go service".

COUNCILMEMBER WHITE: Or dining elsewhere.

MR. ALUETA: Yeah.



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CHAIR COUCH: Any reason why not in Business Country Town? I guess that's a highly commercial--

COUNCILMEMBER WHITE: I think that people would be more comfortable if it was there, but...

CHAIR COUCH: But I can see how a catering company that has all the chairs, and all the tables, and everything, that's a pretty big office.

MR. ALUETA: Again, it wasn't specifically listed now, but you can add it to there. I mean, that's...it's very...I think we would...the reason it stayed as a standalone within the B-2 and B-3 is because when you looked at the general categories, the general office, personal and business services, and...it wasn't something that sort of fit in that, one of those general--

COUNCILMEMBER WHITE: I don't really have a problem with the way it's outlined as long as the understanding is that--

CHAIR COUCH: A restaurant can continue--

COUNCILMEMBER WHITE: --"to go" is okay.

MR. ALUETA: Yeah.

COUNCILMEMBER WHITE: "To go" is not a "no go".

MR. ALUETA: Yeah, and again I don't see a problem with adding it to B-CT if that's the desire of the...

CHAIR COUCH: What's the will of the Committee?

MR. ALUETA: I just didn't...

COUNCILMEMBER BAISA: Chair?

CHAIR COUCH: Chair Baisa?

COUNCILMEMBER BAISA: Thank you. Where are the little people that do food in this table?

CHAIR COUCH: The people that do food?

COUNCILMEMBER BAISA: Yeah, you know, you got people at home that do catering but they do small catering. You know, they're not big catering establishments, but there are specialized caterers. You know, you might have a chef that prepares dinner for five or six or...but not even doing it there, but just preparing the food in his kitchen, but he doesn't have a big store and he doesn't have a big restaurant. Where are these...just drive-in? Everything has to be drive-in or eating and drinking is that where that goes?

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MR. ALUETA: Well, I think many of your people are located...most catering operations are located in the Industrial District.

COUNCILMEMBER BAISA: Right, I know what you're thinking about. You're thinking of the big, big caters like the guys that do the airlines and whatever. I'm thinking about a really small operation.

MR. ALUETA: They would...a lot of them are in their house.

COUNCILMEMBER BAISA: That's right.

MR. ALUETA: And so this is only Business District, it's not the Residential District. So in the Residential District, a lot of those are either...come under home-based business or home occupation.

COUNCILMEMBER BAISA: You know, it sounds to me like everything we're talking about, that home occupation bill is really, really important.

CHAIR COUCH: Yes, that's coming up.

COUNCILMEMBER BAISA: Because I think once we get through with that, it's gonna solve a lot of these questions. 'Cause they seem to be, you know, tied together. Also, you know, my intent and I think the intent of most of us, you know we've heard over, and over, and over from the public that we have too onerous processes, they take too long, it's not business friendly, whatever. So you know, with, within reason we wanna try to make things easier, not harder. And you know, I think that we have a Planning Department that has the skills and the knowledge and the rules and the heart to make a lot of these decisions, these small little decisions, and not having to go through an onerous process that costs time and money. So I'm for, you know, putting wherever we can things within reason that people can do simply, nuff.

CHAIR COUCH: Okay, Members. So we're okay leaving it as is? Okay, I hear no objections so you crossed out churches and made 'em under religious, benevolent or philanthropic societies?

MR. ALUETA: Yes, civic organizations and quasi-public uses.

CHAIR COUCH: And allowed everywhere?

MR. ALUETA: Pretty much.

CHAIR COUCH: In any Business zone, okay. Questions, comments, Members? We're okay, with that? Good?

COUNCILMEMBER COCHRAN: So wait, Chair.

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CHAIR COUCH: Yep?

COUNCILMEMBER COCHRAN: Just curious, I...there's a property on Vineyard, it was a Chinese temple, that area would be Business District? You know where...between Saeng Thai and Harold Yoneda's?

MR. ALUETA: I'm trying not to disclose too much information on that property, but no, there was a...it was...used to be Public/Quasi-Public and then I--

COUNCILMEMBER COCHRAN: It was?

MR. ALUETA: --I believe that there may have been a mapping, a map...it's now Business as far as, so-

COUNCILMEMBER COCHRAN: Okay.

MR. ALUETA: --I'm just saying that it was Public/Quasi-Public and somehow it's Business now. So I'm...we're trying to work on that.

COUNCILMEMBER COCHRAN: Okay.

MR. ALUETA: But it would be allowed.

COUNCILMEMBER COCHRAN: Oh, awesome. Okay, just checking on that.

MR. ALUETA: Yeah.

COUNCILMEMBER COCHRAN: We'll be talking later more.

MR. ALUETA: Uh-huh.

COUNCILMEMBER COCHRAN: Thanks.

CHAIR COUCH: Okay, Members, moving onto communication equipment, antenna or towers. Joe?

MR. ALUETA: Yeah, being allowed within the B-CT, B-2, and B-3 District.

CHAIR COUCH: Members, any concerns about that? Mr. White?

COUNCILMEMBER WHITE: Just a question. Again, many of the tall structures in resorts have all kinds of communications equipment attached to them. So is this towers, standalone towers or is this going to be a problem with people installing devices on their existing buildings?

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MR. ALUETA: We currently allow them to attach it as a...excuse me, as an accessory to the building, as long as it doesn't exceed the height and it was attached to the building. This is going to allow basically in the Business District, if you really wanted to do a free-standing communication tower in the Business District, you could do it. This could make it as a principal use.

COUNCILMEMBER WHITE: Okay, can we add to the wording or is it added elsewhere that this is a free-standing?

MR. ALUETA: It can be. Yes, by the fact that we're listing it as a principal use.

COUNCILMEMBER WHITE: Oh, okay.

MR. ALUETA: Yeah, we're not requiring it to be an accessory to an existing structure existing. So in theory, someone could just do on in the Business District or the Industrial District allow the communication towers. They would still have to meet the setbacks and whatever.

COUNCILMEMBER WHITE: Right. Okay. Thanks.

CHAIR COUCH: Members, any other questions? Okay, no objections. Next, combinations of dwelling units with other permitted uses in the same building. What?

MR. ALUETA: Yeah, that was in the Business-Country Town, I should say it's allowed but it's specifically listed as that, a combination of dwelling units with other permitted uses in the same building.

CHAIR COUCH: So it's kind of live above kinda thing?

MR. ALUETA: Correct.

CHAIR COUCH: Okay. And that's only in Business-Country Town? What about B-1 if we're starting to move into...

MR. ALUETA: Yeah, it's currently allowed. Combination of buildings...for us we're just calling it as...let's see...

CHAIR COUCH: Actually Members, you guys up for a break here or you wanna continue on?

COUNCILMEMBER BAISA: Maybe 15 minutes.

COUNCILMEMBER COCHRAN: Break.

CHAIR COUCH: Break in 15 minutes or break now?

UNIDENTIFIED SPEAKER: Yeah, we should. It's currently...

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COUNCILMEMBER COCHRAN: Yeah, break.

UNIDENTIFIED SPEAKER: 10:30.

COUNCILMEMBER COCHRAN: Break to 10:30.

CHAIR COUCH: All right, I guess break now. We got the break now signal. So we're gonna break for 10 minutes. Be back here at 10:30. This meeting is in recess. . . . (*gavel*) . . .

**RECESS:            10:18 a.m.**

**RECONVENE:    10:33 a.m.**

CHAIR COUCH: . . . (*gavel*) . . . The March 14<sup>th</sup> meeting, Pi Day, meeting of the Planning Commission [*sic*] will come back to order. Members, we're gonna change tactics a little bit here. What I'm gonna do is I'm gonna go through each page and ask you if you have any specific questions or concerns on each page, and if you do we'll just go right down the line. We'll discuss 'em and then move on. We'll by consensus agree to whatever changes have been made per page. That way we can get done a lot quicker I think. So that being said, for the rest of Page 4, any concerns from any of the Members? Mr. White?

COUNCILMEMBER WHITE: Just a question. Under drugstores, you know, we've been talking about B-1 being low scale, and yet we have a yes there while if you want to do a coffee shop or snack bar, you can't. It just seems somewhat contradictory. I see drug stores as being relatively big and coffee shops as being relatively small scale, if I could...

MR. ALUETA: It's just that it was specifically listed in the district already. It's not something...we were not changing it, and we're showing that we're allowing drugs stores, I guess, small department drug stores within the B-R also. It's under...considered general merchandise. It's normally considered under general merchandise so obviously it's in the B-1 and B-2...B-CT and B-2 Districts. Again, drug stores were specifically listed currently.

COUNCILMEMBER WHITE: Are coffee shops not allowed?

CHAIR COUCH: Yeah...

MR. ALUETA: We probably would allow it because is under, other similar retail business establishments supplying commodities and performing services primarily for the residents of the surrounding neighborhood.

COUNCILMEMBER WHITE: Yeah but it's not listed under EDE.

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MR. ALUETA: I guess, you know, the concept behind...if you look when this Code was last amended it's noted as...well, at least one of 'em is 8.1...a lot of that...that means it's from either 65 or 72. So coffee stores...standalone coffee stores were probably not as prevalent and it was probably more part of a delicatessen store or under a bakery goods so they probably had coffee in those bakery goods stores. It was never considered like a standalone function. So we would allow it as probably, you know, bakery goods.

COUNCILMEMBER WHITE: So it sounds like without objection we can throw coffee shops and snack bars into B-1?

