

LAND USE COMMITTEE

Council of the County of Maui

MINUTES

July 5, 2007

Council Chamber

CONVENE: 3:32 p.m.

PRESENT: Councilmember Michael J. Molina, Chair
Councilmember Joseph Pontanilla, Vice-Chair (Arrive 3:33 p.m.)
Councilmember Michelle Anderson, Member
Councilmember Gladys C. Baisa, Member
Councilmember G. Riki Hokama, Member
Councilmember Jo Anne Johnson, Member (Leave 5:45 p.m.)
Councilmember Danny A. Mateo, Member (Arrive 3:34 p.m.)
Councilmember Michael P. Victorino, Member

EXCUSED: Councilmember Bill Kauakea Medeiros, Member

STAFF: Tammy M. Frias, Committee Secretary
Carla M. Nakata, Legislative Attorney
Lei Kihm, Executive Assistant to Councilmember Bill Kauakea Medeiros

ADMIN.: Colleen Suyama, Deputy Director, Department of Planning
Clayton Yoshida, Planning Program Administrator, Current Planning Division,
Department of Planning
Michael Miyamoto, Deputy Director, Department of Public Works
Vanessa Medeiros, Director, Department of Housing and Human Concerns (Item No. 49)
Tamara Horcajo, Director, Department of Parks and Recreation (Item No. 49)
Wayne Ibarra, Acting Captain, Wailuku Patrol, Department of Police (Item No. 49)
Stephen Orikasa, Administrative Sergeant, Department of Police (Item No. 49)
James A. Giroux, Deputy Corporation Counsel, Department of the Corporation Counsel
Michael J. Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel
(Item No. 49)
Edward S. Kushi Jr., Deputy Corporation Counsel, Department of the Corporation
Counsel (Item No. 49)

OTHERS: **Item No. 22:** Dr. Riggs Roberts
Lawrence N. C. Ing, Esq.

Item No. 49: Grant Chun, Vice President, A & B Properties, Inc.
Meredith Ching, Sr. Vice President, A & B Properties, Inc.
Stan Kuriyama, CEO, A & B Properties, Inc.
Diane Bevilaqua, Project Manager, A & B Properties, Inc.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

Dan Yasui, Project Manager, A & B Properties, Inc.
Mercer "Chubby" Vicens, Consultant, Vicens Entitlement Group
Michael Munekiyo, Munekiyo & Hiraga, Inc.
Ken Kurokawa, President, Austin, Tsutsumi & Associates, Inc.
Trang Nguyen, Project Manager, Austin Tsutsumi & Associates,
Inc.
Adrienne Wong, Project Manager, Austin, Tsutsumi & Associates,
Inc.
Keith Niiya, Traffic Engineer, Austin, Tsutsumi & Associates, Inc.
Tom Witten, President, PBR Hawaii
Ferdinand Cajigal, Engineering Program Manager, Maui District
Office, Highways Division, State Department of Transportation
Glenn Soma, Manager, Statewide Transportation Planning Office,
State Department of Transportation
Grant Howe, Principal Broker, Partner, Commercial Properties of
Maui
Rob Parsons
Jon Santos, J.S. Construction & Excavation
Sandy Baz, Executive Director, Maui Economic Opportunity, Inc.
Tony Takitani, Maui United Soccer Club
Additional attendees (20)

PRESS: Harry Eagar, *The Maui News*
Akaku--Maui County Community Television, Inc.

CHAIR MOLINA: . . .(*gavel*). . .Land Use Committee meeting for July 5, 2007 is now in session for this Thursday afternoon. We have in attendance Committee Members Riki Hokama, Mike Victorino, Jo Anne Johnson, Gladys Baisa and Michelle Anderson. Excused are Members Bill Medeiros, Joseph Pontanilla and Danny Mateo. From the staff we have Committee Analyst Carla Nakata as well as Committee Secretary Tammy Frias.

Members, we have two items on our agenda today, LU-49 and LU-22. The Chair would like to ask you for a consideration to bring up LU-22 first which has to with the Change in Zoning for Dr. Riggs Roberts. The reason being the...our Corporation Counsel is very well-versed in this matter which has been pending in the Land Use Committee for nearly 20 years and he does have to leave at 4:30 today. So I would like to ask for your indulgence with that and for your consideration. Any objections to bringing up LU-22 first?

COUNCIL MEMBERS: No objections.

CHAIR MOLINA: Okay, so be it, Members. Thank you very much.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

ITEM NO. 22: CHANGE IN ZONING FOR DR. RIGGS ROBERTS (WAILUKU)
(C.C. No. 89-91)

CHAIR MOLINA: That first item is LU-22 as stated earlier, a Change in Zoning Request for Dr. Riggs Roberts. It is County Communication Number 89-91, from the Planning Director, which is "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM R-1 RESIDENTIAL DISTRICT TO SBR-1 SERVICE BUSINESS RESIDENTIAL FOR PROPERTY SITUATED AT WAILUKU, MAUI, HAWAII". The intent of the proposed bill is to grant a request from Dr. and Mrs. Steven Moser, Dr. Jane Kovicar *[sic]* and Dr. Riggs Roberts for a Change in Zoning for approximately 17,494 square feet located at Wailuku, Maui, to permanently establish a medical clinic on the subject property. The original request was for a Change in Zoning from R-1 Residential District to B-2 Community Business District, while the Maui Planning Commission recommended that the zoning instead be changed to SBR-1, Service Business Residential District due to the pendency of legislation establishing that zoning district.

Next, the correspondence dated May 1, 2007, from the Department of the Corporation Counsel clarifying that in the absence of an SBR, Service Business Residential District zoning ordinance, B-2 Community Business District zoning for the subject property would be consistent with the Wailuku-Kahului Community Plan designation of Service Business/Single Family Residential provided that the zoning is appropriately conditioned.

And Number 3, a correspondence which is dated June 26, 2007, from the Corporation Counsel's office transmitting a bill entitled "A Bill for an Ordinance to Change Zoning from R-1 Residential District to B-2 Community Business District for property situated at Wailuku, Maui, Hawaii". And the intent of the proposed bill is to approve a Change in Zoning from R-1 Residential District to B-2 Community Business District for the subject property.

So, Members, now that you've gotten all of that, I'd like to...uh...ask the Planning Department to give an overview of the matter. But before we do that, Committee Secretary, did we have anyone sign up for testimony on Committee Item LU-22?

MS. FRIAS: No, Mr. Chair.

CHAIR MOLINA: Okay, no one has signed up for LU-22 to give testimony. The Chair will close testimony on that. Any objections?

COUNCIL MEMBERS: No objections.

CHAIR MOLINA: Okay. So be it. We will close testimony on Item Number LU-22. I would like to ask Planning...Deputy Planning Director, Colleen Suyama, to give us an overview of LU-22. Ms. Suyama.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

MS. SUYAMA: The Department did a chronology of the application by letter dated July 3, 2007, and basically the summary of that memorandum...that letter...the original medical offices were established in 1985 as a Conditional Permit. And one of the conditions of the Conditional Permit was that the applicant, within one year, would file for a Change in Zoning. And at that time, originally the Condition Number 2 of the Conditional Permit requested that they come in for B-2 Community Business District. Then during subsequent renewal of the original Conditional Permit, that condition was amended to reflect that in 1987, the Wailuku-Kahului Community Plan was adopted and the SBR designation was established for the property. And as such, the recommendation of that Conditional Permit in 1987 was that it be...they come in for Change in Zoning to SBR, Service Business Residential.

Then, subsequently, later in 19...um...I believe 1990, it again got amended, that condition. And Condition 2 was deleted from the Conditional Permit. But in the meantime, the applicant in 1988 did file for the Change in Zoning to B-2 Community Business District. But because of the subsequent changes to the...to the condition in the Conditional Zoning and the change in the community plan, the Department and the Maui Planning Commission recommended that the application be for SBR Business Residential to be consistent with the community plan.

And in the meantime, you know, the recommendation was sent up to the County Council in 1989 for action. But because there wasn't an SBR Zoning District established in Maui County Code, what the Council did was that they extended the Conditional Permit for another ten years to give the County the opportunity, the time to establish the SBR Zoning District.

Then in 1996, the Department transmitted a proposed SBR Zoning District to the Council for consideration. However, no action was taken on the proposed SBR Zoning District. And in 1998, then Chairman Kalani English recommended filing of the communication relating to the establishment of the SBR Zoning District. And since the filing of that proposed bill, there has been no subsequent action taken by the Council's Land Use Committee or the Department. And in the meantime, this application has been on hold.

But also subsequent to that, there have been other properties that have come in for B-2 Community Zoning District that was designated SBR on the community plan. And in those two instances—these are two properties on Kaohu Street—those two properties were zoned through Conditional Zoning.

And one of the other things that happened is that in 1991, the County Code was amended that allowed the establishment of Conditional Zoning, and through that process these two properties on Kaohu Street were zoned B-2 Conditional Zoning. And what they did in that case is the conditions reflected what we can tell from the intent of the SBR District was that it was really a design-related district in which you would maintain the residential design characteristics of the neighborhood, but you would allow some limited commercial activity that was primarily to service the surrounding residential and business communities. And based upon those criteria, the Council did, in both 2002 and 1998, zone these two properties as B-2 Community Business Conditional Zoning. And for that reason, you know, the Department supports the B-2

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

Community Business District as a Conditional Zoning with the proposed recommended conditions that was sent down to the Council.

