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Date

MAUI PLANNING COMMISSION

COUNTY OF MAUI

TUESDAY, JUNE 24, 2008

DEPT OF PLANNING  
COUNTY OF MAUI  
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**ORIGINAL**

REGULAR MEETING

Held at the Planning Department Conference Room,  
First Floor, Kalana Pakui Building, 250 South High Street,  
Wailuku, Maui, Hawaii, commencing at 8:35 a.m., on Tuesday,  
June 24, 2008.

REPORTED BY: CAMMIE GILLETT, RPR, CSR #438

1 ATTENDANCE  
2  
3

## 4 COMMISSION MEMBERS PRESENT:

5 Jonathan Starr, Chairperson

6 John Guard IV, Vice-Chairperson

7 Bruce U'u, Commissioner

8 Kent Hiranaga, Commissioner

9 Ward Mardfin, Commissioner

10 Donna Domingo, Commissioner  
11  
12

## 13 STAFF PRESENT:

14 Jeffrey Hunt, Planning Director

15 James Giroux, Deputy Corporation Counsel

16 Carolyn Takayam-Corden, Secretary

17 Joe Alueta, Staff Planner  
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TRANSCRIPT OF PROCEEDINGS

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CHAIRPERSON STARR: Good morning all. This is June 24th. And that means the Maui Planning Commission is being called to order. We have with us Commissioner Hiranaga; Commissioner U'u; Commissioner JB Guard, vice-chair; Commissioner Mardfin; Corp. Counsel James Giroux. I'm Jonathan Starr.

We have our director here, honorable director. And we have Commissioner Donna Domingo. We have our board secretary Carolyn Takayam-Corden. And fine folks of Akaku field projects are with us, and Deputy Director Colleen Suyama, along with the Director Jeff Hunt.

So we're ready to proceed. The meeting will adjourned today at 5 p.m. We'll break for about an hour approximately at noon. The members of the public will have an opportunity to testify on every item before us. There will be two separate opportunities, but we ask people to testify once unless they have new information. They can testify either at the beginning of the meeting on any item that is on our agenda, or they can wait and testify before the individual item.

So without further adieu, we'll move into our busy and full agenda. And I'll pass the floor over to our director, Jeff Hunt, for Item B.

1 Director.

2 THE PLANNING DIRECTOR: This item concerns a  
3 resolution thanking outgoing Planning Director Colleen  
4 Suyama. And we traditionally read these into the record.

5 Resolution of the Maui Planning Commission, wherein  
6 Ms. Colleen M. Suyama has served the County of Maui with a  
7 distinction and with a high degree of professionalism as  
8 Deputy Director of Planning for the County of Maui from  
9 January 2, 2007 to June 30th 2008; and wherein Ms. Colleen  
10 M. Suyama began working for the County of Maui as a planning  
11 aid on February 10th, 1975; and wherein Ms. Colleen M.  
12 Suyama has been a professional planner with more than 30  
13 years of experience with the County of Maui; and wherein  
14 Ms. Colleen M. Suyama will be retiring from the County of  
15 Maui on June 30th, 2008; and wherein Ms. Colleen M. Suyama  
16 has contributed greatly to the profession of land use  
17 planning and the economic development of the County of Maui;  
18 and wherein Ms. Colleen M. Suyama's tenure as Deputy  
19 Director of Planning, the Department of Planning has strived  
20 to improve its internal efficiencies.

21 Be it resolved that the Maui Planning Commission  
22 hereby commends Ms. Colleen M. Suyama for her dedication and  
23 service for the people of the County of Maui. And further,  
24 be it resolved that Maui County Planning Commission does  
25 hereby express its deepest gratitude and appreciations to

1 Ms. Colleen M. Suyama for her service, and does hereby  
2 extend best wishes to her in her future endeavors. And be  
3 it further resolved that copies of this resolution will be  
4 transmitted to the Honorable Charmaine Tavares, Mayor of the  
5 County of Maui, and the Honorable G. Riki Hokama, Chairman  
6 of the Maui County Council.

7 CHAIRPERSON STARR: Okay. Well, thank you  
8 Mr. Director. And I wish to say that Colleen has been a  
9 really good teacher of knowledge. I've learned a lot from  
10 her. I think we all have. And she's really worked hard and  
11 serve us well. Although, I cannot express all the  
12 appreciation, she'll be missed. And she's done a great job.  
13 Sorry to see her go. But we wish her very great happiness  
14 and health and all the best in her community endeavors.

15 Members, would anyone else like to make any  
16 comment?

17 COMMISSIONER U'U: Ditto.

18 CHAIRPERSON STARR: Director.

19 THE PLANNING DIRECTOR: I would really like to echo  
20 that we're going to really miss her. She's going to have  
21 some shoes that are going to be difficult to fill. It is  
22 rather remarkable that Colleen got her first job out of  
23 college with the Planning Department and has been here ever  
24 since. And there's a lot of institutional knowledge that  
25 she brings to her position. And she's shared that with us.

1 And she's guided us and coached us. And she'll surely be  
2 missed.

3 CHAIRPERSON STARR: Very well. Thank you so much  
4 for your service and the great years you've put in and done  
5 a lot of good.

6 MS. SUYAMA: Thank you. It's been a pleasure  
7 working with the Commission. I've worked through so many of  
8 them. It's changed over the years, the 30 years. At one  
9 time, this Commission actually appointed the Director and  
10 the Deputy Director. Then there was a charter change, in  
11 which it became the Mayor that did the appointment of the  
12 Deputy. So there's been a lot of changes.

13 I think at least now, the Commission has a broader  
14 base of people. Because at one time, there were comments  
15 like, well, the Commission was made up of four old Japanese  
16 men. And now we have women on the Commission, and we have a  
17 broader base of people from different districts. So I think  
18 over the years, things have improved. I'll miss the  
19 Commission.

20 I won't be back before, you know, a year. So based  
21 upon charter requirements. But I will be doing something  
22 after my three-months rest after my retirement. So thank  
23 you.

24 CHAIRPERSON STARR: Well, good luck to you. Okay.  
25 And I'm sure there's consensus that we all agree that we're

1 happy to pass this resolution. Yeah, let's have a formal  
2 motion let's do it. Ready, Commissioner Mardfin?

3 COMMISSIONER MARDFIN: I'd like to move that we  
4 adopt the resolution as read by the Planning Director and  
5 convey our great thanks to Colleen.

6 COMMISSIONER GUARD: Second.

7 CHAIRPERSON STARR: Okay. We have a motion by  
8 Commissioner Mardfin, seconded by Commissioner Guard that  
9 we'll pass this resolution as read.

10 All those in favor, please raise your hand. Any  
11 opposed.

12 (No response.)

13 CHAIRPERSON STARR: Unanimously passed. Thank you.  
14 And once again, congratulations on a wonderful career.

15 Okay. We'll move along to our first public hearing  
16 item. Director Hunt.

17 THE PLANNING DIRECTOR: Your first public hearing  
18 item involves the Planning Department transmitting a bill  
19 for an ordinance amending Title 19, Maui County Code, to  
20 establish a service business residential district. The  
21 planner involved in this is Joe Alueta.

22 CHAIRPERSON STARR: Before we do that, I will  
23 call -- because we have public testimony before any of the  
24 any of the items.

25 Do we have any member of the public wishing to

1 testify on any agenda item. There will be an opportunity to  
2 testify before specific items. But you're certainly welcome  
3 to testify now before any of the items. Anyone wishing to  
4 testify at this time, please -- John Blumer-Buell, please  
5 come forward and state your name. And welcome to the  
6 Planning Commission.