MR. ALUETA: Yeah, I don't see...

COUNCILMEMBER BAISA: Yes, please.

CHAIR COUCH: Okay, so I'm fine with that as an EDE

COUNCILMEMBER WHITE: And do we wanna remove drugstores? It just seems--

CHAIR COUCH: I have an objection to that and we may have to take it up to vote. If you go to Haiku, your district, and certainly one in my district, they have these little tiny pharmacies that--

COUNCILMEMBER WHITE: Yeah, that's true.

CHAIR COUCH: --and that's, that's what I'm assuming that they mean here. You know, I don't think a big, huge Longs will come into a B-1, but they could I suppose, for instance right down the street. Ms. Baisa?

COUNCILMEMBER BAISA: Thank you. I agree. I think our problem here with what we're allowing and not allowing is scale.

CHAIR COUCH: Correct.

COUNCILMEMBER BAISA: It's really important the scale. You know, a little small thing in a neighborhood is wonderful, but you wanna build a Longs that might be a different story. So I think scale is really important and I don't know where that's covered, but I would imagine that would be...we could leave that to the discretion of the Director. He knows what we're asking.

MR. ALUETA: I think, if I may Mr. Chair?

CHAIR COUCH: Yeah.

MR. ALUETA: If you look further down on Page 4 there's coffee shops and snack bars that are being consolidated in the B-R District as eating and drinking establishments, but you may wanna just list that as a yes in the B-1 District as coffee shops and snack bars--

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CHAIR COUCH: Sure.

COUNCILMEMBER BAISA: Yes.

MR. ALUETA: --rather than having eating, drinking establishments.

CHAIR COUCH: Of course.

MR. ALUETA: Although neighborhood bars is quite common in most places, but I didn't think that was what you wanted.

CHAIR COUCH: No, that's good. But as far as drugstores I agree with Ms. Baisa, it's a matter of scale in B-1.

MR. ALUETA: And again, the scale...a lot of times the scale like for your drugstore or for your coffee shop is gonna be determined by the lot size.

COUNCILMEMBER BAISA: Right.

MR. ALUETA: So right now there is not that many B-1 zoning, but also if you look at the development standards, the scale is controlled by the setbacks. The B-1 District is the only district that has a setback that's similar to the Residential District. So it has the 15-yard [*sic*] front yard and a 6-yard [*sic*] side yard setback whereas in the Business B-2, B-3, and B-R, it's straight to the property line. There is no setback requirement. So keep that in mind also that scale could be accommodated that way.

COUNCILMEMBER BAISA: Yep.

CHAIR COUCH: Okay. My only question on this page would be the drugstores in B-3. We just got back from...a group of us just got back from Washington D.C., and right underneath a big office building, you've got this...you've got a little Rite Aid or whatever. So why wouldn't we allow that here?

COUNCILMEMBER BAISA: You have 'em in Honolulu.

CHAIR COUCH: Yeah.

MR. ALUETA: It could be listed as another type. I'm gonna try to find something else...where that type of use is encompassed.

CHAIR COUCH: As long as it's permitted.

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MR. ALUETA: Okay. We can make it in the table format that, that's a use that you wanna make sure is covered, I will then just...we'll put a yes next to it and then I will double check that it's encompassed somewhere in that B-3 District that, that use is being covered.

CHAIR COUCH: Good. Thank you.

MR. ALUETA: Okay, so drugstores.

CHAIR COUCH: So any other questions on Page 4. If not, by consensus we're good for Page 4. Okay, Page 5, Members, any questions? Mr. White?

COUNCILMEMBER WHITE: I had questions on entertainment establishments not being allowed in the resort area.

CHAIR COUCH: That's 'cause Mr. Alueta doesn't like resort areas.

COUNCILMEMBER WHITE: Or he doesn't like entertainment. We don't know which.

CHAIR COUCH: Mr. Alueta?

MR. ALUETA: This was a use that was added. Again, as I...I believe it was added by the...recommended by the Chair and voted on by the Maui Planning Commission. So it was...it's not an existing defined use, and he felt that he wanted to have that. So I have...

COUNCILMEMBER WHITE: What is an entertainment establishment?

MR. ALUETA: The definition that came out of the Planning Commission was entertainment establishment means an establishment in or outdoors where entertainment either passive or active is provided for patrons either independently or in conjunction with other...any other use.

CHAIR COUCH: Why would we need...I mean, is there anything now that would cover that? 'Cause he...they have it set as only in B-2?

MR. ALUETA: That was where they...at the time of going through the Planning Commission, that is where they added it.

CHAIR COUCH: So that would be like a bowling alley, right? Guess we brought that up before.

MR. ALUETA: Not really because bowling alley is--

CHAIR COUCH: Pool hall?

MR. ALUETA: --allowed under--



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CHAIR COUCH: Miniature golf course?

COUNCILMEMBER BAISA: Chair?

CHAIR COUCH: Yes?

COUNCILMEMBER BAISA: Can we ask for some examples of what they were thinking about when they said entertainment establishments? What about a luau?

MR. ALUETA: Well, you have, remember you have auditoriums, theaters, gym including fitness centers, private...oh, excuse me...dance halls. You have dance halls.

COUNCILMEMBER BAISA: I don't consider a fitness center entertainment.

MR. ALUETA: I guess they, I guess they...again, I'm not sure exactly whether they were thinking that, you know, like a bar, in a bar situation where you have live music, but then you have...is that an eating and drinking establishment or is that an entertain center, and I think that's where they wanted to make sure that was in conjunction with other uses if you look at the definition.

CHAIR COUCH: What about a thing like a paintball, indoor or outdoor paintball thing? Would that fall under entertainment establish or could that be done somewhere else?

MR. ALUETA: I believe that could be done somewhere else in another...in one of my other...we would try to fit it under amusement and recreational activities.

CHAIR COUCH: Okay.

MR. ALUETA: Is listed as...in the B-CT as well as in the B-2, and in the B-3, and B-R.

CHAIR COUCH: So I understand Mr. White's concern is that his luau would be no longer allowed. So it's allowed somewhere. His... those entertainment, his magic show, I'm sorry.

COUNCILMEMBER WHITE: Well, I'm assuming that's okay under eating and drinking establishments because a luau is eating.

CHAIR COUCH: Well, what about like your magic show potentially or nightclub?

COUNCILMEMBER WHITE: Well, we service food, but something like Ulalena.

CHAIR COUCH: Right.

COUNCILMEMBER WHITE: It doesn't serve food but that's clearly--

COUNCILMEMBER BAISA: Entertainment.

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COUNCILMEMBER WHITE: --entertainment. But if a hotel were to want to do something like that, and build a room just for Ulalena, this would tell me that they can't do it.

MR. ALUETA: If it's hotel, it's hotel. It's accessory use to a function to the permitted principal use.

COUNCILMEMBER WHITE: Whaler's Village then?

MR. ALUETA: Like say, currently where the thing is, it be in the, like in the auditorium, theater or gymnasium, Ulalena would be considered an auditorium or theater...it's an auditorium or a theater.

COUNCILMEMBER WHITE: So there is room for that then?

MR. ALUETA: Yeah, I mean, I think if you wanted to...again, if you add it, it's not a big deal because it's already...if we think we already covered it under one definition...if you wanna make sure it's covered...

CHAIR COUCH: So you're saying, say yes then?

COUNCILMEMBER WHITE: That's my feeling.

CHAIR COUCH: I'm fine in B-R?

MR. ALUETA: Yeah.

COUNCILMEMBER WHITE: As we go through this, our biggest challenge is missing something--

CHAIR COUCH: Correct.

COUNCILMEMBER WHITE: --that makes sense.

CHAIR COUCH: Correct.

COUNCILMEMBER WHITE: It's gonna trip somebody up down the line.

CHAIR COUCH: So without objection, we'll put yes in that one?

COUNCILMEMBER BAISA: Yes.

CHAIR COUCH: Okay.

MR. ALUETA: In which districts?

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CHAIR COUCH: For B-R.

COUNCILMEMBER BAISA: Yes.

MR. ALUETA: Okay.

COUNCILMEMBER BAISA: Yes, please, not in the neighborhood.

MR. ALUETA: Again, you know, in the quest for simplicity and broadness, some people feel that well, maybe I see your intent of it should be covered but you wanna make sure it's covered, and so then you wanna specifically add it. So that's fine.

CHAIR COUCH: Okay. Members, anything else on this page? Ms. Crivello?

COUNCILMEMBER CRIVELLO: Home occupations, yes, and there's limitations for B-CT. Can you explain the limitations?

CHAIR COUCH: The limitations.

MR. ALUETA: Yeah, I gotta go look at the specific ordinance. Mr. Chair, what PC item is B-CT under?

CHAIR COUCH: B-CT is PC-24.

MR. ALUETA: Twenty-four. I got three binders here.

CHAIR COUCH: See, Ms. Crivello asks the hard questions.

MR. ALUETA: You know in the B-1, home occupation has to be within a single-family dwelling unit, and I think in the B-CT the same situation goes. Has to be within the...for home occupation. So what happens is like we didn't want to limit it, say somebody wanted to have like a use that was not maybe specifically permitted but they were gonna do it as a home occupation. We wanna make sure that it was still covered. That they could still do that provided it was under like a home occupation use.

COUNCILMEMBER CRIVELLO: For example?