CHAIR MOLINA: Okay. Thank you, Director Suyama. Before we open up the floor for questions, the Chair would like to recognize Committee Vice-Chair Pontanilla to our proceedings as well as Committee Member Mateo joining us today. And in the gallery the applicant's representative is Mr. Lawrence Ing. So Members, if you have questions for the applicant's representative, he is available as well. So, Committee Members, at this point, any questions for the Planning Department as it relates to this matter? Member Anderson?

COUNCILMEMBER ANDERSON: Thank you, Chair. So, Ms. Suyama, there was a...um...an or..., a proposed ordinance for SBR-1?

MS. SUYAMA: That's correct. There was a proposal in 1996 for the Service Business Residential District that was transmit--it went through the then Maui Planning Commission. Then it was transmitted to the Council. But because the bill was filed by the Land Use Committee Chair at that time, no action was taken on the bill.

COUNCILMEMBER ANDERSON: Were there any other zoning changes in that proposal besides the SBR?

MS. SUYAMA: I'm not sure. I just knew that it was the SBR District was sent up in 1996.

COUNCILMEMBER ANDERSON: And it was filed in 1998?

MS. SUYAMA: That's correct.

COUNCILMEMBER ANDERSON: And...and we have community plan designations for SBR?

MS. SUYAMA: We have it on the current community plans. The, the district has always been there from the 19...um...I believe, from the time that the Wailuku-Kahului plan was adopted in 1997, the SBR District was there. And there was some. . .

COUNCILMEMBER ANDERSON: You mean, just in the community plan designation.

MS. SUYAMA: Just in the community plan, but no zoning ordinance was ever created, you know, in com..., you know, as a result of the. . .

COUNCILMEMBER ANDERSON: Well, I mean, I don't understand, Mr. Chair. If...if this is a district...a zoning district that we have in our community plans, why we haven't gone forward and created the zoning district so it could actually be utilized? And if it was filed, you know, a lot of times at the end of a term...I think people file things without really looking at the long-range consequence. Why hasn't the Planning Department re-submitted it? Or would they re-submit...we...I know you were around then so...

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

MS. SUYAMA: I'm not sure why it wasn't re-submitted but it probably, you know, with all the other ordinances that, you know, we deal with on a regular basis and changes that we deal with; it probably was not a priority with the Department. And as to whether the SBR will continue, because we're doing the General Plan updates now, as to whether they will continue with the new community plans once they get adopted, I'm not sure. So I don't think that this would be a priority with the Department to try to create an SBR District that was primarily a design-related district. There are other methods to...to, you know, try to maintain a certain design characteristic. And that's doing design-overlay districts. That's an easier way of doing it rather than trying to create a district. That's the only thing that I can see the intent was, was to try to keep the residential character of the area. You know, that you can do, you know. There's simpler ways of doing it than trying to create another zoning district that people have to try to enforce.

COUNCILMEMBER ANDERSON: Well, the problem with that, and I agree with you if there's a simpler way but the problem with that is if the community plan designation is SBR, and we're zoning it B-2, then it's not consistent. And the law requires consistency.

MS. SUYAMA: I think in the other two applications that when it went through, a determination at that time was made that it was consistent with the community plan. 'Cause that's the only way that those two properties could've been zoned.

COUNCILMEMBER ANDERSON: Well, that doesn't tell...tell me a whole lot. I mean, you know, if the...if the County has a community plan designation...classification and they don't provide the corresponding zoning designation in order for the owner to be consistent and have the use of their property, and it's our fault because we haven't created that zoning district, then I think, and if we're having to zone it B-2 because that's the only thing we have that's close enough, then I think it's our responsibility to change the community plan designation for the property owners so they can be consistent. I mean, I just don't think, Mr. Chairman, that we can, you know, change the rules because it's inconvenient. That we haven't gone forward and created a zoning district to match the community plan designation. And so we just ignore what the law says as far as consistency and say, "oh, well", we'll just do B-2?

MS. SUYAMA: I don't think you would ignore the law about consistency. But I believe the Corporation Counsel had been asked as to whether the application of the B-2 Community Business District would be consistent with the community plan. And maybe you wanna direct your question to Mr. Giroux.

COUNCILMEMBER ANDERSON: Well, I think what I'd wanna see is whatever written opinion there is that states that because all through the County Code it says you have to, you know, the three land use classifications have to be consistent for development. So, you know, if...if...if we have to give these folks B-2 because there is no SBR zoning but their community plan designation is SBR, then I think that we should change the community plan designation to match the zoning des..., the zoning that's being requested.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

CHAIR MOLINA: Member Anderson, if you don't mind, I could ask Mr. Giroux to give a comment on consistency...consistency issue that you brought up. Members...(inaudible)...

COUNCILMEMBER ANDERSON: No. I...I don't really, you know...I know what the law says. It says you have to be consistent. And so here we are, because it's inconvenient, being inconsistent. And I...I just can't--I'm sorry, but--and I see that the...the situation that the people are in. It's the County's fault for not creating a zoning district to match the community plan designation. So maybe the question would be, since we don't have SBR, and the community plan designation for this is SBR, can the Council change also the community plan designation as the requestor?

You know, and I know that opens another can of worms. They're gonna have to do an EA which if we request it as the Council, then we do the EA. And we've done this in the past for small property owners that get stuck in this quagmire. But...I mean, I just...I just can't see us doing something that's against the law just because we haven't done our job and gotten the appropriate zoning category to match the community plan designation. And, you know, I know they've been waiting how many years. I can't believe this, twenty years?

CHAIR MOLINA: Yeah, close to it.

COUNCILMEMBER ANDERSON: To have this happen but I guess what I'm saying is, you know, they've waited this long, let's do it right.

CHAIR MOLINA: Okay. Thank you, Member Anderson. Mr. Giroux, would you care to respond to the comment? And folks in the gallery, Chair would ask that you please turn off all your cell phones and pagers so as not to disrupt our proceedings. Mr. Giroux.

MR. GIROUX: Thank you, Chair. I did write an opinion, should be in your binders dated May 1, 2007, asking me to address this issue of whether or not in the absence of the SBR zoning, whether to zone the property when it's community-planned SBR to some other designation that would be compatible.

I believe we have a short answer, and then we have a long answer. I'll probably try to give you something in between. But in our analysis of consistency, we found that the County Code does not, in and of itself, define what consistency is. There's no definition under the definition section. So when you open up the County Code and you go down, you don't find consistency. Therefore, you have to look at the most reasonable definition of it. And we looked into the dictionary and we also looked at the County Code as a whole to try to determine whether or not this type of action would be "consistent".

In looking at zoning, you...you have to look at the nature of zoning and...and where the power of zoning comes from. And basically, what zoning comes down to is a matter of use. When you look at a designation, you look at what that designation allows you to do as far as use. In Hawaii, we have several layers of land use designations. You have the State, you have the

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

County, and then you have the cou...County community plan. All of those documents are...do not always use the same words to describe the exact use that's allowed within those designations. When we looked at the...what was allowed in the B-2 community plan or B-2 zoning, what we found was that the use that was allowed would be a medical center. When we looked at SBR and we looked at the description of it within the Wailuku Community Plan, we saw that the...the intent was for that...these types of businesses be allowed in certain areas as long as their character maintained was residential. And, therefore, when we looked at B-2 Community Business District and what kind of conditions you could put on it, it was reasonable for us to see that you could allow the use and put conditions on the use which would restrict the nature of the structure to maintain it to be residential. And, therefore, we saw that...that, as far as consistency goes, that if the Council determined that they wanted to go that way, that they would be within their powers to do so.

CHAIR MOLINA: Thank you, Mr. Giroux. Committee Members, any additional questions? And for your information, some photos have been provided to you of the site. And also we have Dr. Roberts is also available here, my understanding, to respond to any of your questions as well. Member Hokama?

COUNCILMEMBER HOKAMA: Chairman, thank you very much. Currently, does this property have access to on-street parking also? This is for Planning Department, please?

MS. SUYAMA: They have a large parking area in front of the building that, I think, is large enough you really don't have to have on-street parking but there are a few stalls that are available on...on the street side.

COUNCILMEMBER HOKAMA: What I'm trying to get at is, the calculations for the parking requirements for this zoning application...everything can be taken cared of on site, on property because I don't wanna count the street parking, the on-street parking.

MS. SUYAMA: No, everything that's necessary for the business is...has already been calculated through the conditional permit application. And they have adequate parking.

COUNCILMEMBER HOKAMA: Okay. Was there any time in the long history of this application, Director, of intentions to go to a multi-story facility?

MS. SUYAMA: No. We've never gotten an application from the property owner. There's one other thing I forgot to mention to the Council was that for those of us who are old enough, this building was one time owned by Wailuku Sugar Company. And when I was young, this is one of...this is when they used to have their own plantation doctors.

COUNCILMEMBER HOKAMA: Uh-huh.