7 MR. BLUMER-BUELL: Aloha, Chair Starr and Planning  
8 Commission members. First time I've seen this group in  
9 person. I do watch you on Akaku, and I think this  
10 commission is doing a good job.

11 I'm not sure if you got my -- I faxed over, after  
12 the Planning Department was closed last night, my testimony  
13 on SBR. Did you get that?

14 CHAIRPERSON STARR: Members, did we get copies of  
15 that fax?

16 SECRETARY TAKAYAM-CORDEN: I didn't get it.

17 CHAIRPERSON STARR: No?

18 MR. BLUMER-BUELL: Could I pass these out, then. I  
19 really came all the way over to testify regarding the  
20 landfill. But I was part of the review of the 1994 Hana  
21 Community Plan. And we looked at this SBR issue. And  
22 that's why I've made comments regarding it.

23 Now, it is my understanding Dawn Lono, Chair of the  
24 Hana Advisory Committee to the Maui Planning Commission  
25 wrote a letter requesting the subject item be returned to



1 Hana for public hearing. If that is true, I support that  
2 request because I think there's a number of people in Hana  
3 that are interested in participating. Unfortunately, the  
4 advisory committee has had a difficult time getting a quorum  
5 recently.

6 If not, I oppose the current SBR bill and ask you  
7 to withhold action on the proposal until a number of  
8 questions are answered and considered. And attached is a  
9 two-page letter that I hand delivered to the Planning  
10 Department for Director Hunt and Joe Alueta, with a number  
11 of questions regarding the SBR.

12 When we had the hearing on the five bills for  
13 ordinances for the B&B issue in Hana, I did talk with  
14 Director Hunt. And at that time, he said that the SBR --  
15 you know, there never was an SBR ordinance; it doesn't  
16 exist. And some of the parcels that have that designations  
17 in 1994 have since been reclassified to urban reserve. Most  
18 of them are zoned, in my looking at this, R-3. So there's  
19 really a lot of questions regarding this. I simply would  
20 like all the information to be clear and unambiguous for  
21 everyone before making a decision.

22 Final thought is on my cover letter. I said we  
23 already have a special use permit process and zoning process  
24 to examine those types of requests that would be allowed in  
25 the SBR bill. The SBR request is to establish an entirely

1 new business district outside of the business district in  
2 the Hana Town Center. A redesignation from residential to  
3 SBR should trigger a community plan amendment process which  
4 should include an EA or EIS.

5 And, you know, perhaps it would be best to just let  
6 this get resolved when the Hana Community Plan is reviewed  
7 in the fairly near future. Mahalo.

8 CHAIRPERSON STARR: Hold on. Any questions for the  
9 testifier?

10 I have a question for you, John. Were you a member  
11 of the Community Plan Advisory Group when the SBR areas were  
12 added to the last community plan?

13 MR. BLUMER-BUELL: I was not a member of the Hana  
14 Advisory Committee that did the plan. But I was serving at  
15 that time on the Hana Advisory Committee to the Maui  
16 Planning Commission. So I did attend nearly all the  
17 meetings of the Hana Advisory Committee. And I'm aware of  
18 some of the specific discussions that went on.

19 I mean, at the time, there was concerns about this  
20 potentially turning into a spot zoning. And there was other  
21 concerns. And so I'm just hoping the information is clear  
22 and unambiguous before there's any decision.

23 CHAIRPERSON STARR: Okay. I understand there's two  
24 processes; one to create SBR zoning -- you know, what it  
25 means, a definition of it -- and the other is to create

1 areas of it.

2 MR. BLUMER-BUELL: Right

3 CHAIRPERSON STARR: And I believe that those areas  
4 that have been created were all done in the community plan  
5 process. Because you were saying you would like to see it a  
6 part of the community plan process. I believe that the  
7 creation of those areas was part of the process.

8 Do you understand that?

9 MR. BLUMER-BUELL: Yes, I do. And then when I  
10 discuss this with Director Hunt -- I don't want to put words  
11 in his mouth or create a conflict. I discussed this with  
12 him when the Planning Department was out presenting the five  
13 ordinances for B&B. At that time, Director Hunt responded  
14 that there was no SBR, period. And it's true, there was no  
15 SBR in existence at the time of the plan, the Hana Community  
16 Plan, which I do have a copy of anticipating the creation of  
17 SBRs. So it's created some confusion. And I'm just hoping  
18 he'll clear up the confusion before we move forward.

19 CHAIRPERSON STARR: Okay. Thank you very much.  
20 Members?

21 MR. BLUMER-BUELL: You're welcome.

22 CHAIRPERSON STARR: Okay. Thank you,  
23 Mr. Blumer-Buell. Thank you for driving in for this.

24 We have Lesley Bruce signed up. And I don't know  
25 whether you'd like to testify before the meeting or before

1 the individual item?

2 MS. BRUCE: I need an estimate on when it was  
3 coming up.

4 CHAIRPERSON STARR: Which item?

5 MS. BRUCE: The Hana landfill. It's E.

6 CHAIRPERSON STARR: It will be probably -- it will  
7 be a little while. I can't say.

8 MS. BRUCE: Before noon?

9 CHAIRPERSON STARR: Hard to say.

10 MS. BRUCE: Okay. Can I come back later at the end  
11 of the meeting? If I testify now, may I please come back?

12 CHAIRPERSON STARR: Come up to the mic.

13 MS. BRUCE: Lesley Bruce.

14 CHAIRPERSON STARR: My suggestion if you're time  
15 concerned would be to testify. And then, you know, if you  
16 have something really short that comes from additional  
17 information received on the presentation, we'll give you  
18 another minute or so.

19 So please state your name.

20 MS. BRUCE: My name is Lesley Bruce. I'd like to  
21 share a map that shows the olopawa, regarding the Hana  
22 landfill. We need an environmental assessment that  
23 addresses fish pond and Hana Bay water quality.

24 I live near the landfill and 12 fishponds at  
25 Waikoloa. The fish ponds are both spring fed and they rise

1 and fall with the tides. The landfill will inevitably  
2 affect these ponds. Household toxins, in addition to the  
3 toxins listed in these memos that are distributed today,  
4 will cause harm. The tests being made are not testing for  
5 all the toxins being dumped. Natural disasters would  
6 preclude placing dumps on shoreline.

7           Regarding the cinder mining at olopawa. Olo means  
8 hill. Pawa means smooth, fat or sleek. Olopawa, where the  
9 cinders are being removed, has historic significance. In  
10 1899, Moses Manu recounted "A Hawaiian Legend of a Terrible  
11 War," that "This going of Pele's down to Hana was said by  
12 the ancients to be her very first experience in going under  
13 the earth from Haleakala to the northwestern side. The  
14 hills of olopawa lie above Ka'eleku and were made by the  
15 lava."

16           Among poetical names quoted from CM Hyde's 1887  
17 publication, Hyde mentions the wind comes down at Hana,  
18 rushing like a Hawaiian toboggan, kohoa pehu o Hana pai  
19 olopawa. An ugly barren scar appears on the landscape at  
20 olopawa, visible from Kawaipapa, where the hills have been  
21 removed and were transferred to the hills of Hana dump as  
22 the landfill it referred to in Hana.