MR. ALUETA: Like in the Business District and B-1 District, neighborhood business, maybe somebody wanted to have an accounting office, okay. You could do that. Accounting is not listed. Accounting offices are not listed as permitted uses in the B-1, but if someone had a single-family home and they were doing it as a home occupation, and they met the qualifications, they could still do an accounting office in that home occupation.

CHAIR COUCH: And Members, remember we're gonna do home-based businesses later on this year, so just might tweak this a little bit more too. Okay, I do have a question. We kinda

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went...general merchandising in B-1 as well as gift and curio shops in B-1. I understand general merchandising could be a big, huge store, but what about a little Minit Stop type store? Would that be allowed somewhere else besides under the definition of general merchandising?

MR. ALUETA: If you look at, if you look at B-1 District now, right? It allows for gasoline retailing provided it's owned and operated in adjunct to a neighborhood store, provided further that no servicing, repairing or washing or maintenance of vehicles will be permitted on the premises.

CHAIR COUCH: Okay, well then let's...

MR. ALUETA: By that thing, a neighborhood store. So if you qualified a Minit Stop as your neighborhood store then you could.

CHAIR COUCH: So then for instance, like Pukalani Superette if that was B-1, it would be allowed because it's a neighborhood store?

MR. ALUETA: Yeah, we would have to somehow fit it as being a neighborhood store.

CHAIR COUCH: As...is that...is neighborhood store defined anywhere in here?

MR. ALUETA: No, but by general definition of the B-1 District as far as the purpose and intent, it has to be some type...performing services or commodities for the surrounding neighborhood.

CHAIR COUCH: So a store like Pukalani Superette would be fine then? Would be allowed in B-1 District? It's certainly would be something we want allowed in B-1 District. It's a small enough store and...or even if we go to Mr. White's side to Hanzawa Store?

COUNCILMEMBER WHITE: Part of the challenge, Chair, is that we don't know what the zoning is of these particular spots.

CHAIR COUCH: Right, but if it were a B-1 location, would we want something like a Pukalani Superette or a Hanzawa Store there?

MR. ALUETA: My Director is saying yes.

CHAIR COUCH: Okay. So then do we wanna put that similar to what we did for the dentist office, say yes with the...at the discretion of the Director?

MR. ALUETA: And this would be under what, general retailing?

CHAIR COUCH: General merchandising.

MR. ALUETA: Merchandising. The intent there is just say yes with--

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CHAIR COUCH: Limitations.

MR. ALUETA: --as a neighborhood store. Okay.

CHAIR COUCH: Yeah. Okay, yes, Mr. Hopper?

MR. HOPPER: Just a note about giving the Director discretion and I mean, I think the standard is something like in conjunction with the other similar uses in the neighborhood. If you're looking for size restrictions and things like that, those are what should really be done with your setback requirements, your lot coverage requirements, and things like that. It may be difficult for a future Director to, you know, do that assessment if the district itself allows a building of a certain size and standards, you know, as opposed to a Special Use Permit where it's a project site review. You know, just to make sure...you are giving a fair amount of discretion to the Director in these cases, and if there's an issue with the size of the buildings, you know, well, we want something like a Pukalani Superette, but we don't want a major retailer. Frankly, whoever owns it, it's not the issue; it's going to be what the size of the actual building is and things like that. So you have setbacks, you have minimum lot sizes, you have a lot of those things in these districts. I think that's a really a target area for you, you know, as far as those issues 'cause it could be difficult for the Director, I mean if a major retailer comes in and wants to build a building on the same size as a, you know, smaller locally owned business, they would really...they'd have the same right to in that situation. They would just both need to meet the setback requirement--

CHAIR COUCH: Right.

MR. HOPPER: --and things like that. So, I'm not sure where the Director discretion is going to come in there as much as the, again, the kind of the form standards that you're looking at in these districts.

CHAIR COUCH: Ms....Chair Baisa?

COUNCILMEMBER BAISA: Isn't that why we have these things that say yes and limitations, because we have limitations? So can we say, yes, limitations?

CHAIR COUCH: Mr. Hopper?

MR. HOPPER: Well, Mr. Chair, the limitations are typically very specific saying inside an enclosed building or something that goes beyond whatever the setbacks and other issues are that would apply to every building. If it says, yes with limitations that's usually like provided it's, you know, entirely within an enclosed building or the limitations for a home occupations for example would be everything that's in the home occupation definition that's in addition. So you could say that, but the Council or the Department would need to say what are these specific limitations, like no larger than a certain amount of square footage or something like that to be kind of more specific. Rather than leaving it up to the Director which could get difficult in some cases. Even a Director acting in good faith trying to make, you know, a good reasoned decision could have

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difficulty in that case if the building is going to meet the setback and height requirements and things.

COUNCILMEMBER BAISA: So would it then make sense instead of saying yes, limitations, to say yes, and put something else in there that implies that all these other things come into play?

MR. HOPPER: I think--

COUNCILMEMBER BAISA: I don't know what the wording would be.

CHAIR COUCH: And I kinda agree with Mr. Hopper that the size of the lot with the setbacks is gonna be the limitation.

MR. HOPPER: Yeah, I think yes, limitation, it's more specific than that if you go to the actual ordinance, and I think Mr. Alueta can find that. This was for the purposes of the table I believe, but I think if you go to gasoline retailing in B-1 in your draft, it's going to say more specifically with the...

MR. ALUETA: In the case of the gasoline retailing--

MR. HOPPER: Yes.

MR. ALUETA: --it was adjunct to a neighborhood.

MR. HOPPER: Right, and so--

COUNCILMEMBER BAISA: So...

MR. HOPPER: --these general things I think are just for the brevity of the table.

COUNCILMEMBER BAISA: Right.

MR. HOPPER: But each of these sections where it says, yes, limitations, when you go to the Code section, there's gonna be a specific limitation that I think in almost all these cases come from existing Code which says for example, as Joe said, I guess in conjunction with a neighborhood store. I know there's a lot that says inside a enclosed building or something. So that's...not to be deceptive, whenever you see yes, limitations, that's not what's in the Code. It doesn't just say, yes, limitations. It says, permitted, and then there'll be...there's a separate column that says how it's further limited than just the setbacks and other issues.

COUNCILMEMBER BAISA: Okay, on Page 1, we've got a table and it lists various...and embellishes, you know, what these initials mean, could we add another one that encompasses all of what Mr. Hopper's telling us?

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CHAIR COUCH: If you think that there should be some limitations on general merchandising in the B-1...

COUNCILMEMBER BAISA: And in all the things that we're saying, you know, we're gonna leave to the Director, do we wanna put it in writing somewhere that yes, he can...he has discretion, but he's gotta follow all the rules and the laws and things that apply. That's what I'm hearing.

MR. HOPPER: Well, if you're talking about going beyond the actual setback requirements, that would require a variance. That's something that you typically wouldn't give the Director the discretion to allow a larger than the lot size. I think the idea is to determine if...it's usually to determine if a specific either accessory use or even another permitted use that for whatever reason wasn't listed here, and I think frankly that's going to be less of a problem now that there's these kinda of more expanded definitions that are rather than really business specific which is what we have in the current Code--

COUNCILMEMBER BAISA: Right.

MR. HOPPER: --versus these. I think maybe you'll have fewer cases, and the Director can correct me if I'm wrong where the Director is going to say, you know, this isn't...the specific store isn't listed but really what I'm allowing is a retail store that's very similar. So I mean, the normal part to have that in is the Director to say, here's another business that's very similar to this type of business, but it's not a specifically listed business. When you get to the Director attempting to talk about neighborhood scale and things like that, that just to me makes it a bit more difficult. And I would think that either with that particular use if you believe that the setback requirements or something should be more restrictive because that use is a high impact use, you know, you could have that. Or that district really, if it's B-1 Community should have that already built into the setback requirements that any business meeting this form is going to by nature be a neighborhood scale business because it's gonna be a smaller building than in a B-3, for example.

CHAIR COUCH: Okay, Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. I agree with your line of reasoning except that I'm assuming that there are situations where they could buy two adjacent properties and consolidate them and then the setbacks don't control that scale. So, you know, I think this is really useful for us to go through and discuss, but I think what we need to look to the Department to do is to take what we, what we're hoping to do and figure out how, along with Corp. Counsel, they can make it workable, because I think the scalability or the scaling in the neighborhood is something that we're concerned about that is not addressed by setbacks, along with if somebody buys a large lot or buys several small lots and consolidates them.

CHAIR COUCH: And Members, again, you know, this is a general merchandise category, general merchandising category and according to Mr. Alueta, a small "neighborhood store" is allowed already, is that right? Is my understanding.

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MR. ALUETA: Yes, and if you really wanted to allow for like say some type of general merchandising, but at a certain scale then I would...I would recommend that you incorporate a SBR service establishments as an allowed use within the B-1 District, and then that way we have an existing definition and maybe this will probably help some of you and that is, service business, service establishment means a structure from which neighborhood scale commercial services are provided to the public--

CHAIR COUCH: Oh yeah.

MR. ALUETA: --from a gross floor area not greater than 2,000 square feet including display, storage, and accessory areas. SBR service establishments may include businesses and professional offices, food service establishment, retail establishment in which products are sold to the general public for direct consumption and other neighborhood scale commercial uses that are determined by the Planning Director to be similar character and use.

CHAIR COUCH: That's almost exactly what we're looking for.

MR. ALUETA: So if that's maybe what you're in line of thinking then if you added that service business service establishment as an allowed use in the B-1 District, you would sort of cover your neighborhood doctor, your neighborhood...and set the parameters of what you...you would still have your setbacks, 10-, 15-foot setbacks. So on a minimum 6,000 square foot lot, and you take away all the setbacks, you're gonna get about a 2,000 maybe...2,000 square foot building footprint will still be in there. So if that works, that will really I think address Ms. Baisa's.