MS. SUYAMA: Those of us who are old enough and come from the plantation era, I remembered going to this...this building when Dr. Kashiwa and Dr. Izumi was practicing through the plantation.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

And it was operated as a medical doctor's office by the plantation. And later on when they went into where they contracted out to other doctors, that's when the building was changed back to a residence. And it was an employee residence for a while until Dr. Moser folks bought the property.

COUNCILMEMBER HOKAMA: Thank you for that additional comments, Director. Chairman, you know, I think this is...I...I listen to the concerns of my colleague from South Maui. And I can understand, you know, her view. But again, Chairman, I can tell you from being able to go back some decades and participating in the community planning zoning issues of this County, many times during the planning process, whether they be of the original community plans or the updates, Planning Department offered those advisory committees potential land use designations were never existing in the zoning category, such as, Open Space. It didn't exist until we just recently passed an Open Space zoning category. You will still see in the community plans, Mr. Chairman, designation for Urban Reserve. We have no zoning category for urban reserve. We had SBRs. Those were planning tools that the advisory committees were provided as ways to approach planning for their various communities and districts. And most of the time, it did not match up with existing zoning. And I think the Director will verify that that's pretty much how we went historically.

And if we can recall '97, '98, what was the main land use item before Council -- passing the Agricultural Zoning bill with the sliding scale. That was the major land use that in my opinion was taking up a lot of the Council's time, Mr. Chairman. So I just share that as, not an excuse, but of what occurred during that portion of the late '90s, Mr. Chairman. And I appreciate my opportunity to question and to provide comment. Thank you.

CHAIR MOLINA: Thank you, Chairman Hokama. Member Baisa?

COUNCILMEMBER BAISA: Member...Chair, this is a very interesting situation. I had the opportunity to be a patient at this clinic until the demise of Dr. Moser. And of course, it makes me very sad that this much time has elapsed and that he did pass away having contributed so much to our community with this issue still hanging. It's distressing that we allow situations like this to go on and on and on. And this is much of the frustration that the public has with us and with government. I would like us to try to make a decision. And I read Mr. Giroux's comments and he has pretty much reassured me by what he's written that in the absence of an SBR Service Business Residential zoning ordinance and in view of Council's previous findings and actions with regard to similar situated properties that this condition would be consistent with the Wailuku-Kahului Community Plan designation of the property. And I hope that we can end this saga today. Thank you.

CHAIR MOLINA: Thank you, Member Baisa. Member Johnson?

COUNCILMEMBER JOHNSON: Yes. Mr. Giroux, because you're looking at B-2 as the recommendation, when you read through 19.18.020, the recommendations—because this is, of course, a conditional and it doesn't really match the SBR community plan designation—what's

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

listed as the conditions and the limitations on Exhibit “B” are not consistent with what’s an actual B-2.

So, how—I...I really, you know, it’s a little bit of a problem for me, because here, I can understand the rationale in your argument about the SBR and the B-2. But then when I look at what’s permitted in B-2 and I look at all the conditions, the height limitations, and what the uses are in B-2, the setbacks, it’s not even consistent with the B-2 ordinance. So I guess I’m asking you, if we have ordinances and they state this is what can take place in B-2, and then we have something other than that, isn’t that treating the individual who’s got B-2 zoning unfairly or at least inconsistently with the way other B-2 applicants would be treated?

CHAIR MOLINA: Mr. Giroux?

MR. GIROUX: Planning can probably comment on this but when we looked at it we saw that the...what the proposed use was, was consistent with the B-2.

CHAIR MOLINA: Director Suyama?

MS. SUYAMA: There are other standards in the B-2 Zoning District. One is height. You know, in the B-2 Zoning District, you’re allowed to go 12...um...six stories. But in lot of cases, you know, we restrict them. That although you have the ability by zoning to go to six stories, we say that you’re limited to two stories.

It’s the same thing like in the B-2 Community Business District, there are no setback requirements other than if you’re abutting other...other zoning districts, then you observe the zoning districts’ setback. Like if you’re against residential, then you would reserve...you know, observe residential districts. But in the past, through Conditional Zoning, we set restrictions that were greater than what the zoning districts allowed. I think what you cannot do is you cannot be more permissive. In other words, you cannot go beyond—like if the setback is required is 15 feet, you can’t say that we’re gonna allow you to have a ten-foot setback. And the same thing if you’re limited to six feet—uh, six stories, we can’t go and say, well we’ll allow you to go seven stories. So it’s basically, to be more restrictive, we’ve used the Conditional Zoning process.

COUNCILMEMBER JOHNSON: So, all right, I...I follow what you’re saying. Now, in regard to Number 5 on the condition, signage. Now we have sign ordinance, is this consistent? Is it more liberal, less liberal, than what the existing sign ordinance is?

MS. SUYAMA: It’s actually less liberal. There’s more signage that’s allowed in the B-2 Community Business District.

COUNCILMEMBER JOHNSON: Okay. So it’s more restrictive?

MS. SUYAMA: It’s more restrictive.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

COUNCILMEMBER JOHNSON: That I can get my mind around better. I...I guess one final question would be, this is not subject to any design or historic district standards?

MS. SUYAMA: No, it is not.

COUNCILMEMBER JOHNSON: Okay. So let's say that, for all intents and purposes, the structure either burns or is deemed uninhabitable at some future point due to termite damage or whatever. How is this to be treated with the B-2 zoning, would the same restrictions be applied and the same footprint and all of the same parameters?

MS. SUYAMA: Based upon the proposed conditions, if there was a demolition of the building or the, you know, the building burnt down and they came back for another building permit, when the Department reviews the building permit, because of the zoning restriction, we would also look at the criteria that was established in the Conditional Zoning. And therefore, we would make sure that it has a residential character because that's one of the criteria that's proposed...um...that it more look, you know, it's right now, it's a...it's a converted house that's the doctor's office. So we'd look at something similar like a residential building versus a true commercial building in...in the redesign of the...of the structure.

COUNCILMEMBER JOHNSON: Okay. So, if something, you know, and...and, I guess my question would be, why not just change the community plan then? And I mean, if it's...*(end of tape IA)*...to and...it doesn't have to be done now. I mean, this could be an interim measure but then have the Council initiate going through that process of doing B-2. So then, in my view, you would have consistency. And we would pay for the EA and any other permit fees.

MS. SUYAMA: If it's not an urgent matter where, you know, the community plan redesignation is required before you would act on the Change in Zoning, we are in the process of doing the General Plan updates. And another way could be is just wait until the General Plan updates are done. And then at that point if you feel that it should be Business Commercial and not business...um...Service Business Residential, that can be done at that point.

COUNCILMEMBER JOHNSON: And...and I guess that is an avenue of...of I guess pursuing the thing that I would look at, I guess, on the bigger picture is how many properties do we have in the SBR category that are currently listed within the various community plans that are SBR. Do you have any idea?

MS. SUYAMA: I'm not sure how many properties but the only two places that I'm familiar with the SBR designation is Lahaina and Wailuku-Kahului.

COUNCILMEMBER JOHNSON: Okay. Okay. Thank you very much.

CHAIR MOLINA: Thank you, Member Johnson. Member Pontanilla, followed by Member Anderson.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

VICE-CHAIR PONTANILLA: Thank you. For Planning Department - you mentioned that on Kaohu Street we took actions on...on two...two properties. Can you name the properties on that?

MS. SUYAMA: One was the Sheetz ...Sheetz, that's the doctor's office that's below...just below the County Building. It's about two properties down. And the other one was, at that time, was the Unemori family had a property. And for those of you who are familiar with Wailuku, at one time Eileen Unemori had an office in that building and that property was redesignated to B-2.

VICE-CHAIR PONTANILLA: Thank you. I know there's lot of questions in regards, why now? When I look at the Conditional Permit, it's gonna expire October 2008.

MS. SUYAMA: That's correct.

VICE-CHAIR PONTANILLA: And am I right in saying that the applicant came forward in regards to renew his Conditional Permit?

MS. SUYAMA: My understanding is that since this thing has been on hold, you know, since the 1990s, I mean...what happened is that the Council Chair had asked the applicant if they still wanted to pursue with the zoning application. And my understanding is that they came back and said, yes, we still want to pursue the zoning application because if there...if the zoning is not approved, then in 2008, in order for them to continue to operate as a medical office, they will have to come back and get a renewal to the Conditional Permit.

VICE-CHAIR PONTANILLA: Thank you. Thank you, Chair.

CHAIR MOLINA: Thank you, Member Pontanilla. Member Anderson|?

COUNCILMEMBER ANDERSON: Thank you, Chair. Ms. Suyama, is...is there a possibility that any more buildings could be built on this lot? We don't have very good maps here. I don't even know what the size of the lot is. But, you know, with this existing building, could they expand this building or put another building along with this building on the lot?

MS. SUYAMA: I think they could expand the building but the...the concept of the SBR was that it be in a single, you know, single-story building... single, I mean, single building. It wasn't meant to be like a commercial complex where you have multiple buildings.

COUNCILMEMBER ANDERSON: Right. So why is there a condition that would allow ten feet for a two-story building if SBR is meant to maintain a single story?