23           This mistreatment of the sacred aina is not like  
24 the removal of Puunene and Puuhele where they once stood,  
25 reminding us of their legendary significance. They are now

1 holes in the ground. A similar desecration of the hills of  
2 Hua in Lahaina District were carved out to become a dump and  
3 now are a smoldering toxic disgrace.

4 Greg Kresge of the Public Works testified before  
5 the General Plan Advisory Committee that it would be  
6 possible to truck Hana's rubbish out of Hana. I don't know  
7 if this has been explored beyond that event.

8 I'd like to ask if there are any questions? Thank  
9 you very much.

10 CHAIRPERSON STARR: Hold on one second.

11 Any questions, members?

12 I do have one question for you. What's the  
13 proximity of the fish pond to the existing landfill?

14 MS. BRUCE: I haven't measured it. Basically, it's  
15 downhill from where the landfill is.

16 CHAIRPERSON STARR: Yeah.

17 MS. BRUCE: They're on the bay. And they extend  
18 out to -- on the pen peninsula.

19 CHAIRPERSON STARR: What is the water conditions at  
20 the fish pond? Are there any problems or concerns at this  
21 time?

22 MS. BRUCE: Yes, they rise and fall with the tied.  
23 So we are very concerned about the quality of the ocean  
24 water. And they are spring fed. So we are very concerned  
25 about the quality of the mountain water. And most of the

1 fish ponds are not being maintained.

2 In my fish pond, I have o'opu, I have opai. I have  
3 half a dozen fish that can survive the brackish water,  
4 including --

5 CHAIRPERSON STARR: Are they healthy populations?

6 MS. BRUCE: Yes, as long as you maintain the fish  
7 ponds. Most of the fish ponds are not maintained.

8 CHAIRPERSON STARR: Okay. Well, thank you very  
9 much. And thank you for coming in for this.

10 Chair would like to know if there's anyone else in  
11 the room who would like to testify on any item of the agenda  
12 at this time?

13 John, you had your chance. You're out of order  
14 right now, John. If you have something to distribute,  
15 that's fine.

16 MR. BLUMER-BUELL: I just wanted to ask your  
17 permission if I could hand out my testimony for the  
18 landfill. Who would I give that to? I'll be back.

19 MR. ALUETA: Yeah, why don't you hand it to --  
20 Chair, you want to help us?

21 CHAIRPERSON STARR: Okay. Last time. Any member  
22 of the public wishing to give testimony who has not  
23 testified.

24 Seeing none, public testimony will be closed. It  
25 will be reopened for each individual item. Once again, I

1 pass it back to Director Hunt, to introduce our first item.

2 THE PLANNING DIRECTOR: First items involves the  
3 Planning Department transmitting a bill for an ordinance  
4 amending Title 19, Maui County Code, to establish a Service  
5 Business Residential District. Joe Alueta is the planner  
6 assigned to this project.

7 CHAIRPERSON STARR: Joe, before you begin, I want  
8 to ask you to tell us what has been done to try to have a  
9 hearing in Hana on this item, and what is the situation with  
10 that?

11 MR. ALUETA: Again, we tried to schedule -- several  
12 weeks ago, we tried to schedule a meeting. We were all set  
13 to go and fly out to Hana. However, we were unable to get  
14 the last minute -- we were not able to get a quorum for the  
15 Hana Advisory Committee members on that Monday.

16 We then immediately -- once that was discovered,  
17 there was no quorum -- we tried to reschedule immediately  
18 for the following Monday, one week later, and called around  
19 to confirm that we could get a quorum. The meeting never  
20 got scheduled because we confirmed there was no quorum.  
21 We've had a published notice of a meeting in Hana once. And  
22 because the lack of quorum, that had to be canceled. In the  
23 subsequent rescheduling, we were unable to get quorum again.

24 Just for your information, as far as the Hana  
25 Advisory Committee's role is with regards to this project,



1 this is not per se like an SMA permit, where you designate  
2 them to hold the hearings. The charter designates that you,  
3 the Maui Planning Commission, as well as the other two  
4 commissioners, Lanai and Molokai, must hear it because it's  
5 an amendment to Title 19. We try to go to Hana as a  
6 courtesy because they are one of the community districts  
7 that are affected by the SBR ordinance. Just for your  
8 information on that.

9           And with regards to some of the testimony from  
10 Mr. Blumer-Buell, again, there is multiple processes it  
11 takes. You need to have a community plan. You need to have  
12 an ordinance. And you need to have zoning to make SBR go.  
13 And a lot of times with regards to process of the community  
14 plan, you may agree with the community plan process, you may  
15 not always agree with the outcome. But we try to get the  
16 process done.

17           So moving on to our --

18           CHAIRPERSON STARR: Hold on one minute. Are all  
19 the positions filled on the Hana Advisory Committee? I  
20 believe -- I believe there's nine members. Are there  
21 actually nine people who are on that?

22           I see John Blumer-Buell is holding up seven  
23 fingers. What is it entitled to?

24           THE PLANNING DIRECTOR: I believe it's seven. And  
25 I believe all the positions are filled. There's discussion

1 that one person has moved and may have to either resign or  
2 is no longer eligible. We're not sure.

3 CHAIRPERSON STARR: And out of seven, four is a  
4 quorum?

5 THE PLANNING DIRECTOR: Correct.

6 CHAIRPERSON STARR: Members, does anyone have any  
7 discussion or comments or concerns on that before we  
8 proceed? Commissioner Mardfin.

9 COMMISSIONER MARDFIN: I'm just curious,  
10 Mr. Alueta. Do you happen to know if there are any plans to  
11 hold a meeting on this within a week or so?

12 MR. ALUETA: If the Commission wishes, we can try  
13 to schedule one after we get through all three commissions,  
14 then we can schedule one prior to being held by the County  
15 Council. Because again, it always takes time for us to  
16 schedule before the Commissions. And then there's a lag  
17 time between the Commission's date, as well as by the time  
18 it gets transmitted up to Council.

19 We coordinate all your comments. If there's  
20 significant comments that we feel are amendments to the  
21 bill, that department is supportive of changing, we will  
22 draft those changes and then send it over to Corporation  
23 Counsel for final form legality prior to transmitting to the  
24 County Council.

25 Given the extreme backlog that the Corporation

1 Counsel also faces, there tends to be a lag in the  
2 turnaround time.

3 COMMISSIONER MARDFIN: Do we have a -- does the  
4 Planning Commission have a deadline that we either speak for  
5 a certain date or forever hold our peace on this?

6 CHAIRPERSON STARR: I'll defer to Corp. Counsel on  
7 that one. I believe it's 120 days.

8 COMMISSIONER MARDFIN: I'm sorry?

9 MR. ALUETA: I believe it's 120 days.

10 COMMISSIONER MARDFIN: From when?

11 MR. ALUETA: From the time of public hearing.

12 COMMISSIONER MARDFIN: You mean from today, we have  
13 120 days?

14 MR. ALUETA: I believe that's the case. I'm  
15 deferring to Corp. Counsel to get the exact language on when  
16 the clock starts.

17 CORPORATION COUNSEL: Joe, I don't have my charter  
18 on me.

19 CHAIRPERSON STARR: I have one.

20 COMMISSIONER MARDFIN: I guess the reason I'm  
21 asking is because we did get the letter from Dawn Lono that  
22 this be deferred until the Hana Advisory Committee can meet?  
23 I'd like to accommodate that as long as it doesn't mean we  
24 would forever give up our chance to speak on it from this  
25 Commission. And that's why I'm asking if the Council said,

1 you know, you have to get back to us by July 5, or you're  
2 not going to have any input.