CHAIR COUCH: I think that addresses a lot of the stuff that we're discussing.

COUNCILMEMBER WHITE: Yeah, that works for me.

CHAIR COUCH: So putting SBR in as a--

MR. ALUETA: Service business, service establishment.

CHAIR COUCH: Yeah. So do you have that direction, Mr. Alueta?

MR. ALUETA: Yeah, I'll just add it.

CHAIR COUCH: For B-1. Then that would fit gift and curio shops in B-1 as well.

MR. ALUETA: Correct because remember it also incorporates...includes business and professional offices, food service establishments or in our case, eating and drinking establishments, retail establishments which provide services directly to the general public.

CHAIR COUCH: Yep.



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MR. ALUETA: So your coffee shop and your scaled coffee shop. Okay.

COUNCILMEMBER COCHRAN: What about surf shops? Like to make sure surf shops are okay.

CHAIR COUCH: In B-1, in the small country town where you have your small neighborhood area.

COUNCILMEMBER COCHRAN: Neighborhood.

CHAIR COUCH: I think that would fit.

MR. ALUETA: Retail establishment.

CHAIR COUCH: Yeah, it's retail establishment.

COUNCILMEMBER COCHRAN: Retail, yeah, okay.

CHAIR COUCH: Yeah. So that answers...that helps a lot. That will answer a lot of our concerns. Members, anything else on this page? I have one more, but we're on Page 5. Mr. White?

COUNCILMEMBER WHITE: Just a question. I notice that marinas are in just B-2 and B-3. How much oceanfront property do we have that's in B-2 and B-3?

MR. ALUETA: I think a lot of the area down by Kihei where the Kihei Boat Ramp is and some of those areas were...had some B-2 or B-3 designation at one point. Again, this is an old Code, and so they just were saying that's where you wanna have it if they have a marina then you'll zone it that. I mean, you gotta put it somewhere, you gotta zone it something.

COUNCILMEMBER WHITE: Right.

CHAIR COUCH: Okay. Anything else on this page, Members?

COUNCILMEMBER WHITE: Nope.

CHAIR COUCH: I have one. Any reason why in Business-Country Town on Molokai we don't want animal hospitals?

MR. ALUETA: They...yeah, they just didn't...they didn't want it.

CHAIR COUCH: Was that Molokai Planning Commission?

MR. ALUETA: Yes. Yeah, we didn't...yeah, we don't come up with that kind of stuff.

CHAIR COUCH: Ms. Crivello, any...can you shed some light on that?

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COUNCILMEMBER CRIVELLO: Well, I think it was decided by the community and if you look at our town, don't know where you'll put it anyway. It doesn't fit in.

CHAIR COUCH: So would animal hospitals be allowed in Agriculture in that case?

MR. ALUETA: It'd be in the B-2 and B-3 Districts.

CHAIR COUCH: Okay, all right.

MR. ALUETA: Be allowed in the B-CT, but not, not on Molokai.

CHAIR COUCH: Not Molokai, okay. Fine.

COUNCILMEMBER COCHRAN: Chair?

CHAIR COUCH: Ms. Cochran?

COUNCILMEMBER COCHRAN: I see, I know you touched on ice...did you...milk manufacturing plants and things which we don't even have this anymore. What about kalo or poi manufacturing? Would that be...I mean, I know the wording isn't exactly, but that, it's still a manufacturing of a type of food product. Would that fall into this category?

MR. ALUETA: No. For some reason they put it specifically in that--

COUNCILMEMBER COCHRAN: Just milk and ice cream.

MR. ALUETA: Yeah, it's an old Code. In fact, they even have a limitation on the amount of people or whatever it can be and I think we took that off. We didn't wanna remove it because we're not sure whether Haleakala Dairy is still in production or what they do, but we wanted to make...but you also have, I think it's Maui Soda and Ice, they're down on Lower Main--

CHAIR COUCH: Yes.

MR. ALUETA: --Lokelani [*sic*] Ice Cream and all that, not to give a plug or anything, but anyway that's the kind of places--

CHAIR COUCH: Well, it's Roselani, thank you.

MR. ALUETA: Okay, thank you for that. See how much I eat...anyway, we didn't want to take it out just in case those fell in that district. But you know, poi manufacturing would probably...would be allowed in the Agricultural District obviously if someone's growing it, but also within the...would be allowed in the B-CT District if it's being sold through that store, okay, and it would also be allowed, I guess in the Industrial Districts.

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COUNCILMEMBER COCHRAN: Okay, and... 'cause I know there's more people growing... you know, eggs so that type of...

CHAIR COUCH: Yeah, but that's all allowed on Ag.

MR. ALUETA: Ag.

CHAIR COUCH: And Members, I wanna point out to everybody that farmers markets have been allowed in all the Business Districts now. That was a big thing in this legislation.

COUNCILMEMBER COCHRAN: Right. Okay, very good.

CHAIR COUCH: Okay, anything else on this page? Going once, twice, okay, Page 5 is done. Page 6, any concerns on this one? Mr. White?

COUNCILMEMBER WHITE: Mr. Chair, on personal and business services is there a reason why we can't add that to resort?

COUNCILMEMBER COCHRAN: I think that's what we said we were gonna do I believe.

COUNCILMEMBER WHITE: Since that includes a lot of the things that are, I believe, already in either The Shops at Wailea or Whaler's Village?

MR. ALUETA: Yes, I believe that was the discussion. If I can go back to... Mr. Chair?

CHAIR COUCH: Yep.

MR. ALUETA: Equipment, on Page 5, sorry. On equipment, rental and sales yards, okay, it's allowed in the B-2 District as well as, and I bring it up because new and used car rental lots are allowed also, so my question is we have a problem with like moped rentals as you see, bicycle rentals. Would you guys have a problem with saying that's either general retail and service establishments because... but because we have an equipment rental and sales yard, we've always said those things fall under it. So should equipment rental and... except for bicycles or make an exception or same thing with the new and used car lots. I'm just trying to get a feel so that when we do some of our interpretations we have a better understanding.

CHAIR COUCH: Well, question for you, Mr. Alueta, would be you did that service SBE or SBS, would something like a moped rental fall under that?

MR. ALUETA: It could be yes, because it's service business establishment on a small scale.

CHAIR COUCH: So since we're adding that anyway that, that would cover that? Would that answer your question?

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MR. ALUETA: I think it could, but I think if we could be more specific as to whether...either establish a, I guess a separate category for moped or bicycles but if you feel that it can qualify under that and be limited then for those in the B, B-CT, B-1 Districts then, yeah.

CHAIR COUCH: Okay. Anyway, any comments, Members? You know, you mentioned bicycles. You know, in our--

COUNCILMEMBER COCHRAN: Share, bike share.

CHAIR COUCH: --yeah, in our visit to D.C., we again revisited the bike share situation that they have there. They have bike racks that have a VISA card reader and then you can purchase couple hours of a bike, and you pull it out of the rack and then you take it wherever you want and put it in any other rack in the city. Is that something that we would probably need specific zoning for or is that something we would have to figure out? 'Cause it's outside of, you know, it's on public sidewalks for the most part or right outside of a business next to a public sidewalk in almost every case that we saw. Is that something that we need to throw in here or is that totally different?

MR. ALUETA: Again, that's probably why I wanted to bring up the bike, bike and moped rental, but also if it's in the public right-of-way then it would be following I believe uses allowed within Title 12 under the regulations for public right-of-way. And so I think that's where you'd probably tackle that as far as allowing for such a community service such as that. We wanna probably list it in Title 12 as being allowed, and then we...it wouldn't necessarily fall under the Business District. Because we would normally cover that...if it's in the Business zone, we would cover it under as personal business services or general retail or something like that.

CHAIR COUCH: Okay, okay. So do you still need clearer direction on mopeds and bike shops or do you...

MR. ALUETA: No, I think what I'll do is I'll just cover it under if it's general retail, personal business services.

CHAIR COUCH: Okay, okay. Members, back to Page 6, and while you're looking at that, I have a just a question on news and magazine stands. Why it wouldn't be in B-1?

MR. ALUETA: Again, it wasn't, it wasn't listed now and so I didn't wanna add it to the list.

CHAIR COUCH: I don't see any reason why not to. If there are any more that are hanging around now with all the Internet going up, but still I think, Members, if you're okay with that to say yes in B-1 without objection?

COUNCIL MEMBERS: No objection.

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CHAIR COUCH: Okay, no objection. The same with novelty shops. I guess what's the difference between that and a curio, gift and curio shop, A. B, wouldn't that fit in the SBS, again?

MR. ALUETA: Yes, it would if you're gonna SBR service--

CHAIR COUCH: SBR.

MR. ALUETA: SBR service establishments.

CHAIR COUCH: Yep.

MR. ALUETA: Then it should...it would be--

CHAIR COUCH: Then we don't have to worry about putting it in B-1 here.

MR. ALUETA: Right. Again, the purpose of the list was I basically took all...every single use--

CHAIR COUCH: Sure.

MR. ALUETA: --as listed throughout all five chapters and said, okay, I put 'em in a list, where does it fit in? And then in the case of novelty shops, it was specifically listed only in the B-R District because we know how much tourists love their little...

CHAIR COUCH: Novelties.