MS. SUYAMA: We want it...because normally the most that a single-family residence can build is a two-story building. So that still would be within a residential characteristic.

COUNCILMEMBER ANDERSON: But you just said that SBR was intended to be single story.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

MS. SUYAMA: I'm sorry, not single story, just that it be a single building.

COUNCILMEMBER ANDERSON: Oh, okay. SBR doesn't say single story?

MS. SUYAMA: No, it doesn't.

COUNCILMEMBER ANDERSON: Okay.

MS. SUYAMA: It...it's most intent was to try to encourage people to retain the existing single-family buildings that were there and that residential characteristic and allow, you know, alternative uses to the buildings which was, you know, some limited commercial activity.

COUNCILMEMBER ANDERSON: And so what...the building height for SBR was what?

MS. SUYAMA: Um . . .

COUNCILMEMBER ANDERSON: Supposed to be.

MS. SUYAMA: It's not stated in the Code. I mean, in the...in the community plan. It just talks about. . .

COUNCILMEMBER ANDERSON: But what was it in the proposed bill?

MS. SUYAMA: Um ...I'm not really sure. I think it was two stories. Let me...hold on a minute.

COUNCILMEMBER ANDERSON: I know the bill is in here somewhere. Here it is.

MS. SUYAMA: It didn't set any height criteria. I'm looking at the draft bill that was presented. It has a minimum lot area. It has minimum yard setbacks. And it did talk about one side not to exceed eight square feet. It did talk about if design guidelines were adopted for this district.

COUNCILMEMBER ANDERSON: So there's no restriction on the height?

MS. SUYAMA: No, I don't see any restriction on the height.

COUNCILMEMBER ANDERSON: I guess there couldn't be because it was intended also to—shoots, apply for—it would be applicable to a lodging house, a motel, apartment house. So my question is, you know, with these conditions ...and I'm assuming...please correct me if I'm wrong, that the conditions attached to the June 26th memo from Corporation Counsel that these are the existing conditions that are on the conditional use permit?

MS. SUYAMA: No, it is not.

COUNCILMEMBER ANDERSON: What are the existing conditions?

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

MS. SUYAMA: The existing condition is...let's see. Basically, besides the time which is to expire next year, that, that all the requirements from the State Department of Health shall be rendered, that the applicant and successors and assigns shall defend and indemnify which is the hold harmless clause, and that full compliance with Federal, State and County requirements shall be rendered. Those are the...those are the existing conditions.

COUNCILMEMBER ANDERSON: The currently existing conditions?

MS. SUYAMA: Yes.

COUNCILMEMBER ANDERSON: So then if the conditions that are being proposed right now, maximum building height of any building on the property shall be two stories or thirty feet, the building and parking improvement shall retain the residential character, uses shall be limited to medical or professional offices and any new building shall maintain a front yard setback of 15 feet, side and rear of six feet for single-story buildings and ten feet for two-story buildings. So, and then on signage.

So, this is very restrictive. I mean, they...they have to just really use the property for what they're currently using it. And B-2 ... shoots...B-2 has something like 66 different permitted uses. And so we're restricting this zoning category for these particular people to one use. So my question is, why don't we just, you know, give them a Conditional Zoning Permit with these conditions on it? A Conditional Use Permit -- renew their Conditional Use Permit for, you know, ever. Because I just don't understand why we would give them B-2 zoning and then condition out all the per...permitted uses and everything else. I mean, basically, we're writing them their own zoning ordinance by, by putting all these restrictions on, on the B-2 zoning. If Mr. Giroux would like to answer that question, that would be fine.

CHAIR MOLINA: Corporation Counsel or Department?

MR. GIROUX: My, my comment to the...the Planning Department was to look at the previous history of Conditional Permits. And when I had to go through them and...and look at the different conditions and how they changed and morphed, one of the things was that a lot of the Conditional Permits had in it a clause saying that the applicant would agree to go forward and go for a Change in Zoning. The earlier permits said that they should go forward and should go for a Change in Zoning to B-2.

As the SBR concept was pushed forward and their re..., they came back for renewals, those...those clauses were taken out. In fact, one clause was put in that they would put...come forward and ask for Change in Zoning to SBR. But then again, as time went by and the...that SBR ordinance wasn't passed, then that clause again was taken out. So the idea of Conditional Zoning, or Conditional Permit, is that in time after you see that the use may be compatible for the area, that you then get rid of the Conditional Permit and then allow for the zoning.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

COUNCILMEMBER ANDERSON: Well, I understand that and that was one of the things I was gonna say, it's, gee, it's so refreshing to see back in 1989 that they actually told people that your Conditional Use Permit is a limited use and if it works out, you gotta come in and get the Change in Zoning. But we haven't been doing that in the last five or six years that I recall. We just keep renewing these Conditional Use Permits. And in fact, we're extending their...their time limit which is not the intended purpose of them. And I think it's just easier for people to do that than go through the zoning change process but, you know, I...that's neither here nor there as far as what we have in front of us right now.

Yeah, they were told that you've gotta come in and get a Change in Zoning. But that's when it was anticipated that we would have the appropriate zoning category for them to change into. And since we don't, I mean, we're...we're not giving them B-2 zoning. We can call it whatever we want to call it but it's not B-2 zoning when you condition...put all these conditions in that are in contradiction to what B-2 allows. So, basically, what we're doing is Conditional Use Permit here. But you...you...but we're calling it a B-2 zoning change just to meet the requirement of change your zone...get your zone...zoning changed.

So I...I just don't understand why, you know, if we don't have the zoning category that meets the community plan designation and we don't have any guarantee that, you know, just because they...the General Plan update is happening, we're—what, two years before that gets done—it's gonna be another ten years before they get around to Wailuku Community Plan. So, the chances of getting rid of that SBR in the community plan is way down the road. So, you know, I...I...what we're doing here is con...Conditional Use zoning. And we should, you know, if it walks like a duck, then you oughta call it a duck. And I don't know what the big problem is in just extending their Conditional Use Permit with these conditions, these current conditions that are being proposed, so that we know it'll stay, you know, in residential in character and it'll be used for a doctor's office.

CHAIR MOLINA: Okay. Member Anderson, can I just interject real quickly? I guess I wanted to ask a quick question of Mr. Giroux. My understanding is that...it was mentioned earlier that there were two other properties on Kaohu Street that have this, I guess, similar conditions imposed as well. Can you comment on that as well? And, I guess one other question is, would the uses of B-2—but yet they have these conditions that they must follow—if they want to expand on additional uses, they would still have to come back to this body then, even though they have, they would, assuming if they did get the B-2 zoning, they would still have to come back to get the additional uses of B-2 that these conditions may not allow for?

MR. GIROUX: Yes, Chair. As far as the...we did look at the, the two other ordinances that did apply B-2 zoning to the similar situation and we tried to mirror those conditions. And the second...*(coughs)*...question is that...is, yes, that they would...if...if these conditions were to be adopted, then in the future if, you know, if they wanted to use it for a different purpose, but which would be compatible with B-2 use, then they would have to come for a change into that. And we've...we have properties in Lahaina also that, you know, are...are in similar situations where

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

we have basically gutted all but three or four B-2 uses. So it's not...it's not an aberration of what this Council has done in the past to, to actually limit allowable uses within zoning designation.

CHAIR MOLINA: Okay. Thank you, Mr. Giroux. Director Suyama, you had wanted to add an additional comment?

MS. SUYAMA: The conditional use process can be a process the Council can take. But my only concern is that if you determine that you want to extend the existing conditional uses, I believe, by procedural, you may have to send it back to the Planning Commission because the Code has a specific process that you deal with time extensions. And one of'em is that time extensions, unless waived, requires a public hearing, another public hearing and notice. And then with the Planning Commission and then re-sub, you know, re-submittal up to the Council. So that's the only concern and that's something that you may wanna discuss with the applicant themselves if that's a reasonable option for them.

CHAIR MOLINA: Thank you, Director.

COUNCILMEMBER ANDERSON: Chair.

CHAIR MOLINA: Member Anderson.

COUNCILMEMBER ANDERSON: I believe that's in response to the question that I asked. So Ms. Suyama, are you saying that if right now we wanted to give them an ever green Conditional Use Permit with these new conditions on it, that it would have to go back to the Planning Commission for a hearing?

MS. SUYAMA: For determination whether a hearing is required but it also requires a...another reco..., a recommendation from the Planning Commission. Because it's...it's the way the...the Code is written. There's a provision about time extension that tells that for time extensions, there's a specific process you need to follow unless the public hearing is waived. The other thing is, I'm not...I'm not sure if . . .

COUNCILMEMBER ANDERSON: Now, wait a minute....wait a minute. Stop right there unless the public hearing is waived.

MS. SUYAMA: Right. And the public hearing is waived by the Planning Director.

COUNCILMEMBER ANDERSON: And so under this situation, which is a bit unusual, couldn't we ask the Planning Depart...Director if he would waive the public hearing and allow...um ...and is there anything that would prevent us from giving them a Conditional Use Permit for the life of the property unless they come in for a Change in Zoning?