3 MR. ALUETA: I think that as far as -- again, as  
4 far as their input, I believe there will be an opportunity  
5 to input. I do not think -- or I do not feel you should  
6 wait for the Hana Advisory Committee to comment, and then  
7 you somehow incorporate or don't incorporate their comments.  
8 Because we're going to include our comments in our  
9 transmittal to the Council.

10 This is not an issue where you're designating them  
11 to told a public hearing on your behalf. If you see the  
12 subtle differences.

13 COMMISSIONER MARDFIN: I do.

14 MR. ALUETA: In the case of SMAs in Hana where you  
15 designate them, we publish the 30-days notice, we hold the  
16 public hearing for you on your behalf. Their comments are  
17 then transmitted to you. And you are the final deciders  
18 because they are an advisory board to you. Okay?

19 In this case, because of the unique circumstances  
20 with regards to the impact potentially to Hana, we feel it's  
21 important to get their comments. But their comments should  
22 be a stand alone and will be incorporated in the transmittal  
23 to the County Council. And if their changes are significant  
24 that the Department has supported or any commissioner has  
25 comments that the Department has supported, we'll make those

1 changes prior to the transmittal to the County Council.

2           When the County Council deliberates on this  
3 ordinance, they will not only see our current draft of the  
4 ordinance, the prior draft that you all commented on, as  
5 well as all your comments. At and that point, County  
6 Council will be the final legislative body who will discuss  
7 and determine what comments should be incorporated in  
8 addition to the ones that the Department has already done.

9           COMMISSIONER MARDFIN: So, in effect, you're  
10 getting four inputs? You're getting Maui Planning  
11 Commission, you're getting Molokai Planning Commission  
12 you're getting Lanai Planning Commission, and you're getting  
13 Hana Advisory Committee?

14           MR. ALUETA: That is correct.

15           COMMISSIONER MARDFIN: And you're treating them as  
16 kind of co-equally?

17           MR. ALUETA: That is correct.

18           COMMISSIONER MARDFIN: May I ask, Director. This  
19 is being initiated essentially by the Planning Department;  
20 is that correct?

21           THE PLANNING DIRECTOR: That's correct. But it's  
22 in response to concerns that we've heard from the various  
23 levels; from Council, from citizens in Hana, and other  
24 places.

25           COMMISSIONER MARDFIN: So there's no drop-dead date

1 from the Department's point of view? You don't want to let  
2 it go forever.

3 THE PLANNING DIRECTOR: I believe there is a  
4 legislative deadline. I don't think we're approaching that  
5 yet.

6 Our concern is we're trying to move things along.  
7 And quite often, the planning process in Maui County is long  
8 and laborious. And quite often, the finger gets pointed at  
9 the Planning Department; you know, the Planning Department  
10 is not moving things along. Well we're trying to move  
11 things along. And there's many times it's not our fault.

12 Here's a good example. The Hana Advisory has had a  
13 history of getting quorum. In April, we flew out there for  
14 a meeting. It cost us \$1800. We fly out there. And the  
15 quorum wasn't achieved. And they didn't even bother to call  
16 us to let us know. We're standing around for an hour  
17 waiting for the Commission to show up. And finally after an  
18 hour, we said well, I guess we're not having a meeting. So  
19 that was in April.

20 In June, we called ahead to make sure we got quorum  
21 ahead of time before we make a reservation for the airline,  
22 \$1800 again. And then that morning, somebody calls and says  
23 I'm not going to make it. We're going to lose quorum. That  
24 was in June. So at some point we say we try and meet with  
25 Hana. And if they can't make the quorum, we've got to move

1 things along.

2 COMMISSIONER MARDFIN: I've shared your  
3 frustration. I've gone out to the meetings that have been  
4 posted by the post office. And I go to the meeting and find  
5 empty room. It doesn't cost me \$1800. Luckily, it costs me  
6 \$5 in gas. It takes a quorum to pass something. But if  
7 they meet, can it be used for informational purposes, for  
8 comments, that sort of thing? Or they can't even do that?

9 THE PLANNING DIRECTOR: Without the quorum, they  
10 can't meet other to say we don't have quorum, and the next  
11 meeting is.

12 CHAIRPERSON STARR: Chair would like to hear this  
13 item unless any of the members really have strong feelings  
14 against it. However, I'd also like to make sure that the  
15 people of Hana have an opportunity to comment on it at the  
16 next meeting, whenever that is, of the advisory committee.  
17 I certainly sympathize with the Department in getting  
18 quorum. I've served on that body, and I know it can be  
19 trying.

20 So what Chair would like to suggest is that we hear  
21 this item. And if we come up with, you know, a decision on  
22 our recommendation, then an opportunity be given to the Hana  
23 group to have public comment. And that if, on the basis of  
24 comment in Hana, the Department decides to change the  
25 ordinance before sending it up to Council, they come back --

1 they present those changes to us so we're knowledgeable of  
2 that before it goes up to Council.

3 Is that a suitable mechanism, Director?

4 THE PLANNING DIRECTOR: Joe, you want to comment on  
5 that.

6 MR. ALUETA: Unless there is significant changes,  
7 we would not be inclined to bringing them back to you. You  
8 would be cc'd on the transmittal as to what was transmitted  
9 up there and if there are any changes.

10 CHAIRPERSON STARR: If there's significant changes,  
11 then we would like to see it. And if it's, you know,  
12 unsubstantive or purely regional, I don't think we would  
13 need to see it.

14 Is that acceptable?

15 MR. ALUETA: Yeah. I mean, that's --

16 CHAIRPERSON STARR: Members, is that --

17 COMMISSIONER U'U: Yes.

18 CHAIRPERSON STARR: Saying that, let's move ahead.  
19 Take it ahead Joe Alueta.

20 MR. ALUETA: Thank you, Mr. Chair.

21 Again, this is to establish the SBR, Service  
22 Business Residential zoning. You should all have my staff  
23 report memo report, dated June 2nd, 2008. The SBR  
24 ordinance -- or SBR designation on the community plans was  
25 done during the last go around of the community plans. And



1 so we are not community planning any properties in this go  
2 around. There is no EA trigger with regards to that.

3 So all we're doing is creating the development  
4 standards for a future SBR, which is already called out for  
5 in two of the community plans. One of them, which has to do  
6 with the Wailuku/Kahului area, and the other one has to do  
7 with the Hana area.

8 The purpose of the SBR is kind of to -- it's a step  
9 down from what you call the BCT districts and the business  
10 districts, and one up from what you call the home occupation  
11 bill in the residential district. It tries to create some  
12 type of neighborhood or low-scale commercial operations on  
13 your fringe single-family areas that would be suitable for  
14 certain types of businesses. It kind of stems out of  
15 existing areas within the town, within our community where  
16 commercial activity is sort organically grown away from the  
17 commercial core to provide certain businesses prior to  
18 zoning.

19 And you see this primarily in the small town  
20 Wailuku across from the school, where you have some law  
21 offices as well as some beauty shops and some neighborhood  
22 stores. It's basically a commercial area that keeps the  
23 residential scale and design of that particular community.

24 Again, the emphasis is more on maintaining that  
25 residential character. And the business is more of an

1 accessory use to that residential neighborhood. And I guess  
2 I can say it's more like a mixed use, where residence is the  
3 primary use and where this is a small-scale commercial area.  
4 And again, the definition limits it to a maximum of 2,000  
5 square feet within those districts. By definition, that's  
6 what an SBR is; a limit of 2,000 square feet max of  
7 commercial area.