MR. ALUETA: So anyway, but yeah, it would be under general merchandise and everybody else, and then I guess in the B-1, it will be either SBR or whatever that other definition, I mean, use was called out specifically for B-1.

CHAIR COUCH: Okay. And while you're still checking Members, the other thing is other similar businesses or commercial enterprises or activities that are not detrimental to the welfare of the surrounding area. That kind of is a...well, I guess that gives the Director some discretion in B-2 and B-3 that if it doesn't, if it isn't listed specifically, that he or she can then say not, it's not detrimental to the welfare of the surrounding area. Is that your interpretation, Mr. Spence?

MR. SPENCE: Could you repeat that, Mr. Chairman?

CHAIR COUCH: It says one of the tables here for B-2 and B-3 says, other similar businesses or commercial enterprises or activities that are not detrimental to the welfare of the surrounding area.

MR. SPENCE: Okay, I'm sorry I'm...

MR. ALUETA: That is, if I may, Mr. Chair?

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CHAIR COUCH: Go ahead.

MR. ALUETA: They're currently...what I was pointing out was it was listed three different ways in different chapters.

CHAIR COUCH: Okay.

MR. ALUETA: So it's currently listed as being not through surrounding areas and that's listed...that wording is listed in B-2 and B-3 and it's all approved by the Commissions. That currently, the current Code and the current proposal is that it be approved by the Commissions. You had indicated that you wanted that language would be changed to the Director for the B-1 District.

CHAIR COUCH: Sure. Okay, I'm just pointing...just checking to see what that would be. And lastly, why no, again, I guess this is more to Ms. Crivello, why no medical facilities in the B-CT on Molokai?

COUNCILMEMBER CRIVELLO: If I interpret facilities correctly, it talking about the hospitals or the institutions sort of building.

CHAIR COUCH: Except for this is personal and business services. That's the small scale one. It's my understanding. Maybe I'm--

MR. ALUETA: It can be either way.

CHAIR COUCH: It can be. Okay.

COUNCILMEMBER CRIVELLO: Yes, but there are allowance like we do have doctors' offices and the dialysis center in our town, so...yeah, I guess it's how you define facilities at the time.

CHAIR COUCH: Is Kaunakakai B-CT?

COUNCILMEMBER CRIVELLO: Yeah.

MR. ALUETA: Yes.

CHAIR COUCH: Okay.

MR. ALUETA: Vast majority is.

CHAIR COUCH: Okay.

MR. ALUETA: Tell me where and we'll send our inspectors out for a notice of violation. I'm just kidding. I'm just kidding. No, but they currently...that's a...when they first when through on

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the B-CT, reviewed it, they didn't want that. Even in...it was very interesting at the time when the B-CT was first amended and it went through a round, we tried to introduce again the concept of live-work areas meaning you could live above and have your business below, and you know, several examples of where it used to had occurred in Molokai, but at that time the makeup of the Commission said no, we didn't want any of those mixed uses. I think some of them have changed their mind, but at the time when we went through and the bill was adopted that's how they voted, and that's how the Council adopted it. So currently they, Molokai, the current law is we don't allow for those facilities.

COUNCILMEMBER CRIVELLO: But, so what does that have to do with medical facilities? What was their rationale?

MR. ALUETA: The same thing with animal hospitals and stuff like that, medical facilities they didn't want...

COUNCILMEMBER CRIVELLO: But this isn't animal?

MR. ALUETA: No, it was...because in personal business services, they didn't want to have...under personal business services, medical facilities including animal hospitals...I'm sorry veterinary, doctors or medical was listed as a use in personal and business services, and Molokai at the last go-around recommended that they didn't want those. I'm not sure if they were aware that those facilities existed, but that's what they voted for.

COUNCILMEMBER CRIVELLO: Yeah, 'cause of the makeup on the Commission don't know who they are too. I would like us to take consideration in, you know, not hospitals, but medical facilities 'cause it's existing today.

MR. ALUETA: Okay. So that's, that's up to the Council. I'm just recommending what is coming from that Commission at the time. If you wanna remove that limitation--

COUNCILMEMBER CRIVELLO: Yes, yes.

MR. ALUETA: --from personal business services, then--

CHAIR COUCH: I think we should too.

MR. ALUETA: Okay.

CHAIR COUCH: Any objection, Members?

COUNCIL MEMBERS: No objections.

CHAIR COUCH: Okay, good. Thanks, we'll remove that. Anything else?

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COUNCILMEMBER CRIVELLO: I have a...

CHAIR COUCH: Go ahead.

COUNCILMEMBER CRIVELLO: So pet shops are blank.

MR. ALUETA: Yes.

COUNCILMEMBER CRIVELLO: Can that be allowed? We've had them in and out.

CHAIR COUCH: In B-CT?

COUNCILMEMBER CRIVELLO: In B-CT not the--

MR. ALUETA: They're currently, yeah, they're currently not on Molokai. I'm sorry, pet shops are not allowed in the B-CT. It is allowed in the B-2 and B-3 with limitations. That was a quandary that we had, I mean as far as...because if you allow for veterinary services, right, and animal hospitals which is what we are doing, are you...but you have a limitation on pet shops that doesn't allow boarding, you have a conflict there. So technically we could allow for a animal hospital, but if you're...and that would have, obviously have overnights stays, but if you had a pet shop, you wouldn't allow boarding.

COUNCILMEMBER CRIVELLO: But you do have boardings for pet shops?

MR. ALUETA: Yes, you do have. There are pet shops that do offer boarding services and again, that came about during...if you look at the existing Code under B-2, B-2 has pet shops not involved in the treatment or boarding of animals. Okay. And what we're saying is we're proposing to add animal hospitals, because we think that's...that would be an appropriate service, because a lot of times you have veterinary services and that's why it went through the Commission. So we caught that little conflict, you know, it's like you're gonna allow animal hospitals but at the same time you have pet shops and you wouldn't allow for it. So I guess I'm asking do you...if we allow pet shops, do you want...could we take off the limitation regarding boarding and treatment of animals?

CHAIR COUCH: In B-CT?

MR. ALUETA: In anywhere that we're, anywhere where pet shops is listed, right, it's currently allowed in B-2, in B-3.

CHAIR COUCH: I'm fine with that.

MR. ALUETA: And then you have animal hospitals which would allow, so...

CHAIR COUCH: So if you're gonna allow one, why not allow the other?



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MR. ALUETA: Right. I mean, do you...I guess, in the Business District do you care whether somebody...if they have a pet shop should there be a limitation on treating, I mean, boarding or treating animals if you're gonna allow for animal hospitals?

UNIDENTIFIED SPEAKER: No.

MR. ALUETA: And then if you are going to allow for animal hospitals and pet shops in the districts, which are the most appropriate districts? For us it's B-CT is allowed, should be allowed.

CHAIR COUCH: For pet shops?

MR. ALUETA: Both, animal hospitals and...

CHAIR COUCH: Okay.

MR. ALUETA: As well as B-2 and B-3.

COUNCILMEMBER CRIVELLO: I'm okay with that, Chair.

CHAIR COUCH: Any objections to removing the limitations on the pet shops as far as the boarding of animals and also adding pet shops in B-CT? No objections, okay. You got it. Anything else on that page? The only...just head scratcher a little bit is real estate offices not allowed in B-1 when, you know, again it, that, that, wouldn't that fall under the service business, SBR possibly?

MR. ALUETA: It would now.

CHAIR COUCH: Okay.

MR. ALUETA: It would now.

CHAIR COUCH: All right, well then we're good. So without objection we're okay with six, with all the changes we just made? Okay. Last one. Sanitariums. Anyway, anything on this page? Ms. Crivello?

COUNCILMEMBER CRIVELLO: Going back to Page 6.

CHAIR COUCH: Oh, sorry, Page 6.

COUNCILMEMBER CRIVELLO: I'm sorry. Well, and Page 7.

CHAIR COUCH: Okay.

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COUNCILMEMBER CRIVELLO: We have recycling collection center B-CT, yes, limitations, and then we have redemption center, yes.

MR. ALUETA: Yes.

COUNCILMEMBER CRIVELLO: So can you define the difference?

CHAIR COUCH: The difference between...yeah, the redemption center is the HI5 redemption only. Recycling center takes cardboard and other glass and other plastic.

MR. ALUETA: Right. If you go to Page 2 of that table, you'll see where, recycling collection center means structures designed to collect, weighing, temporary storage, small-scale technology, segregation of recyclable material. Those are your pretty much your green...your giant, green roll off containers where people...and then it may include someone there as you see, say at MCC's one where they, where they not gonna say bale it, but they crush it or they try to consolidate it in some fashion. Redemption centers are normally what you see and as an adjunct to an existing commercial establishment where you would go in and you take your cans back, whether it be an existing retail establishment like in Oregon, you just take it back to the grocery store or here in Hawaii, it seems very popular with the gas stations where they're setting up a bank of machines where you can cash in your...and that's a redemption center.

COUNCILMEMBER CRIVELLO: Okay.

CHAIR COUCH: I have a question on sign painting shops. Is that different from...for instance most of the sign shops you see now are all either with printer or vinyl letters or things like that as opposed to actual sign paint shops, although there are sign painting shops as well. Why would that only be in B-2? Are they huge in size or the noxious fumes possibly or what, what's the...

MR. ALUETA: Yeah, I think, it's interesting is that again, it's one of those where it says under the existing Code and as sign-painting shops with wholly enclosed buildings--which makes sense if you're doing paint--I mean, but and employ no more than five persons. I think in our proposal we're taking off the limitation on the employees.