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

MS. SUYAMA: I remember that there was another situation that they wanted to give an applicant an indefinite Conditional Permit and that was the Akina Bus Company. And I think at that time the Council was told, no, you need to set a time limit.

COUNCILMEMBER ANDERSON: And...and does it say that in the Code?

MS. SUYAMA: I don't think it says that in the Code but I think at that time when the Akina Bus Company came for the Conditional Permit, that was the advice that was given to the Council.

COUNCILMEMBER ANDERSON: Well, I remember that too but I don't think it had anything to do with...it had to do with, you know, Conditional Use Permit is let's look see if this works. It's not a permitted use in the...in the area so let's see if it works. And if it works, we'll renew it or you can come in and get a Change in Zoning. But I think that was the situation and...and if it's not in the Code, that says there's no restriction on the length of the permit although I know it's supposed to, you know, be conditional for a certain period of time. I don't know why we can't...to me, what we're doing is giving them a Conditional Permit here. So, you know, we're not giving them B-2 zoning. We're giving them a conditional use of this property from which they've been using all these years. And we're restricting the use of the property to all these conditions. So, could we find...is the Planning Director here?

CHAIR MOLINA: I believe he's unavailable. Am I correct, Director Suyama?

MS. SUYAMA: Right. There's a Cultural Resources Commission meeting in Lahaina today, and my understanding it was still ongoing when this meeting convened.

COUNCILMEMBER ANDERSON: So, maybe, Chair, if we could have the property owner's representative speak to us 'cause he might have some ideas, and I...I just...I just have a hard time rewriting the County Code without going through a public hearing 'cause that's basically what we're doing here.

CHAIR MOLINA: Okay. Members, any objections to having the applicant's representative or Dr. Roberts come up to the lectern?

COUNCIL MEMBERS: No objections.

COUNCILMEMBER HOKAMA: Chairman.

CHAIR MOLINA: Mr. Hokama?

COUNCILMEMBER HOKAMA: I would like us to stay on the subject of the zoning. That's what we posted, zoning.

CHAIR MOLINA: Okay. So noted, Mr. Hokama.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

COUNCILMEMBER ANDERSON: Well, this is zoning.

COUNCILMEMBER HOKAMA: I'm talking about permits.

CHAIR MOLINA: Mr....Mr. Ing and Mr. Roberts.

COUNCILMEMBER ANDERSON: A Conditional Use Permit is a zoning permit. It's in Title 19.

CHAIR MOLINA: Okay. Member Anderson, do you have a question for Mr. Ing? And again, let's keep it confined to what's on the agenda as best as we can. Okay, Member Anderson.

MR. ING: Good afternoon, Lawrence Ing representing the applicant. Thank you for the opportunity. I'll be happy to try to answer any questions.

COUNCILMEMBER ANDERSON: Good afternoon, Mr. Ing. Does...does the property owner have any intention of changing the use of this property?

MR. ING: At this time, the limited use is for medical and professional offices. In the foreseeable future, no, it would stay that way. If anything, any change that would come would be to use maybe that vacant part of the parcel to add a home for one of the doctors. That would be the only thing we would be looking at. The parcel is about 17,000-plus square feet. The present structure is only about 1,500 square feet and I think the required parking spaces that were imposed were seven and right now we have twelve so we exceed the minimum parking requirements.

COUNCILMEMBER ANDERSON: That's good. Well, you know, the way these conditions are written, Mr. Ing, they would not have the option to add a home.

MR. ING: That's correct. So it would be our burden to come back to you to ask for an amendment to the zoning.

COUNCILMEMBER ANDERSON: And so are you fine with these conditions and the B-2 zoning with these conditions?

MR. ING: Yes, we are fine with the conditions.

COUNCILMEMBER ANDERSON: And there hasn't been any problem with them operating under a Conditional Use Permit all these years, right?

MR. ING: Well, one of the drawbacks was when there was an appraisal to be done for a loan; they look at it as residential so the value was set at residential and not commercial.

COUNCILMEMBER ANDERSON: Because of the Conditional Use Permit?

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

MR. ING: Yes, because the Residential zoning is what exists today.

COUNCILMEMBER ANDERSON: So they look at the zoning and not at the use?

MR. ING: That's correct. And I guess the concept behind the appraiser doing that is that the Conditional Use Permit had an expiration time.

COUNCILMEMBER ANDERSON: And so if there was no expiration time, would you have a problem with it?

MR. ING: I think the Conditional Use ordinance that I can recall is that at one time it said, Conditional Use Permit based upon the use or a period of time and they took out the "or" and they made it "and". So my recollection, it is part of the requirement when you grant the Conditional Use Permit. And maybe that's why when the Akina case was referred to, that the Council was advised, no, you could not make it in perpetuity.

COUNCILMEMBER ANDERSON: Well, I'm reading it right here. It just says that, you know, there...there shall be a duration of the permit. It doesn't say how long. So, I mean, we could make that a condition in perpetuity.

MR. ING: I think that would probably be going against the intent of that duration requirement yeah.

COUNCILMEMBER ANDERSON: Yeah, well, we're going against the intent of B-2 too.

MR. ING: Yeah.

COUNCILMEMBER ANDERSON: Thank you, Mr. Ing.

CHAIR MOLINA: Thank you, Member Anderson. Members, any other questions for the applicant's representative? Seeing none. Thank you, Mr. Ing.

MR. ING: Thank you.

CHAIR MOLINA: Members, I do wanna make you aware, we are pressed for time today and we will be losing quorum at 6:00 p.m. and we do have one other item to address. So at this point, the Chair is ready to offer a recommendation if there are no other questions for our resource personnel at this point. Member Johnson?

COUNCILMEMBER JOHNSON: My only question was in reading to the...through the original ordinance for the parking requirement, it was one parking space for every 300 feet of gross floor area. And then if it was a...if there was a dwelling unit included, there was two additional re..., parking spaces. Is this more liberal or less liberal than what our current parking requirements are?

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

CHAIR MOLINA: Planning Department.

MS. SUYAMA: I...I can't really tell you whether it's more liberal or less. My understanding is that it may be that for offices it's calculated at one per 200 but I'm not really certain.

CHAIR MOLINA: Excuse me, Member Johnson, let me interject. We do have Deputy Director Miyamoto from Public Works in the gallery if you would like to get a response.

COUNCILMEMBER JOHNSON: Yeah, if...if he could just answer that because I want to make sure that if that is an additional condition that we should place within the conditions, I would...I would want to make sure that --

CHAIR MOLINA: Okay.

COUNCILMEMBER JOHNSON: --you know, because that's the one that's not addressed in there.

CHAIR MOLINA: Okay. You just. . .

COUNCILMEMBER JOHNSON: So I just want to make sure. Because the current, I guess, what they have currently now is 12 and Mr. Ing stated that they would only be required to provide seven. But I don't know if that's on the basis of it being Conditional Zoning or if it's based on B-2.

CHAIR MOLINA: I just saw Director Miyamoto in here. He just disappeared quickly. He's a man of quick feet. Well, maybe at a later point. I'm...

MS. SUYAMA: I...I have the Code in front of me. And based upon the Code, it's actually the way the calculation is done now, it's one space for every 500 square feet of floor area in the B-2 commu..., um, Business District.

COUNCILMEMBER JOHNSON: Yeah. And when they had the SBR, what I'm reading, is it's one parking space for every 300 square feet. So I would be happy, Mr. Chair, to offer that as an amendment, as an additional condition.

CHAIR MOLINA: Okay. So noted, Member Johnson. Okay. Alrighty, we'll go from there. At this point, Members, Chair is gonna offer a recommendation for this matter. Chair at this point would like to off..., ask for a motion to support a bill for an ordinance to change the zoning from this item from R-1 Residential District to B-2 Community Business District for property situated at Wailuku, Maui, Hawaii.

VICE-CHAIR PONTANILLA: So moved.

COUNCILMEMBER HOKAMA: Second.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

CHAIR MOLINA: It's been moved by Member Pontanilla, seconded by Member Hokama. Member Pontanilla, as the maker of the motion you have the floor.

VICE-CHAIR PONTANILLA: I yield to the floor.

CHAIR MOLINA: Okay. Member Johnson, you had, considering a proposed amendment?

COUNCILMEMBER JOHNSON: Yes, and, you know, because I realize we don't have an SBR, you know, zoning in effect. If we refer back to the language, I would just like the language that existed in the...that original...I guess, the purpose and intent of SBR which would be one parking space for every 300 square feet of gross floor space to be included --

CHAIR MOLINA: Okay.

COUNCILMEMBER JOHNSON: --as a...as an amendment.

CHAIR MOLINA: Okay. Amendment has been made by Member Johnson. Is there a second to the amendment?

COUNCILMEMBER HOKAMA: Chairman.

CHAIR MOLINA: Member Hokama?

COUNCILMEMBER HOKAMA: I'll second it for discussion.

CHAIR MOLINA: Okay. It's been seconded for discussion by Member Hokama. Comments from the Members?

COUNCILMEMBER HOKAMA: Question.

CHAIR MOLINA: Additional ...Member Hokama?

COUNCILMEMBER HOKAMA: I'll allow Ms. Johnson first.