8           This was sort of a rehashed bill. I've modified it  
9 and updated it to try to address some of the concerns that  
10 came out back in the '96 original version of it. And those  
11 are attached, along with the minutes from all three of the  
12 commissions, to see what were the comments and concerns that  
13 were brought up at that time 12 years ago.

14           And the bill, when it came out of the commissions,  
15 one of the biggest hang-ups, I guess you could say, was  
16 wrestling over, again, bed and breakfast and transient  
17 vacation rentals. The bed and breakfast ordinance didn't  
18 come around until a year later. So this was before and  
19 during the discussions of how do you handle B&B and TVRs.  
20 So that's where the mud in this project got stuck.

21           And once it got transmitted up to Council, it sort  
22 of died there. For whatever reason, there was no momentum  
23 once the B&B ordinance was passed back in '97. However,  
24 this ordinance or these designated areas is very important,  
25 I guess you could say, to the properties in Hana, primarily

1 where you have some of these neighborhood businesses  
2 currently operating in nonconformity in anticipation of an  
3 SBR ordinance being adopted.

4           As talked about by one of the testifiers, when  
5 comprehensive zoning did occur in Hana, all the lands that  
6 were designated on the community plan as SBR, rather than be  
7 automatically zoned SBR, since there was no SBR category  
8 within Title 19, they all fell into urban reserve. And  
9 urban reserve is your equivalent of purgatory. It's worse  
10 than interim, okay, which is hard to believe that there's  
11 something worse than being zoned interim.

12           But urban reserve doesn't have any standards. And  
13 you can't really almost do nothing in there. And it's all  
14 in anticipation that you will some day be zoned some  
15 designation that is consistent with your community plan  
16 designation. So we're hoping to, one, create this SBR  
17 district so that people on these individual properties can  
18 choose and come in and actually zone their property Service  
19 Business Residential and have something to work from.

20           Now again, I want to stress that we are not zoning  
21 any property, okay. That seems to be the biggest hang-up.  
22 There are SBR properties designated. Again, as indicated in  
23 the staff report, there's maps attached as Exhibit 2, 2-A,  
24 and Exhibit 3. And those are the parcels that are  
25 designated as SBR under the community plan.

1           The Department is not coming in and doing a  
2 comprehensive rezoning of these parcels. All we're doing is  
3 creating the development standards for an SBR district. And  
4 these individual property owners will have to come in and  
5 get a zoning change to that.

6           Exhibit 1 of the memo report is the proposed code  
7 for SBRs. If you look at the uses allowed, we've broken  
8 down the format for Title 19 into what's allowed on your  
9 list of permitted use. And that's listed under 19.11.020,  
10 permitted uses. We then have accessory uses. And then we  
11 have what we call special uses. And that's the format that  
12 the Department is going to be putting forward in all of our  
13 Title 19 amendments. We feel every district needs to have  
14 what you're allowed to do, what are the normal functions  
15 that are considered accessory to that district, and what  
16 uses do we think are potentially suitable by that district,  
17 but need additional review by this Commission.

18           Okay. And if you look at those allowed uses,  
19 obviously, single family. Duplex uses are allowed in that  
20 single-family district. All of these are all the uses  
21 allowed normally you will find in your standard  
22 single-family ordinance zoning category.

23           The commercial aspects that are allowed, again, is  
24 transient vacation rental. That's the first one. You're  
25 allowed one transient vacation rental per lot. And then

1 accessory uses. Your standard accessory uses are allowed  
2 under any residential district.

3 Under special uses, those that require Commission  
4 approval are, again, transient vacation rental units up to  
5 five on a lot, or a country inn, which by definition, we're  
6 calling a 12-unit country inn. And again, those require a  
7 special use.

8 We did put in a caveat. If you look at that some  
9 of the zoning or some of the community plans may have  
10 further restrictions under G, where it says one transient  
11 vacation rental per lot, subject to further restrictions  
12 provided by the region's community plan.

13 As an example in the memo report, I attached on  
14 Exhibit 4 of the memo report, this is photocopies of the  
15 pages that are coming out of the Hana Community Plan area.  
16 And the Hana Community Plan, not only do they designate  
17 properties as SBR, but they had a specific vision of what  
18 they thought SBR should be for their community. Okay. And  
19 so they established additional requirements that would occur  
20 during -- most likely, they're going to have to happen or  
21 restrictions will be established during the zoning of  
22 individual parcels.

23 So again, we're not zoning anybody. We're just  
24 creating a standard. When each individual parcel comes in,  
25 we're going to review, like we do any other change in

1 zoning; is it consistent with community plans. Not only is  
2 it consistent with a map, is it consistent with the language  
3 within those community plans.

4 Other amendments to the code again deal with 19.36,  
5 which is the parking, which establishes parking requirements  
6 for an SBR use. And then also, we're amending 19.04 to  
7 create a couple definitions that are going to be needed to  
8 enable us to implement this ordinance; one being country  
9 inn, as well as defining what an SBR is, SBR mixed use, and  
10 SBR service establishment.

11 And then in 19.06 is just creating that SBR,  
12 Service Business Residential category within the County Code  
13 19.06. And then, again 19.11 of the Code is the development  
14 standards for the SBR.

15 Do you have any questions at this time?

16 CHAIRPERSON STARR: Yeah. The wording that was in  
17 the Hana Community Plan regarding criteria or standards for  
18 SBR. How consistent are they with what is in the new  
19 ordinance?

20 MR. ALUETA: It's consistent. And again, a lot of  
21 times this language in the community plan, when they come in  
22 for an individual zoning request, you're going to establish  
23 additional conditions or restrictions to that property in  
24 granting that zoning request. And that's where some of this  
25 language would be stuck in.

1           And again, it's kind of like the tier system, where  
2 the State has their designation. The County can come in and  
3 establish more restrictive, but not less restrictive.  
4 Again, the County ordinance comes in, the community plans  
5 may have more restrictive, but they can't be less  
6 restrictive than the County ordinance. And that's kind of  
7 the tier system that we're following.

8           CHAIRPERSON STARR: My understanding of what's  
9 attempted to being achieved here is something that's both  
10 old and very new, in that it's almost like the concept of  
11 the village concept where people would live and work. The  
12 pre-automotive village concept. And it also is consistent  
13 with what I seem to be hearing at various planning  
14 conferences, when they talk about creating compact mixed use  
15 communities. You know, kind of the post-automotive concept  
16 as well.

17           I mean, will the standards we have here really help  
18 to create a community where people are less automotive  
19 dependent and more able to live without having to drive  
20 distances all the time?

21           MR. ALUETA: It does fall along with what they call  
22 new traditional town planing or new urbanism in that aspect,  
23 where you're creating a new mixed-use district, where single  
24 family is the primary use. In this case, single family is  
25 the primary use, and where you're adding up a small

1 component of business to service that neighborhood area or  
2 service that small region or area.

3           It's different in the sense of what we've done in  
4 the past with regard to our BCT, Business Country Town  
5 district, wherein those areas, the primary function is  
6 business, okay. It's in your urban core, in which we've  
7 injected small residential type uses above it or in  
8 conjunction with that business. So it's sort of the flip of  
9 the BCT.

10           In the BCT, again, the primary function is  
11 business, as well as a design constraint to have that  
12 business look or plantation commercial look in a lot of  
13 those BCT districts. In this case, the flip side is in the  
14 Service Business Residential, the primary purpose is  
15 residential, where business is being injected in a limited  
16 scale. And so both those ordinances and both those  
17 proposals that we've had accomplish the goal of what we  
18 consider new urbanism, with a small amount of mixed use.  
19 And hopefully people will get out of their cars.