CHAIR COUCH: Without objection, anybody? I think we should remove...(inaudible)...

MR. ALUETA: Yeah.

COUNCILMEMBER BAISA: I agree. I agree because, you know, five or six or what about, you know, it's not enforceable.

MR. ALUETA: No, and that's why the Department is proposing that, that be struck, but the limitation on the enclosure being...is something. And then for the most of the printing ones, you know, that's obviously they're in an enclosed structure already, but at the same time...

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CHAIR COUCH: But those aren't sign-painting shops, those are sign shops.

MR. ALUETA: Correct, correct. They're also...we would call those either professional business services.

CHAIR COUCH: Okay.

COUNCILMEMBER BAISA: Yeah.

MR. ALUETA: Printing establishments.

CHAIR COUCH: And I wanna point out to the Members that we added swap meet or open air market as a permissible use in Business Country Town, B-2, and B-3. Any questions or concerns about it not being in B-1? If not, we're okay with that, okay. And thank you for doing that 'cause sometimes, you know. My other question is taxi cab, car rental and U-drive stations and offices only in Business Resort?

MR. ALUETA: Correct. Currently they're only allowed and that's where you should also include whether it should include cars I guess.

CHAIR COUCH: Well, that's car rental right there and U-drive stations.

MR. ALUETA: Yeah, car rentals. Right now it's allowed in the airport. The only place that it was listed was the B-R, but also the Airport District.

CHAIR COUCH: But we have for instance, on Kaahumanu Avenue, the car rental place? We have Kihei Car Rental in Kihei.

MR. ALUETA: Right.

CHAIR COUCH: And that's certainly not B-R. So I think it's...and Surf Rent a Truck.

MR. ALUETA: Yeah, they were established. The one in Kihei was established via Conditional Permit, I believe.

CHAIR COUCH: Okay, we'll we have Avis in Kihei as well.

VICE-CHAIR VICTORINO: Also Lahaina.

CHAIR COUCH: Lahaina. Yeah, all those ones in Lahaina. Well, that's in Light Industrial. Is it?

COUNCILMEMBER COCHRAN: I don't know what it's called.

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CHAIR COUCH: But members, you know, I think car rentals, unless there's some other issue especially including taxicabs for that matter, I think that should be a definite use at least in B-2. Any objections to that? Ms. Baisa?

COUNCILMEMBER BAISA: No, I don't have an objection to that, but I wanna discuss the taxis.

CHAIR COUCH: Okay, we'll get to the taxis in a second. Any concerns with that, Planning Department?

MR. ALUETA: No, because again, like there's been a stretch in some of our interpretation as to whether or not we qualify them as equipment rental.

CHAIR COUCH: Okay, so this makes it much clearer and another page out of your interpretation binder?

MR. ALUETA: Right, and so--

CHAIR COUCH: Okay. Mr. White will be happy about that.

MR. ALUETA: --and that's always a discussion as to its...we've taken a liberal interpretation--

CHAIR COUCH: Sure.

MR. ALUETA: --and tried to expand it to include equipment rental, but we'd like to codify it in some fashion and again, the best way would be to say rental cars are allowed.

CHAIR COUCH: Go for it.

MR. ALUETA: So, and if that's the case, then you just need to tell us where you want them.

CHAIR COUCH: I say, B-2 at least. I don't know that we wanna do it B-CT or B-1. The only thing I would think of in possibly B-CT or B-1, Mr. Alueta and Members, again, I know we didn't see it this trip in D.C., but they do have these zip and go, that are hourly car rentals that are similar to the bike share, you've got five in a parking lot and a little kiosk. Is that what this U-drive stations are, and would we want something like that in B-CT possibly?

MR. ALUETA: It basically...I think the U-drive is basically car rental, it's just an old...I mean, as far as I can tell it's a...*(inaudible)*...term.

CHAIR COUCH: Right, because another one, I guess we're gonna have deal with B-CT because Molokai, the car rental is outside of the Rawlins Chevron Station, right? That's where they do...that's where we always have to turn in the cars.

COUNCILMEMBER CRIVELLO: Where?

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CHAIR COUCH: I think at the Chevron Station. Yeah, oh yeah--

UNIDENTIFIED SPEAKER: No.

CHAIR COUCH: Every time I had to.

COUNCILMEMBER BAISA: Not any more.

VICE-CHAIR VICTORINO: No. It's down at the airport. Everything's at the airport, Chair.

CHAIR COUCH: No, this was last year.

COUNCILMEMBER WHITE: Not when you come in on the ferry.

CHAIR COUCH: Not when you come in on the ferry. You pick 'em at the Chevron Station.

COUNCILMEMBER BAISA: There used to be, right, a rent-a-car down in the town, but it's not there anymore.

COUNCILMEMBER CRIVELLO: No, there's only one rent-a-car and that's...

CHAIR COUCH: Every time I've rented a car in the last year I've had to drop it off at the Chevron.

VICE-CHAIR VICTORINO: The ferry, right?

CHAIR COUCH: Yeah, yeah.

VICE-CHAIR VICTORINO: They bring it over.

CHAIR COUCH: Okay, whatever.

COUNCILMEMBER WHITE: Mr. Chair?

CHAIR COUCH: Yes, Mr. White?

COUNCILMEMBER WHITE: Point of order?

CHAIR COUCH: Yes.

COUNCILMEMBER WHITE: I'm sitting here listening to everyone talk and the poor camera is going back and forth, back and forth, back and forth. Would you get back, would you get this meeting back under control?

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CHAIR COUCH: Yeah, thank you. Okay, so yes or no, Business Country Town for at least, I don't know, maybe we need to pull out car rental and taxi cab? Ms. Cochran?

COUNCILMEMBER COCHRAN: Chair, does that affect like Hana, Lanai areas, 'cause they're more...are they B-CTs?

MR. ALUETA: There's some B-CT, but I don't see the difference between a taxi cab and a car rental. I mean what would be the...if you have a station where there's a taxi cab guys waiting or you rent a car? Either you rent a car or you rent a car with a driver, that'd be the same thing, right? So I'm not sure what the difference would be. So if you wanna allow it in B-CT, then someone would have to provide for a taxi cab station there or a car rental. They'd have to have the space for it obviously to accommodate it.

CHAIR COUCH: Is there a way we can do kinda with limitations like no more than "x" amount of cars or something like that or you know?

MR. ALUETA: That's entirely up to you. You can...if you want to say no more than x, y, z cars, but I mean, I would include, you know, I'd like you to think about including bicycles or other things such as mopeds, because that's an issue that needs to be clarified so we're not making stuff up.

CHAIR COUCH: But I thought we said that was okay with SBR for bicycles and...

MR. ALUETA: Oh, okay. All right, sorry.

CHAIR COUCH: Yeah, yeah. Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. One of the points that I'd like to make is that we have taxi cab/car rentals in resort, but at the same time, you know, Business Districts 2 and 3 may be appropriate as well. I don't know what the zoning is.

CHAIR COUCH: We did say yes for Business 2.

COUNCILMEMBER WHITE: Okay.

CHAIR COUCH: And so you want to include Business 3 as well?

COUNCILMEMBER WHITE: Well, I'm not sure what this is, but the example that I can think of is the several of the rental car companies have their operation, their washing and refurbishing operations on the mauka side of the road just past...just past or actually across the street from KOR.

CHAIR COUCH: Right, that's the strip place that we're talking about there. I'm guessing that's B-2. I don't think that would be a B-1 or it might even be Light Industrial.

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COUNCILMEMBER WHITE: I don't think it's B-R either.

CHAIR COUCH: Yeah.

COUNCILMEMBER WHITE: But I don't know what it is.

CHAIR COUCH: Ms. Crivello?

COUNCILMEMBER CRIVELLO: Chair, maybe we can add to B-CT, yes with limitations? And I don't know what kind of limitations you want to come up. I don't know.

CHAIR COUCH: And Mr. Spence...and I agree with you, but...figure out what those limitations would be. Mr. Spence?

MR. SPENCE: Yeah, I share some sentiments with Councilmember Crivello. I would hate to see...Lanai that's the only place where the car rental is, is in B-CT. Molokai, I know everything's up at the airport. They're probably doing...I know, we perennially hear about rentals out of Kaunakakai. They're not supposed to be doing that, but I mean, that is your Business District. But at the same time I go, would I really wanna see a car rental in, you know, Waiakoa or Makawao or Paia? I don't think we would wanna see that. Those are...we're really trying to maintain a character there that...I mean, Kaunakakai and Lanai City are entirely different scale anyway than what could appear in some of our country towns here.

CHAIR COUCH: Now that you bring that up, would that fall...the other similar businesses or commercial enterprises or activities that are not detrimental to the welfare of the surrounding area, could that fit in there?

MR. SPENCE: I suppose it could.

CHAIR COUCH: So then we may wanna add...again, Members, that's on Page 6, we may wanna add that as a yes in B-CT? That would clear you for...Joe?

MR. ALUETA: I'm just thinking maybe you could add it to automobile services which is currently allowed in the B-CT, B-2, and B-3 District and you would just add, means facility providing fuel, greasing, lubricating, and cleaning services including car washing and detailing for vehicles. I mean, you could just add rental in there. Providing fueling, greasing, lubrication, cleaning or rental services. And then that way it limit...I mean, it's already allowed and there's limitations on what they can do. They can't store and stuff...inoperable vehicles and stuff like that or painting.