COUNCILMEMBER JOHNSON: No, I...I'm just reading because this is very unusual and we're kind of cobbling together a whole bunch of different things, it's not something you would see. But because we can be more restrictive or, you know, I can't be more liberal, in other words. I would say...I would put that...that in. And if it's determined that it's for every 200 square feet and it is more liberal, then I would say I would withdraw it but because we have no proof one way or the other.

And specifically here underneath the SBR zoning, under Condition No. 32 from what was originally approved, it says banks, medical and dental clinics, one parking space for every 300 square feet of building provided that the minimum shall be three parking spaces. So that

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

was what the original purpose and intent was within the SBR. But because that doesn't exist, and that's why I'm offering it.

CHAIR MOLINA: Okay. Thank you, Member Johnson. Planning Dir..., Deputy Director Planning, you wanna make a clarification on your earlier statement.

MS. SUYAMA: I...I did make a mistake. Normally in the B...B-2 District, it's one per 500 but there's another provision in the parking code that states that for medical and dental clinics, it is the one per 300 with the minimum of three parking spaces.

CHAIR MOLINA: Okay. Thank you for the clarification. Member Hokama?

COUNCILMEMBER HOKAMA: So, Chairman, thank you. We're getting right to the point of it. Therefore, the existing stalls that currently exist under the operation of the Conditional Use Permit meets that requirement?

MS. SUYAMA: That's correct.

COUNCILMEMBER HOKAMA: And they have provided more than the minimum requirement.

MS. SUYAMA: Yes.

COUNCILMEMBER HOKAMA: Thank you, Chairman.

CHAIR MOLINA: Thank you, Member Hokama. Member Johnson?

COUNCILMEMBER JOHNSON: Yeah, and the only reason I'm adding that in is because if they do go to a two-story structure or add on to the existing structure which that's now prohibited in what we're doing, then there may be a point in which the 12 might not be sufficient. So that's why I'm trying to include that so that if there is an addition, you know, it would be covered. But if it's in the Code, I guess...Ms. Suyama, does it matter if it's already in the Code?

MS. SUYAMA: If it's in the Code, then we would enforce the one to 300.

COUNCILMEMBER JOHNSON: Okay, for medical and dental.

MS. SUYAMA: For medical and dental.

COUNCILMEMBER JOHNSON: Okay. Well, then I guess in...in that particular case in B-2, that would be applicable then.

MS. SUYAMA: That's correct.

COUNCILMEMBER JOHNSON: Okay. Well, then...(end of tape 1B). . .

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

CHAIR MOLINA: Okay. You withdraw your proposal?

COUNCILMEMBER JOHNSON: Yeah. I'm gonna withdraw my motion then.

CHAIR MOLINA: Okay. So noted. Thank you, Member Johnson. Member Anderson followed by Member Mateo.

COUNCILMEMBER ANDERSON: I...I just have a quick question first and then I want to propose an amendment, Chair.

CHAIR MOLINA: Okay. Proceed.

COUNCILMEMBER ANDERSON: Ms. Suyama, I'm sorry that I have to...you know, this map we have, it doesn't really tell us how big it is. But if this is your project, can you tell me ...and I can't...there's nothing on the map that shows where this...where the house is located or anything so it's hard to visualize. And I see that there is a line of sight drawn out here where they probably can't build anything 'cause they're on a corner. But what I'm trying to ascertain is how much land is there available for them to put another building in? Or, you know, because the...the whole idea behind...behind SBR Service Business Residential is to allow for residential and business use on the same lot, so that a doctor could live upstairs or a nurse or whatever. And so basically what we're doing with this proposal is taking away that option. And just to make them legal. And they're already legal. So I'd like to know if there is...if there is room on the lot for them to put a cottage on the lot.

CHAIR MOLINA: Director.

COUNCILMEMBER ANDERSON: You know, without tearing down what they currently have.

MS. SUYAMA: The only way they could do it is to tear down a building. Right now there is a site plan in the file. And what they have right now is the existing single-family dwelling and there was a detached garage building and the parking. And if...if you're familiar with Central and Mill Street, the front portion of the property that's against Mill Street is a slope. It's a steep slope so they're very limited in how much they can expand their building based upon the site configuration. And based upon the existing buildings that are there and the parking lot that's required, they really would have to demolish before they could rebuild another building.

COUNCILMEMBER ANDERSON: But, you know, we're...(clears throat)...excuse me ...we're allowing them to demolish. Let's just say we go ahead with this and approve it. And...and then they could demolish the building and rebuild a two-story medical building, right?

MS. SUYAMA: They could do that, right.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

COUNCILMEMBER ANDERSON: So, but then if they want someone to live in the upstairs they'd have to come back and get a...an amendment to the conditions.

MS SUYAMA: Well, there's one thing also that you should know is that in the B-2 Community Business District, single-family residential uses are not permitted. You are permitted apartments so it would have to ...would have to...any residential living dwelling would have to qualify as an apartment.

COUNCILMEMBER ANDERSON: But that's the whole thing I'm trying to get to is that we're shoving them into a category that wasn't the intended use for this parcel. And, you know, we are...um...you're saying we can only be more restrictive? We can't, in our conditions, we can't be more permissive.

MS. SUYAMA: I don't think it can be more permissive than what's allowed in the Code.

COUNCILMEMBER ANDERSON: So we couldn't put a condition in that would ...well, but then you just told us that they'd have to come back and get an amendment to the condition. So, I mean, if they can get an amendment to these conditions to allow for residential use on the parcel, why can't we just put the condition in now?

MS. SUYAMA: They can't come back to ask for an amendment to allow single family. That's what I'm trying to explain to you because the Code doesn't allow it. The Code allows apartment uses within the B-2 Community Business District. So they could come back and ask for an apartment use.

COUNCILMEMBER ANDERSON: A two-story apartment?

MS. SUYAMA: That's what they could ask for if that's what the Council determines to be an appropriate use once they...you know, as part of the conditions of zoning. But they would not be allowed to do a single-family residential.

COUNCILMEMBER ANDERSON: Well, how would it be single-family residential if it's on a...uh...you know. . .

MS. SUYAMA: The other thing is either. . .

COUNCILMEMBER ANDERSON: Either you allow a dwelling unit or you don't. And if SBR, the intent of...behind SBR was to allow for dwelling, someone to dwell on the parcel as well as have business, then why can't we allow that in this, in the conditions that you're proposing here?

MS. SUYAMA: Because the...the current zoning district doesn't allow it. So unless the current zoning district is amended that allows single-family residential district ...uh, residential use in the B-2 Community Business District, it's not a permitted use by Code.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

COUNCILMEMBER ANDERSON: But it is a permitted use in Business Country Town.

MS. SUYAMA: No, it is not a permitted ...oh, now it's a permitted use because I think you folks made the amendment. But originally in the Business Country Town, single family residential uses were not permitted.

COUNCILMEMBER ANDERSON: No, but let's talk about what we're dealing with right now. I'm trying to find a way since we are, you know, twisting the County Code inside and out to try to make this work for these folks. Then let's really twist it around and make it, you know, what SBR is supposed to provide for. And Residential Service Business, this is in a residential neighborhood. This is a house. It's a service business. So why are we taking away their option to have somebody live on the property? Just because all we have is B-2 that's totally been—I don't wanna use the word—but I think you know what I'm at what I wanna say. I mean, we're totally distorting the B-2 category in order to allow for this...this Conditional Use Permit to get a zoning change. And...and if the property, you know...Corp Counsel just said, you know, it's the use that, you know, if it's consistent...consistency, I mean, consistency to me means it's all the same. But if he's telling us we can use a different zoning category than what the community plan designation is, and mind you, the community plan designation is the intended use for this property. And that is SBR, Service Business Residential.

And I don't see why we can't allow them to, you know, this is an old house. And if they want to tear the house down, build new office buildings and have living space, living quarters on the second floor, why can't we allow that when that was the intended use for this property? And I mean, you can call it an apartment. You can call it...I...I don't know that that would be single family if they have an upstairs unit that's used for living quarters.

CHAIR MOLINA: Director Suyama?

MS. SUYAMA: My understanding right now in the Code, an apartment is determined to be three attached units that comprises...three or more attached units comprises as apartment. A single-family dwelling is defined as a stand-alone dwelling unit that provides, you know, housing...a housing unit for a family.

COUNCILMEMBER ANDERSON: Well, it's pretty obvious that the lot isn't big enough for a business and a house. So, why don't we just make this Business Country Town that allows for them to have residential? I mean, to me that is more in...in concert with what the intended use for SBR is than B-2. Why can't we just put it...make it a BCT and with these conditions and allow them to have residential use of the property as well?

MS. SUYAMA: Well, my understanding of the Business Country Town, it was a zoning district that was created for our rural communities and not for your urban communities like Wailuku or Kahului. So, you know, that was the original intent. And it was to allow some limited business that had...was in character with the rural community. So in other words, you wouldn't allow the

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

whole slew of business type uses within the Country Town. I'm not sure whether by changing the zoning to BCT whether you're consistent with the community plans at that point.

COUNCILMEMBER ANDERSON: We're not consistent anyway. So what difference does it make?