20           I think we need about another \$2 to \$3 a gallon  
21 rise, and it will make that a little more -- accomplish that  
22 a lot more quicker probably than this ordinance.

23           CHAIRPERSON STARR: At the National Planning  
24 Conference recently, I sat through several presentations on  
25 what's being called now, the new word is sustainable



1 urbanism. The proponent of this is someone named Doug Farr,  
2 who is the chief architect for LEED neighborhood  
3 development. He's leading the LEED team. And he just came  
4 out with a great book, incidentally, called Sustainable  
5 Urbanism, which is a really fantastic read.

6 He talks about mixed communities across -- new  
7 urbanism has what they call transects which divide, you  
8 know, land and communities, everything from national  
9 forests, all the way to high-rise urban city. And they  
10 divide, I think it's seven transects of different  
11 categories. And the middle transects are what I guess would  
12 be the business country town. And then this one that's  
13 before us being the same mixed-use concept, but across two  
14 of those transects. Am I understanding that right?

15 MR. ALUETA: Yes. And I think this focuses more on  
16 one of the first core and second core of new urbanism. And  
17 someone once pointed out, which I totally agree, is that new  
18 urbanism is still urbanism. Okay? And what we're trying to  
19 do is reinvigorate existing urban areas and reinvigorate  
20 your business country towns so that they become more dense,  
21 or more of a mixed-use area.

22 Whereas new urbanism, in a lot of cases, takes land  
23 that's not even urban, for the most part, and plops down  
24 this transect of urban to ag. And whereas my -- my view on  
25 what I'm trying to accomplish is you have existing urban

1 lands. How do you better and more effectively and  
2 efficiently use those urban lands while maintaining the  
3 purpose and intent of including zoning, or the protection of  
4 those zoning classes.

5           And I think that it's good to inject. And again,  
6 if you've read the memo report and the analysis on -- it's a  
7 tight rope you walk when you try to inject other uses into a  
8 different zoning category that people have become accustomed  
9 to. It's one thing to inject residential uses within a  
10 commercial core, okay. Because people know I'm moving into  
11 an apartment above a bar, it's going to be noisy.

12           When you inject commercial into a residential core,  
13 right, you have to be very careful. And that's why the  
14 selection of these SBR lots, if you look at them all, all of  
15 them are on the fringe. A lot of times, they're recognizing  
16 existing commercial establishments, small commercial  
17 establishments that were established either through a  
18 conditional permit or a special use permit.

19           So this is not about rezoning or designated ag land  
20 to an urban use. This is about using existing urban lands,  
21 specifically single-family lands, that are on the fringe  
22 that have the potential to allow small scale commercial  
23 ventures or commercial businesses without infringing on the  
24 overall single-family areas and creating an impact.

25           So that's our goal. And so I think we're speaking

1 on the same topic.

2 CHAIRPERSON STARR: Yeah, I have one other  
3 question, and then the Director has something. I'm  
4 surprised there's no mention of clustering or multifamily in  
5 here of trying to take, say, in areas, say, half acre, you  
6 know, trying to move the housing and the business uses  
7 closer in, closer together, and leaving open space around  
8 it. Rather, this is still maintaining the concept of  
9 slightly more sprawling use. Is that intentional?

10 MR. ALUETA: Yes. Because again, that's why --  
11 we're modifying our existing commercial areas. Like I said,  
12 the BCT and B-1 and B-2, B-3 to allow for mixed uses so you  
13 can create a higher density with some type of residential  
14 population to aid and support that commercial core.

15 And again, whereas like I said, you're walking a  
16 fine line between you already have small residential scale  
17 lots, and you're adding a small amount of commercial. If  
18 someone came in and they had a half acre that was somehow  
19 designated SBR and they were going to redevelop the entire  
20 site to cluster, that's one thing.

21 Again, this is about where do you have residential  
22 areas that are on the fringe of those residential core, as  
23 well as have the potential to allow commercial activities  
24 without impacting the overall purpose of the district, which  
25 was a single-family district. So I think it's very

1 selective in where we choose to designate or where the  
2 community has chosen to designate SBR.

3 I think if the community wants to designate  
4 something which you're speaking to, then they would  
5 designate that property and establish either a zoning  
6 category or conditions for the development of that larger  
7 lot.

8 CHAIRPERSON STARR: Director.

9 THE PLANNING DIRECTOR: I just wanted to add to the  
10 earlier discussion about new urbanism and sustainable  
11 urbanism. I view an SBR district as being consistent and  
12 even helping to achieve new urbanism.

13 But having said that, how we're going to apply it  
14 is dependent upon the community plans. We're not going to  
15 automatically create a walkable village in Hana because the  
16 community plan doesn't call for that. What we're going to  
17 do is implement the community plan which calls for an SBR in  
18 a few select places.

19 CHAIRPERSON STARR: Commissioner Guard first, and  
20 then Commissioner Mardfin.

21 COMMISSIONER GUARD: So some of these areas have  
22 been designated -- like up around Waiehu, I notice like a  
23 lot of these guys on Kahului Beach Road, a lot of them are  
24 already running businesses. So if they've been designated,  
25 they might have an easier time getting this zoning that

1 we're adding to Title 19. But anyone else, you're going to  
2 have to go through a community plan amendment, change in  
3 zoning, I want to become SBR. We're not flooding the  
4 neighborhoods for businesses. That's what a few people were  
5 concerned about.

6 MR. ALUETA: That is correct. And again, a lot of  
7 them, if you look at the one like in the Pakukalo area,  
8 they're already there and they're established under  
9 industrial. All of that is zoned industrial now.

10 But the community has said that no, we don't want  
11 industrial, we'd rather see -- these are all existing  
12 single-family homes. Rather than see this fringe area,  
13 instead of each of those homes get torn down and get a big  
14 warehouse put up, we would rather see that this be more --  
15 keep the single-family residence and establish a use, like  
16 offices. Or in one case, you have Bowman Termite. You have  
17 a termite company. I think there's another termite company  
18 down the road also, they're also established inside a  
19 single-family home.

20 And I think that's where the community said --  
21 where zoning came in and zoned it something. And they said  
22 no, that's not what we want, we want some kind of in between  
23 commercial that keeps the character of the single-family  
24 residence of our neighborhood, but allows for this sort of  
25 commercial area. And I think this is what is the compromise

1 that they came up with.

2 CHAIRPERSON STARR: Commissioner Mardfin.

3 COMMISSIONER MARDFIN: I've got several questions.  
4 Item G, you say one transient vacation rental unit. Does  
5 that mean one guest or one family?

6 MR. ALUETA: In the proposed amendments, I'll tell  
7 that you the Department, when we went to Lanai and some of  
8 their proposals, we agree with. One is that in talking with  
9 our Corporation Counsel, on G it would read one transient  
10 vacation rental per lot. So unit would be stricken because  
11 we already have a definition of what a transient vacation  
12 rental is. Subject to the further restrictions by the  
13 region -- there should be an apostrophe s -- community plan.

14 COMMISSIONER MARDFIN: Again, with your wording  
15 now, one transient vacation?

16 MR. ALUETA: Rental.

17 COMMISSIONER MARDFIN: Rental. Does that mean one  
18 family at a time? You couldn't have a unit that was big  
19 enough to have ten bedrooms for ten families, or anything  
20 like that?