CHAIR COUCH: Any objections to that, Members? Okay, sounds good, Joe.

COUNCILMEMBER CRIVELLO: Clarification, Chair?

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CHAIR COUCH: Yes?

COUNCILMEMBER CRIVELLO: So for the car rental that we're discussing on Page 7, do we add the AS to the B-CT for that?

CHAIR COUCH: Yeah, I mean, that's just kinda--

COUNCILMEMBER CRIVELLO: And with the, with the addition of rental?

CHAIR COUCH: Right.

MR. ALUETA: Right. We would amend, we would amend the automobile services to include rental facilities.

CHAIR COUCH: And Members, this table is just kinda a consolidation of the six, five different ordinances. So he's got the message that we wanna allow some sort of things in B-CT. We're almost done. Travel agency in B-1.

COUNCILMEMBER BAISA: Hang on.

CHAIR COUCH: Go ahead.

COUNCILMEMBER BAISA: Excuse me, I wanted to talk about taxis.

CHAIR COUCH: Yes, yes, you did.

COUNCILMEMBER BAISA: Okay, taxis according to this chart right now is only in B-R. I know that there's all kind of laws that control taxis. How many we can have and licenses and all that stuff, but wouldn't it be nice if maybe we had a few taxis all over this island instead of only in B-R?

CHAIR COUCH: Well, we did add 'em to B-2 now and somewhat in B-CT.

COUNCILMEMBER BAISA: Somewhat?

CHAIR COUCH: Well, in conjunction with an auto services station.

COUNCILMEMBER BAISA: We didn't talk about taxis, we talked about rentals.

CHAIR COUCH: And they're interpreting kind of rentals as you're renting a car with a driver.

COUNCILMEMBER BAISA: I think we're dancing around the subject. Can we please say taxis?

MR. ALUETA: If you want it, if you wanna say specifically then put it in.



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CHAIR COUCH: Sure.

COUNCILMEMBER BAISA: I would like to have it said specifically because you know, not only people in B-R need taxis. Sometimes people in other areas of the island would kill to have a taxi.

CHAIR COUCH: But I believe these are taxi baseyards, is that what you're talking about here? Because typically most of the taxis work out of their homes and there's a dispatch station that says, hey, you know?

COUNCILMEMBER BAISA: Do we have taxi stands Upcountry? I've never seen one.

CHAIR COUCH: Oh, that's what you're talking about?

COUNCILMEMBER BAISA: Yes.

CHAIR COUCH: You're talking about taxi stands.

COUNCILMEMBER BAISA: Yes.

CHAIR COUCH: Okay.

MR. ALUETA: Yeah, these are called taxi stations and offices. This is kinda like, kinda like you saw on the television show, you know, taxi cab where everybody came back, they dropped off and picked up their cars all from one large garage and station. That's called a taxi...

CHAIR COUCH: That doesn't happen here. See, that's the thing.

MR. ALUETA: See, and that's why I'm saying is that...

COUNCILMEMBER BAISA: No, that's not what we're talking about. That's not what I'm talking about, a humongous taxi stand. I'm talking about a private person that wants to do a taxi service in the country or you know, somewhere where there's residences, but you know, there might be somebody wants a taxi. You have to call them from the B-R area to come and get you and that's not so cool. You know, if we're going to talk about entrepreneurship, we're gonna talk about home occupations, to me it makes sense. I mean, maybe I'm out in left field, but if I were a person that you know, was elderly, couldn't drive, nobody to take me to the airport because I don't have kids who can drop me off, but a taxi could come and get me without me having to bring one in from far, far away. Wouldn't that be nice?

CHAIR COUCH: Yeah, I understand what you're saying, and we're fine...I mean, I'm fine with putting it in Business Country Town, that's not a--

COUNCILMEMBER BAISA: I'm not, you know, I'm not talking about a humongous taxi operation.

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CHAIR COUCH: Right. Any objections, Members, to that? Okay, so include that with the auto services possibly?

MR. ALUETA: Again, you could, if I may, you look at personal and business services--

CHAIR COUCH: Right.

MR. ALUETA: you may wanna include taxi, taxi rental to that, and personal and business services are currently...

CHAIR COUCH: Yeah, that is kinda...that's definitely a personal and business services.

COUNCILMEMBER BAISA: Absolutely.

CHAIR COUCH: So yeah, we could add 'em to that.

MR. ALUETA: So it's currently allowed in the B-CT, your B-1 with limitations I guess you could say, B-2, B-3, and the B-R.

CHAIR COUCH: Sure.

MR. ALUETA: So if you just changed the definition by adding...because if you look at what the definition of personal business services, and that's on Page 1 of your things, you could include anywhere on there, just health care services, massage services, taxi services.

COUNCILMEMBER BAISA: There you go, all right.

CHAIR COUCH: Perfect.

COUNCILMEMBER BAISA: Yep.

MR. ALUETA: Does that work for you?

COUNCILMEMBER BAISA: I just wanna see it listed somewhere.

MR. ALUETA: All right, you got it.

CHAIR COUCH: Somebody had another issue on somewhere on that page? Ms. Cochran?

COUNCILMEMBER COCHRAN: So wait, just clarification. Mr. Alueta brought up the bikes and the mopeds, and did you say motorcycles also at all?

MR. ALUETA: Yeah, just...

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CHAIR COUCH: It's under PBS.

COUNCILMEMBER COCHRAN: That's...and so we put it under the SBR?

CHAIR COUCH: Or SBR.

MR. ALUETA: It could be in SBR. I mean, like I say, a lot of these...

COUNCILMEMBER COCHRAN: And now you have those little go-cart looking things. I don't know they're...are they electric or are they--

CHAIR COUCH: Yeah, and Segways and whatever.

COUNCILMEMBER COCHRAN: --you know, three-wheeler, Segways, and all these other...

CHAIR COUCH: I think all of that could go under SBR as long as they're legal, you know.

MR. ALUETA: Or remember you added SBR only to the B-1 District, so I guess it would be included in the B-2 because anything used in the B-1 is allowed in B-2, but it's not necessarily...and remember, oh I'm sorry, we're not pyramiding so if you want SBR to be in B-2 and be in other districts then you need to say, you need to list SBR services.

CHAIR COUCH: That makes sense.

MR. ALUETA: Okay.

CHAIR COUCH: Yeah. I think that makes sense. Members, any...yeah?

MR. ALUETA: And then from that that gives us not only--

CHAIR COUCH: Some good leeway.

MR. ALUETA: ---uses, but it gives us a scale in which you're expecting these uses too.

CHAIR COUCH: Okay.

MR. ALUETA: Okay. So you want SBR to be...SBR services to be across the board in B-1, B-CT, B-2, and B-3, and B-R, I guess. Is B-R also?

CHAIR COUCH: I think so. Members, any objections to that?

COUNCIL MEMBERS: No objections.

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CHAIR COUCH: Okay.

COUNCILMEMBER COCHRAN: And so just touching on taxi cabs and shuttles and things of these nature, you know, you mentioned baseyards kinda like that show Taxi, but there's a big issue with these congregating and creating congestion in the harbor area in Lahaina and that we kinda need like a substation or something that just dispatches out to all these entities to call 'em in when there are pickups and they hang out somewhere else, so they're not congesting the area when not needed at the time kind of thing, like an airport, like the airports do. So not sure where that falls into place here?

MR. ALUETA: Well, that's why they were only allowed at the time was in the airport area and the B-R District. So you had them there. They were supposed to stay in the B-R, instead of hanging out at the Kanaha Pond Wildlife Park, you know, parking lot. But that's how, and again, because on Maui I guess, and I guess even on...oh yeah, mostly on Maui, a lot of it is just independent contractors. Okay.

CHAIR COUCH: Yeah, they're all independent.

MR. ALUETA: And very few are Yellow Cab or whatever you wanna call, and so they don't have a centralized area. They all work out...independent contractors work out of their house, and they pretty much just hang out in wherever there's a vacant parking lot stall, and they just wait for their call. So...they hang out at Starbucks or whatever. But anyway, that's...but if you want that then you...it's still allowed, but only in the B-R right now I guess you would say as well as the Airport District.

COUNCILMEMBER COCHRAN: So would that be in particular Lahaina Harbor area, Historical District area too?

MR. ALUETA: Yeah, technically--

COUNCILMEMBER COCHRAN: Okay.

MR. ALUETA: --because the Lahaina Historic District allows for any use. It's one of those pyramid thing, it says any use allowed in the Business District is basically allowed. It's kind of, kind of...

COUNCILMEMBER COCHRAN: Okay.

CHAIR COUCH: I think that would be more of an exception. We have to take that as maybe a different rule somewhere else.

COUNCILMEMBER COCHRAN: Okay. All right, I'll look into that and see. Thank you.

CHAIR COUCH: Okay. Anything else on this page? Because I do have one with travel agencies. Why not on in B-1? Maybe that's more...that'll fit under SBR again or a personal business service?

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MR. ALUETA: Or it definitely falls under the personal business.

CHAIR COUCH: Okay.

MR. ALUETA: But it's a...

CHAIR COUCH: So it would be allowed?

MR. ALUETA: --And general office. That's why it says general office.

CHAIR COUCH: But you don't have it under B-1?

MR. ALUETA: Right, and so if you're adding SBR, it would be, fall under the SBR one which would be a limitation to 2,000 square feet.

CHAIR COUCH: To the size, yeah.

MR. ALUETA: To the size.

CHAIR COUCH: Yep.

MR. ALUETA: Okay.