MS. SUYAMA: I...I think . . .

COUNCILMEMBER ANDERSON: I'm just trying to get . . .

CHAIR MOLINA: Excuse me, ladies. Thank you. I think we've talked to death...talked this matter to death at this point and I think your point has been well made, Member Anderson. Chair's . . .

COUNCILMEMBER ANDERSON: Well, Mr. Chair, I'm trying to make an amendment.

CHAIR MOLINA: Okay. Well, please go ahead and do so. Put the amendment on the floor.

COUNCILMEMBER ANDERSON: You know the community plan designation is SBR. SBR allows for Service Business and Residential. This is a residential neighborhood. I think we should allow them to have residential use of the property. So, you know, I guess it doesn't matter if we re-write the Code in conditions since we're being advised to do that. So I would like to add a condition or...or change...amend Condition No. 3 to read that "uses shall be limited to medical or professional offices with possible residential...with possible residential use."

CHAIR MOLINA: Okay. Is there a second to the amendment?

COUNCILMEMBER JOHNSON: Second for discussion.

CHAIR MOLINA: Okay. Okay. Motion has been made by Member Anderson to amend to add to Condition No. 3 or to read as follows, please correct me if I'm wrong, "that uses shall be limited to medical or professional offices with possible residential --

COUNCILMEMBER ANDERSON: Use.

CHAIR MOLINA: --use." Okay. The amendment has been seconded for discussion by Member Johnson.

COUNCILMEMBER ANDERSON: I made the motion, Chair.

CHAIR MOLINA: Member Anderson?

COUNCILMEMBER ANDERSON: I think that this is the fair thing to do. It's not their fault that we don't have the proper zoning category. But the intended purpose of that zoning category was to allow for service businesses in residential neighborhoods and to allow for residential use. If Business Country Town which allows for business and residential use is not appropriate and, you

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

know, we're using B-2 because that seems to be the only current zoning category that we have that could be used. And, but we've conditioned away most of the uses in B-2—all of the uses in B-2—and basically we're giving them a Conditional Use Permit, because the conditions that we're putting on this zoning change is conditional to that one specific property. And if they have, for all these years, had SBR as their community plan designation, then I think that we should, you know, if we're re-writing B-2 to fit this use, then we should re-write it entirely to allow them to have the residential use. They may or may not use it, but why should they have to—they've been waiting 20 years for this. Why should they have to come back and get another amendment in order to allow residential use on the property when that was the intended use to begin with? So --

CHAIR MOLINA: Okay.

COUNCILMEMBER ANDERSON: --I...I hope the Members can see the value in that.

CHAIR MOLINA: Thank you, Member Anderson. Member Johnson?

COUNCILMEMBER JOHNSON: Well, I, you know, because we're sort of stretching the boundaries here every which way, my view is that apartment is permitted. Okay, now if you look at other developments we've...we've had hotel developments permitted on...on certain zoning categories. The Planning Department always said, oh, well, it's single residence, or other uses that are less intense than the most, I guess, dramatic which would be hotel use. Something that's less intense. Oh well, that's permissible because it doesn't have the density or the impact.

I'm looking at this and applying that same rule and saying, okay, an apartment is greater intensity, the ability for the individual to have greater number of apartment dwelling units. They're still a dwelling unit. To me, the residential is still within the purpose and intent of apartment. But it is a less dense use. So I don't see that that's inconsistent if we're looking for consistency and we're using all of these rational arguments. That's my argument for why we should do what Ms. Anderson is suggesting.

CHAIR MOLINA: Okay. Thank you, Member Johnson. Any other comments --

COUNCILMEMBER MATEO: Chairman.

CHAIR MOLINA: --to the proposed amendment on the floor? Member Hokama?

COUNCILMEMBER MATEO: Chairman.

COUNCILMEMBER HOKAMA: Chairman.

CHAIR MOLINA: Oh, I'm sorry. Member Hokama, could you hold up. I apologize. Member Mateo?

COUNCILMEMBER MATEO: I'll yield to Chairman Hokama.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

CHAIR MOLINA: Go ahead.

COUNCILMEMBER HOKAMA: Chairman, I won't support the amendment. Why are we still dwelling on an intended ordinance that never made it through the process? It doesn't exist. We need to go with what exists in our categories in the current Code. We heard a history. We heard the applicant's representative. They agreed to the conditions and if they choose to come down for some type of domicile in the future, they will do so. But they can live with what is presented before this Committee this afternoon. We heard it from Mr. Ing himself.

So to keep dwelling on what SBR supposed to have intended to provide means nothing to me. Intention is zero. It doesn't exist, Chairman. So I think we should just—if you don't support it, vote no. And for those who want to support, vote aye. But to me, you know, to try and put into this amendment how to then do another way of putting in one SBR ordinance, I'm not going to agree to that.

CHAIR MOLINA: Okay. So noted, Member Hokama. Member Mateo?

COUNCILMEMBER MATEO: Chairman, thank you. Thank you very much for this opportunity. I appreciate Mr. Hokama's comments on...on the issue. But Chairman, had...had this body taken this issue almost 20 years ago, we wouldn't be having this discussion. The reality is we did not. So the applicant, throughout the multiple requests for extensions, they had to swallow what County government was telling them you need to do. Had we taken care of it almost 20 years ago, some of the conditions they have to deal with possibly were not...you know, they wouldn't have had to, period. That's the reality. Today we do not.

And my...my feeling is I think after this long period of time, this long wait for the applicant, in order for them to actually comply with the second condition that requires them in part to retain the residential character of the existing neighborhood. I don't know what is the epitome of a neighborhood and a residential area that does not allow somebody to live on the property. That is complying with the requirements that the Department is saying they need to comply with. So, you know, at this time I will support the amendment.

CHAIR MOLINA: Thank you, Member Mateo. Before the Chair recognizes Member Anderson for the second time on the proposed amendment, any other comments? Member Anderson, you have the floor.

COUNCILMEMBER ANDERSON: Yeah, for my second and final, Mr. Chair. I just want to make it very clear. This property has been designated in the community plan, SBR. They have every right to believe for all these years that it was SBR that they had residential use of this property. And, in fact, they could probably have...have somebody living in there right now before we make this Change in Zoning. So whether or not we have the zoning category, we have the community plan designation category. And that's the guiding principle on which we develop zoning for...for properties. And so, you know, I think it's unfair to all of a sudden now say you

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

ACTION: APPROVE amendment to the main motion.

CHAIR MOLINA: So, okay, we're back to the main motion as amended. Any discussion? Seeing none. All those in favor, signify by saying "aye."

COUNCIL MEMBERS: Aye.

CHAIR MOLINA: All those ...and before I ask for all those opposed, this will include the filing of the communication as well. Okay. And all those . . .

COUNCILMEMBER ANDERSON: After 20 years.

CHAIR MOLINA: Yeah, that's right, after nearly 20 years—all those opposed? Okay. Chair will mark it eight ayes and one excusal. The ordinance passes. Congratulations to Dr. Roberts after nearly 20 years.

VOTE: AYES: Councilmembers Anderson, Baisa, Hokama, Johnson, Mateo, Victorino, Vice-Chair Pontanilla, and Chair Molina.

NOES: None.

EXC.: Councilmember Medeiros.

ABSENT: None.

ABSTAIN: None.

MOTION CARRIED

ACTION: Recommending FIRST READING of revised proposed bill, RECORDATION of unilateral agreement, and FILING of communication.

CHAIR MOLINA: Members, we're going to go right into our next item and then the Chair will call for a short break afterwards, okay?

ITEM NO. 49: CHANGE IN ZONING FOR THE MAUI BUSINESS PARK PHASE II PROJECT (KAHULUI) (C.C. No. 06-55)

CHAIR MOLINA: Okay. Members, we're on Item No. LU-49, which is a Change in Zoning for the Maui Business Park Phase II Project, County Communication No. 89-91, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE TO CHANGE

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

ZONING FROM R-1 RESIDENTIAL DISTRICT TO SBR SERVICE BUSINESS RESIDENTIAL FOR PROPERTY SITUATED AT WAILUKU, MAUI, HAWAII”.

Oh! Oops, oops. Excuse me; we’re on the wrong one. Okay, excuse me. May be, you know what, Members, it’s time for that break. We’re gonna... it’s been a long day. Twenty years, we got something done here today. So, you know what, let’s go ahead and take a break. And Members, we shall return at five minutes after five o’clock to address Land Use Item 49. Meeting in recess. . . .(gavel). . .

RECESS: 4:54 p.m.

RECONVENE: 5:05 p.m.

CHAIR MOLINA: . . .(gavel). . .Land Use Committee Meeting for July 5, 2007 is now back in session. We are in the dark here with the presentation for LU-49, which is a Change in Zoning for the Maui Business Park Phase II project. And again, Members, because we are somewhat pressed for time here, we’re gonna go right into the matter here. And, I...we have the applicant’s representative to do a presentation on this particular item. We have from A & B, Mr. Grant Chun, that will be doing a description of the presentation.

Note: Computer-generated presentation.

MR. CHUN: Chairman Molina, Land Use Committee Members, good afternoon. My name is Grant Chun, Vice President of A & B Properties and today is my...it is my pleasure to provide you with a brief presentation providing background on Maui Business Park Phase II.