21 MR. ALUETA: You could. But it would have to be  
22 rented as one unit, and it would still be subject to the  
23 community standards. You limit it by -- say you had an  
24 ohana unit. And you had a large enough -- you put a 500  
25 square foot, two-bedroom, one-bath ohana. You would rent

1 that whole unit as one. That would be one unit. If you  
2 broke it up and rented it as two units, you would be in  
3 violation.

4 COMMISSIONER MARDFIN: Without a special use  
5 permit.

6 MR. ALUETA: Without a special use permit, that is  
7 correct.

8 COMMISSIONER MARDFIN: Thank you for answering  
9 that. Secondly, I looked at -- for the people that aren't  
10 familiar with Hana. Basically, Hana has very limited  
11 business zoned areas. And it's basically owned by one  
12 organization, the Hotel Hana Maui and the Hana Ranch. So  
13 maybe two now.

14 MR. ALUETA: And the church.

15 COMMISSIONER MARDFIN: Yes. But it's extremely  
16 limited. And it's basically a monopoly situation. And I  
17 was looking -- I don't know what the Kahului/Wailuku looks  
18 like, but I'm looking at the ones in Hana. And I know how  
19 they are being used currently. And I can only think of two  
20 that would be more like the SBR. There's one with a spa on  
21 it and some food service. And that sort of would meet the  
22 SBR definition as opposed to transient vacation. And  
23 there's another one at the corner, where it looks like it's  
24 that way.

25 The other ones, as far as I know, are being used

1 for transients vacation rentals or bed and breakfast, that  
2 sort of thing. People from the outside that are staying for  
3 a week or less. So is this sort of a backdoor way, at least  
4 for Hana, to allowing these things to continue without  
5 having to go through whatever process would be used for  
6 transient vacation rentals or bed and breakfast?

7 MR. ALUETA: Yes and no. If they're doing a bed  
8 and breakfast, right, they would be allowed within the  
9 residential districts, okay. But as far as the other TVR  
10 units that are in Hana in the SBR, they still would need to  
11 get a zoning change. So each one of those lots would have  
12 to come in and get a zoning. They would have to meet the  
13 criteria of not only the development standards of the  
14 district, but as well as the limitations within their  
15 community plan language.

16 Some of the existing units that we know that are  
17 illegally operating, right, would meet the category if they  
18 got a special use permit under the criteria of the special  
19 use permit that we've established here. So not only would  
20 they need a zoning change, but they would have to  
21 concurrently do a special use permit, go through a community  
22 hearing in Hana, as well as the Commission, as well as  
23 getting the Council approval.

24 To me, it's not a backdoor. It's the correct way  
25 of doing it. Meaning getting the correct zoning and getting



1 a public hearing and doing something that is consistent with  
2 the community plan designation is the appropriate way. As  
3 opposed to the backdoor way via the conditional permit  
4 process, which obviously the Planning Department is trying  
5 to close.

6           COMMISSIONER MARDFIN: Okay. In 1994, when this  
7 map was drawn up, at least for the Hana Community Plan,  
8 these particular portions were set up as SBRs. Would there  
9 be any opportunity -- assuming the SBR ordinance goes  
10 through as envisioned, would people be able to apply for a  
11 zoning change to meet that other than these specifically  
12 designated plots?

13           MR. ALUETA: No. If they did, they would have to  
14 come in with a community plan amendment, which we are not  
15 supporting, from my understanding. We're not supporting  
16 community plan amendments while we're in this whole  
17 community plan process.

18           So if somebody wasn't designated SBR in the  
19 existing community plan and they wanted that, they would  
20 have to wait or go through the community plan process at  
21 that point in time. If you did the community plan process,  
22 that would trigger an EA, and an EA would be done. But  
23 right now, I believe if somebody is outside of any  
24 designation, inconsistent with the existing community plan  
25 and wanted to do something or change, we're telling them to

1 wait and go through their community plan process first.

2 COMMISSIONER MARDFIN: Okay. You said they're in  
3 the purgatory of the urban reserve now. And so assuming  
4 this ordinance passes, they would be able to apply for a  
5 change in zoning to SBR. Would they instead, assuming some  
6 transient vacation rental ordinances are passed, be able to  
7 go in for that zoning instead, or bed and breakfast zoning  
8 instead? Or are they limited to SBR because that's what  
9 they said back in 1994?

10 MR. ALUETA: They're limited to SBR at this point.  
11 So again, if they wanted to, say, revert back. Maybe they  
12 don't want SBR. Maybe they want to do residential. We  
13 probably would support the down designation of that to  
14 residential and try to process it. Again, there would have  
15 to be a community plan amendment that would trigger an EA if  
16 they didn't wait for this whole community plan process.

17 That's why I'm saying it's imperative to sort of  
18 put up or shut up. This is what you guys wanted. We're  
19 going to make the ordinance. You're going to have an  
20 opportunity to change the zoning.

21 Because right now when they went in, if it wasn't a  
22 zoning category that they could fall into, when the County  
23 on its own initiative did a comprehensive zoning in the Hana  
24 Town to zone all these properties out of interim, right,  
25 that's a free zoning change. The County came in and said

1 we're going to rezone you. Anybody that's interim, we're  
2 going to put you in a zoning category that is consistent  
3 with your community plan designation. Rather than going  
4 through the expense of individual properties coming in, the  
5 County did it for them and held their public hearing. And  
6 by ordinance, we rezoned the urban core of Hana Town with  
7 the exception of SBR. Because there was no category for  
8 them to fall into.

9           COMMISSIONER MARDFIN: So the big picture here is  
10 the Department wants to get an SBR ordinance, transient  
11 vacation rental ordinance, either a change, perhaps bed and  
12 breakfast ordinances? And then they want the communities  
13 which are currently doing it to go through a community plan?  
14 But with ordinances, say for these, the community plans  
15 could be more solid? They'd know what their options were,  
16 rather than have this big question mark?

17           MR. ALUETA: I'm going to parse out your big  
18 questions into two halves, okay. There's the SBR ordinance  
19 that's consistent with what is in the community plan. We're  
20 just trying to implement what the community said they  
21 wanted. For us, we're not pulling this out of thin air.  
22 And the whole premise of any of our ordinances is based on  
23 community concerns that are outlined within their general  
24 plan and community plan that was adopted.

25           The same reason we initiated the transient vacation

1 rental bills, right. That was in response to community  
2 concerns that were also outlined within the general plan and  
3 community plans.

4 COMMISSIONER MARDFIN: Thank you very much.

5 CHAIRPERSON STARR: Commissioner Guard.

6 COMMISSIONER GUARD: Is GPAC -- sorry, I don't go  
7 to all their meeting. Are they aware of the SBR potential  
8 zoning addition, so are other areas being brought in for  
9 community plan consideration to create other SBR areas? Or  
10 are they just going with this one from the prior one pre  
11 '96?

12 MR. ALUETA: It's been on -- SBR, as a community  
13 plan designation, has been on the books since the last go  
14 around. As to whether each community citizen advisory  
15 committee, or whatever they are called, takes advantage of  
16 that community designation, I don't know.

17 In the case of the last go around, right, Hana and  
18 Wailuku/Kahului were the only ones to take advantage of it.  
19 It doesn't mean that it's not applicable to Lanai, Molokai  
20 or any Paia/Haiku, it's just they never saw it as a tool  
21 that they wanted to implement.