CHAIR COUCH: Members, any further comments on these tables? Because what the Department's gonna do now is they got our direction, they're gonna tweak the Code itself, and then we're gonna come back with the Code, each one, and go through each one and say okay, we're gonna pass each one out individually. So any further comments on that? Mr. Alueta?

MR. ALUETA: I'll let them if they have any comments before I...do wanna address a couple issues?

CHAIR COUCH: No, I think we're fine.

MR. ALUETA: Okay, so we have two issues that we want to--

CHAIR COUCH: Oh yes.

MR. ALUETA: --sort out more, a little more, and that is one is your warehousing in the B-CT as to if we establish a limitation for the warehouse that it can be a use...for uses within the area or I mean, it can be an accessory use in the B-CT, right, for...provided it's within a certain amount of feet of that business and it's owned and operated by the business. So in the case of that we talked about which was Molokai, one of the grocery stores, but that warehouse would only be for that Molokai grocery store. It's not gonna be an open warehouse for other people.

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CHAIR COUCH: But I do remember we discussed that a little bit and we said we would like to see, you know, why waste the space if both stores wanted to...

MR. ALUETA: Okay, so we would list warehousing, warehouse in the B-CT as an allowed use. So we'll just list warehousing, okay, I just wanna make sure that's what we're gonna do?

CHAIR COUCH: Mr. White?

COUNCILMEMBER WHITE: Let Ms. Crivello go first.

COUNCILMEMBER CRIVELLO: That's my understanding.

CHAIR COUCH: Okay.

COUNCILMEMBER CRIVELLO: That is my understanding.

MR. ALUETA: Okay. So we'll list warehouse in B-CT.

CHAIR COUCH: Well, but Mr. White, you have a...

COUNCILMEMBER WHITE: Yeah, my...I wouldn't want to limit it to the owner of the warehouse, because I think one of the points that we made last time was that if Friendly Market wants to put up a warehouse and make it available for other shops in town to have a portion of the warehouse or just use it all themselves, that should be their option rather than us limiting it.

CHAIR COUCH: Well, then now the concerns with the Department are?

MR. ALUETA: Oh, we were more concerned with, you know, your B-CT is a very design-restricted commercial enterprise, and you don't want to have your Commercial Districts being filled up with warehouses when you really want on-floor retailing and offices that serve that small town. Okay, but again that's up...we'll let the market decide whether the warehouse is gonna be \_\_\_\_\_.

CHAIR COUCH: The warehouse is needed or not.

COUNCILMEMBER WHITE: Yeah, I wouldn't have a problem. Because, I...you know, I think the intent is to provide warehousing for the businesses within a town.

CHAIR COUCH: Sure.

COUNCILMEMBER WHITE: So I wouldn't have a problem with limiting it that way.

MR. ALUETA: Right. And it's also probably limited in Molokai, limited industrial places where they can have these. So, okay, the second issue that we wanna discuss is we're adding small-scale energy facilities, right, as an accessory use. That's in the proposal as an accessory use to

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businesses. So a business can have...like they can have a warehouse, but they can have small-scale energy facility. By the definition of a small-scale energy facility in the Code, it's an adjunct and subordinate to an existing business. So it makes it clear that you can put PV panels on your warehouse or put PV panels on your--

CHAIR COUCH: Parking structure.

MR. ALUETA: --business, right, provided that the vast, the majority of the energy is being used on site. Okay, we have an issue. Actually it came out a couple times, I was surprised, where businesses own an adjacent lot, it's in the Business District and they wanna put PV panels on it. Okay, right, and so...yeah, it was...it took us...I had that same look. It's kind of a...we didn't think that someone would wanna do that given the valuation of...typical valuation of the Business Districts. However, obviously electrical bills have been sky high. In this case, this is for a company that is a large, large user of power, so it was worth it for that person to purchase a property. It's not adjacent to him, it's like directly--

CHAIR COUCH: Across the street, yeah?

MR. ALUETA: --it's within 50 feet. It's directly across the street of a cul de sac. So we wanna...we were thinking that could we put a limitation in the Business District that under wherever we put small-scale energy facility where it has to be an accessory that we say that, that where it would be allowed for the same...provided for the same use for a user provided it's within like 400 feet or something like that. We already allow offsite parking in that fashion meaning within 400 feet. So could we allow for accessory use such as a small scale energy facilities?

CHAIR COUCH: Mr. White?

COUNCILMEMBER WHITE: Yeah, I see no problem allowing that and especially from the standpoint that if somebody is growing their business and they have the ability to purchase a lot, they may not be ready to construct something on that lot at the time. So I don't really see a problem with allowing this.

CHAIR COUCH: But he's allowing the energy to go across to a different lot. It's produced on one lot. Yeah, I have no problem with that either.

COUNCILMEMBER WHITE: You know, I don't see a challenge there myself.

CHAIR COUCH: The other portion of that for instance if they wanna do a parking structure and then put the PV above, so they're doing a parking structure for the area, if they generate enough electricity that they use, you know, the majority they use and they got extra, can they sell it to some of the other businesses in the area? That's another issue that they would like direction on.

MR. ALUETA: Well, I haven't had that come up yet.

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CHAIR COUCH: Well, I know you haven't come up yet, but...

MR. ALUETA: But again, energy is to whether or not...that's a energy generation facility which is not allowed within...

CHAIR COUCH: Right, it becomes...so it has to be for the existing business then?

MR. ALUETA: From a land use perspective as well as the design perspective, I mean, we don't think it will happen, but it's really not for a healthy economy to occupy or have lands that you zoned for a certain density...it's kinda inefficient if it's just being used as a solar farm or other generational product like a...so obviously, we'd wanna see it as an accessory use where the energy is being generated and being used by the owner directly as the majority owner, I mean, a majority user of the, of these energy systems. So it stays an accessory use, it's just that we wanna expand the accessory use outside to a separate lot that's within a nearby area. And I was surprised that I had actually...it came up again yesterday with another property owner and I was like...I was shocked, but it's just something that has ...*(inaudible)*...

CHAIR COUCH: So it can be listed as an accessory use with the preference that, you know what, if you're gonna put 'em up there, put 'em up high so you can use it for parking or something. Something like that, don't waste the land, but that's totally up to the landowner.

COUNCILMEMBER WHITE: But again, I would go back to a growing business. If they don't need it for parking just yet, let 'em put it on the ground and when they wanna use it for parking, then they can invest in the structure.

CHAIR COUCH: Okay. Is that...are you clear on the direction there?

MR. ALUETA: Yeah I'm clear that they can...we'll set it up so that we'll make it clear that they can do it, it doesn't have to be on the same lot and that...but it still has to be subordinate to the principal use in a nearby lot.

CHAIR COUCH: Right. Right.

MR. ALUETA: And it has to be in...

CHAIR COUCH: Within about 400 feet? That's what we do for offsite parking.

MR. ALUETA: Yeah. Yeah, we'll set up something. We'll use some kind of similar standard. Four hundred feet is what it is for offsite parking. If you're okay with that, we'll say that.

CHAIR COUCH: Yeah, that sounds fine.

MR. ALUETA: But it has to be the same person, cannot be like...right now we're not saying you can do a solar farm and then sell to other users. We're just saying...



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CHAIR COUCH: Right.

MR. ALUETA: Okay, thank you.

CHAIR COUCH: Any objection to that?

COUNCILMEMBER WHITE: No, I think it's probably going to be somewhat limited below the 400 feet because you're gonna have to do cabling and so forth.

CHAIR COUCH: Correct. Through somebody else's property.

COUNCILMEMBER WHITE: Right.

CHAIR COUCH: Yeah. Okay, with that do you feel you have what you need from us for the direction to come up with the proper ordinances?

MR. ALUETA: Yeah, I think that Mike will lose a few more hairs, but we will...this Mike over here, and...

COUNCILMEMBER WHITE: Which Mike?

CHAIR COUCH: Mr. Hopper.

MR. ALUETA: Mr. Hopper. But me and him will try to figure out, I think, exactly what you want and then...but thank you very much. I appreciate your time.

CHAIR COUCH: Yeah, thank you. Members, it was a tough one, you know, but it's an important one because we're adding some things, especially farmer's market and swap meets, and cleaning the Code so their interpretation book, it gets smaller and smaller which Mr. White really likes. So thank you, Members, thank you, Staff for being here. Any questions from the Staff side? Nope. We may have ...*(inaudible)*...

UNIDENTIFIED SPEAKER: Yeah, we're gonna defer?

CHAIR COUCH: Yeah, without objection we're gonna defer this matter until they come back with the proper language.

COUNCIL MEMBERS: No objections.

**ACTION: DEFER pending further discussion.**

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CHAIR COUCH: All right, with that, thank you very much everybody, and this meeting is adjourned.  
... (gavel) ...

**ADJOURN: 11:54 a.m.**

APPROVED BY:

  
\_\_\_\_\_  
Donald G. Couch, Jr., Chair  
Planning Committee

pc:min:130314

Transcribed by: Carolyn Takayama-Corden

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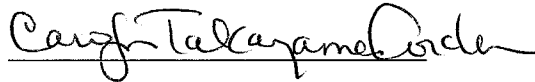
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CERTIFICATE

I, Carolyn Takayama-Corden, 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 the 9<sup>th</sup> day of April, 2013, in Makawao, Hawaii

A handwritten signature in cursive script that reads "Carolyn Takayama-Corden". The signature is written in black ink and is positioned above the printed name.

Carolyn Takayama-Corden