22 COMMISSIONER GUARD: So like if Kuau Mart could get  
23 a better lease for the longer term, would that be an SBR  
24 case where the property has the little mart, as well as  
25 there was a house when the original owners ran the store?

1 They lived next door and ran the little mart.

2 MR. ALUETA: In that case, that would probably be  
3 BCT.

4 COMMISSIONER GUARD: They're on the fringe?

5 MR. ALUETA: Yes. And also, the primary function  
6 of that building per se was designed as a business. Primary  
7 and principle use was business. And then residence was a  
8 supporting or accessory use to support that business.

9 Again, in this case, you start out with a  
10 single-family structure and you're moving -- you're creating  
11 a support or accessory use of a business within that  
12 single-family structure. It's limited, again, to 2,000  
13 square feet. And it's hopefully supportive of your  
14 neighbors. Meaning you're creating a use that doesn't  
15 impact your neighbors, but as well as it supports something  
16 they want to come in and patronize.

17 CHAIRPERSON STARR: We're going to take a recess.  
18 We'll come back at five minutes of 10:00.

19 (At which time, a recess was taken.)

20 CHAIRPERSON STARR: Maui Planning Commission is  
21 back in order. We're still discussing the item regarding  
22 the establishment of Service Business Residential district.  
23 And the point we're at is that the members are having the  
24 opportunity to ask questions.

25 Commissioner Hiranaga.

1           COMMISSIONER HIRANAGA: How did you come up with  
2 the 2,000 square foot maximum allowable area?

3           MR. ALUETA: I didn't personally come up with that.  
4 That was just a number that was carried over from the  
5 previous ordinance of '96. So I don't have any reason to  
6 change it. I don't know what the justification was. I  
7 assume they wanted to set a maximum size to set a  
8 compatibility I guess, or limit the commercial scale of the  
9 operation.

10           COMMISSIONER HIRANAGA: I guess it might be  
11 beneficial if this moves on, that you maybe do some research  
12 to see if that's a good number or a bad number, small or  
13 big. I have no idea.

14           Couple more questions. You had a 300 square foot  
15 parking requirement, one parking stall for every 300 square  
16 feet of commercial, I believe. Maybe you should make that  
17 some type of number that's divisible into 2,000. So maybe  
18 400. Because 300 doesn't divide into 2,000 nicely.

19           MR. ALUETA: Okay. That's a good point.

20           COMMISSIONER HIRANAGA: So maybe one parking stall  
21 for every 400 square feet of commercial use.

22           One last question. What is a truck garden? I  
23 think I know what it is.

24           MR. ALUETA: It's an existing definition. But it's  
25 like where -- primarily, where you grow your products on

1 site, and you truck it off to another location. Like Kula.  
2 Kula is considered like a truck farming. I mean, Kula is  
3 considered truck farming. Because they grow it and they  
4 truck it down to a distributor and send it off.

5 In truck gardening, you're allowed to do some type  
6 of commercial gardening and farming. To recognize it, you  
7 could do a commercial farm within a residential-type  
8 district.

9 COMMISSIONER HIRANAGA: I'm glad I asked. I had a  
10 different idea of what that was. I thought it was trucks  
11 parks there.

12 CORPORATION COUNSEL: That's in Makawao.

13 CHAIRPERSON STARR: Yeah, they start with small  
14 trucks and get big tires.

15 Questions? Director?

16 THE PLANNING DIRECTOR: I just want to follow up on  
17 a couple comments. We don't view this as a backdoor way  
18 regarding TVRs. We actually view this as very upfront. The  
19 community plan calls for it, and we are implementing the  
20 community plan. And the Department believes this is how we  
21 should will dealing with vacation rentals.

22 There was a question about can somebody else get a  
23 change in zoning. And the answer is it would definitely  
24 require a community plan amendment if they don't already  
25 have a community plan amendment. And we may or may not

1 support that community plan amendment. We take it on a  
2 case-by-case basis, given the general plan update. There  
3 are exceptions where we have approved or supported community  
4 plan amendments in limited circumstances.

5           And finally, there was a question regarding GPAC.  
6 At this point, the GPAC is still more on a broad scope.  
7 They're not getting down into this kind of detail. It would  
8 be more at the community plan update. So it wouldn't really  
9 be under the purview of GPAC to look at this kind of zoning  
10 specifically.

11           CHAIRPERSON STARR: Commissioner Guard.

12           COMMISSIONER GUARD: I guess, I like it. I don't  
13 know if it's time for a motion to move it on or public  
14 testimony. It looks like from the minutes from the previous  
15 one, it's about 12 years late. But it's kind of the same  
16 problems they we're having 12 years ago that we're still  
17 discussing now.

18           CHAIRPERSON STARR: Yeah, better late than never.  
19 But anyway, I guess unless I see any more questions at this  
20 point, I will open it up for public testimony on this  
21 matter. And those who have not testified on this are  
22 welcome to make yourself known.

23           Not seeing any -- go ahead. Corp. Counsel has a  
24 comment.

25           CORPORATION COUNSEL: Joe, I've got ten seconds. I



1 just wanted to highlight this. And may if there could be  
2 more discussion. In your permitted use under 19.11.020, you  
3 have the SBR service establishment. And then if you go to  
4 your definitions, you have a definition of SBR service  
5 establishment.

6           When you're defining that, you use the phrase  
7 "neighborhood scale commercial service." And I don't think  
8 that's defined anywhere in Title 19. And in our department,  
9 I guess when we quickly reviewed this -- and again, we don't  
10 really review these in depth until we get it through the  
11 Commission. But we wanted to at least bring this to the  
12 forefront for your attention and maybe have the chance for  
13 the Commissioners to comment on that.

14           But we don't see a real clear definition or a  
15 standard regarding what a neighborhood scale commercial  
16 service is. And I think it's important for us when we're  
17 trying to looking at it in forming a legality to  
18 understanding what that is, we're trying to avoid vagaries  
19 in the law. So we just want that pointed out as maybe a red  
20 flag or a yellow flag for the Department.

21           MR. ALUETA: We passed it 12 years ago. I know  
22 where you are.

23           CHAIRPERSON STARR: My understanding is we need an  
24 additional definition; is that correct?

25           CORPORATION COUNSEL: I think it would help if the

1 Department came up with some kind of standard. What we've  
2 seen in the past is a litany of standards in your business.  
3 I think in your B-1, B-2, you say it's commercial scale.  
4 And then you have a litany of what is a foreseeable use of  
5 uses. So just to avoid that vagary. Because it seems to  
6 kind of dump a lot of into your catch phrase, "or other type  
7 of scale to be determined by the Department," which kind of  
8 doesn't really give the reader that much direction there.

9 MR. ALUETA: Okay. I'll take it up and talk about  
10 it more with staff, along with the Director, to see if we  
11 can clean it up a bit.

12 CORPORATION COUNSEL: The other thing I wanted to  
13 bring to the forefront in Subsection G is the term  
14 "transient vacation rental unit." That kind of -- I think  
15 Commissioner Mardfin touched on what is the indication with  
16 your Department as what do you see as a unit.

17 MR. ALUETA: The changes -- sorry, Corporation  
18 Counsel. To clarify that, we were striking the word "unit."  
19 In discussions with the other Corporation Counsel when we  
20 went to Lanai, the amendments that the Department was making  
21 to its proposal was we were going to strike "unit" from G,  
22 and add an apostrophe s to "region."

23 And then down on 19.11.04, or special uses on A, it  
24 would say, "up to five transient vacation rentals on a lot."  
25 And that's under the special use category, rather than the