As noted here the subject area is comprised of 179 acres in Kahului, Maui, which is reflected in the Wailuku Community Plan for Light Industrial use. The property received its Urban land use designation from the State in 2004 and 2005. The Maui Planning Commission took action on this matter in May of 2005 recommending approval for Light Industrial zoning.

This rendering provides a good orientation to the subject property’s location. The next slide is an aerial of the same area so I’ll use that to point out surrounding streets. Here you can see the South Project Area and key surrounding areas are Puunene Avenue, Dairy Road and just as a landmark, this is the First Assembly of God Church. This is the North Project Area. And again, points of reference include Hana Highway and Costco and K-Mart which are right...located right there. The future airport access road is situated right here in this corridor.

Inventory of fee simple land for commercial use is at a historic low with only seven parcels of land on the market in Central Maui as of earlier this week. With the exception of some lots which were established along Waiko Road, all but two of which have been sold, there have been no additions to supply in Central Maui in two years. Of course, this hinders our community’s ability to support new business growth and expansion of existing businesses. The area proposed for zoning in this presentation is particularly well-situated to support business vitality given its

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

proximity to both Kahului Airport and Kahului Harbor. A full Environmental Impact Statement was completed for the project and accepted by the State Land Use Commission in December, 2004.

On the topic of affordable housing, the State Land Use Commission in its approval of the proper...property's Urban designation required that a minimum of ten acres be provided to accommodate for affordable housing needs. Subsequently, pursuant to that condition, we conducted a study which indicated that 13 acres would be needed to meet housing needs. This site, which we have identified for your consideration, is located adjacent to the Maui Lani Project District at the end of Kamehameha Avenue, at...situated near the new Pomaikai Elementary School and the new regional park.

This slide, it might...this slide might propose...might present a better vantage point for you all. Here you can see Maui Lani Parkway, the new elementary school and the regional park at the end of Kamehameha Avenue. The site was arrived at as a result of an assessment report which looked at issues such as access, proximity to infrastructure including schools, parks and commercial centers. The site is level and vacant.

Because of the property's location and its prox...proximity to both the harbor and the airport, it provides a prime opportunity for fuel savings in the context of transportation of goods by businesses who take residence in this area. Our design guidelines also provide for energy-efficient building design, including elements such as solar water heating, natural ventilation and recycling. Potable water use will be minimized as we will be providing a dual water system for all landscaping which will be accommodated for by existing on-site non-potable wells. The large drainage basins in the project will minimize potential run-off to coastal areas and the basins present a great opportunity for dual usage.

We have been in discussions with local soccer clubs and the Department of Parks and Recreation officials to establish much-needed playing fields within this area. And this aerial shows the approximate location of the playing fields, not the exact layout but the approximate location of the playing fields which we have been talking about.

A visual analysis study and design guidelines were submitted and approved by the Maui Urban Design Review Board in 2004. These slides are just representative of basically the kind of improvements that can occur within a drainage basin. This is...is a photograph of the drainage basin located at Kuau Bayview, which is an A & B project. This is another vantage point on that same basin. There are...have also been improvements to this basin at Kehalani in Wailuku.

In the area of traffic—I'll just go to this slide here—the project will include construction of Hookele Street, here, which is the street behind Home Depot and it will connect Puunene Avenue and Hana Highway. Projections are that this will result in a 40 percent reduction in traffic along Dairy Road.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

A & B has been involved in improvements at many of the key intersections in the area and we anticipate further improvements in conjunction with this project. Of course, the airport access road which has been deemed a high priority by the Department of Transportation will provide—and that's here—will provide even greater relief over the long term. Most recently in 2006, A & B funded the synchronization of the traffic signals along Dairy Road.

In terms of visual impact of the project—just run you through these few renderings—there has been an emphasis on view corridors in the direction of Haleakala. Here you can see a rendering across the drainage basin looking towards Hookele Street and Haleakala. Hookele Street will emphasize a landscaped roadway with front yard setbacks with landscaping and berms to soften visual impact of the adjacent parcels. Non-potable water, again, will be used for irrigation as well as drought-tolerant native plants.

Another one of our goals is to continue to enhance the landscaping along Dairy Road. This is an improvement we are planning to make at the corner of Haleakala Highway and Dairy Road and some enhancements to the landscaping diagonally across the street from that point.

In summary, the project is, as I said, consistent with and implements the Wailuku Community Plan. A full EIS has been completed and measures to mitigate potential adverse environmental impact...impacts will be implemented. The Urban Design Review Board has taken a...a positive review and approval of the project design guidelines. In terms of community benefits, businesses really can't get established, expand or prosper without the proper setting. This project is part of the formula for the kind of economic vitality and opportunity that I'm sure we all want to see here in the future.

The project will also provide land in which we think...which we think is an ideal location for affordable housing. Hookele Street will be constructed at the outset of the project and it will be very significant in the relief it will provide at Dairy Road. Landscaping improvements along the various corridors will enhance the appearance of the entire area. And finally, this location is ideal for this proposed use. It will provide our businesses here on Maui with a great opportunity to prosper in a location that will help to minimize transportation costs. Thank you very much, Mr. Chairman and Committee.

CHAIR MOLINA: Okay. Thank you very much, Mr. Chun. Members, we're going to take a two-minute recess to put the screen up and then we shall reconvene on Land Use Item No. 49. Meeting in recess...*(gavel)*...

RECESS: 5:15 p.m.

RECONVENE: 5:17 p.m.

CHAIR MOLINA: ...*(gavel)*... County Communication No. 06-55, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM AGRICULTURAL, M-2 HEAVY INDUSTRIAL, AND R-1 RESIDENTIAL

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

DISTRICTS TO M-1 LIGHT INDUSTRIAL DISTRICT (CONDITIONAL ZONING) FOR THE MAUI BUSINESS PARK PHASE II PROJECT FOR PROPERTY SITUATED AT KAHULUI, MAUI, HAWAII.” The purpose of the proposed bill is to grant a request from Robert Sasaki, A & B Properties, Inc., for a Change in Zoning from—(*end of Tape 2A*)—Agricultural District, M-2 Heavy Industrial District, and R-1 Residential District to M-1 Light Industrial District for the Maui Business Park Phase II Project on approximately 179 acres in Kahului, Maui.

Before we get into Q & A with the resource personnel, the Chair would like to open it up now for public testimony. We have, thus far, five people signed up for testimony and we shall begin first with Mr. Grant Howe to be followed by Rob Parsons. And please, again, state your name for the record and any organization that you may be representing.

Chair would like to go over a few ground rules with you. You will be given three minutes to testify with a minute to conclude. And again, the Chair humbly asks everyone to please turn off your cell phones or pagers so as not to disrupt our proceedings today. Mr. Howe.

...BEGIN PUBLIC TESTIMONY...

MR. HOWE: Council Chair Molina and Members of the Council, aloha. My name is Grant Howe and I'm the principal broker and partner with Commercial Properties of Maui. Currently, there's...this has been the tightest commercial real estate market that I've been experienced in my 22 years doing business here. The lack of new inventory developed over the past ten years and coupled with our population growth rate, the highest in the State, has contributed to the low vacancy in record rental and sale per square foot rates. The entire available indus...industrial inventory substantially below one percent with retail and office not far behind.

Since 2000, Central Maui has had an average sales volume of approximately \$12 million per year. These sales represent approximately 400,000 square feet per year of absorption. The price range for this seven year period has gone from a low of about \$23 per square foot to the most recent sales of about \$40 per square foot at the Consolidated Baseyard's project.

In 2004, Hallstrom's study indicated that over the next 17 years, there will be a demand for some 2.65 million additional square feet of finished light industrial, commercial, service business floor space in Central Maui alone equating to 270 gross acres of additional lands beyond the current levels of 526 acres or 5.22 million square feet of improved light industrial and commercial floor space.

The pent-up demands for industrial and commercial space in Central area have driven land prices and rental rates to an all-time high. As our population grows, there needs to be adequate inventory of commercial space to accommodate the needs for the service industries to support the growth. The cumulative effect of lack of avai...of available inventory eventually gets passed down to the consumer in the form of higher costs of goods to make up for the high cost of land and rental rates.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

I feel it's imperative for Maui's economic health to make sure that we keep up with the appropriate commercial infrastructural demands created by our population growth and housing expansion. I urge the Council to favorably consider the Maui Business Park expansion as the next intelligent decision for the balanced growth required for Maui's economy and consumer demands. Thank you.

CHAIR MOLINA: Okay. Thank you, Mr. Howe. Committee Members, questions for the testifier? Seeing none. Oh, excuse me. Member Anderson?

COUNCILMEMBER ANDERSON: Thank you, Chair. Thank you, Mr. Howe, for that presentation. You're looking at 138 acres, is that right?

MR. HOWE: One hundred and seventy nine.

COUNCILMEMBER ANDERSON: A hundred—sorry, 179. And I understand that you're gonna be building it in increments no greater than 70 acres at a time.

MR. HOWE: Ac...actually, I'm...I'm just the commercial broker with Commercial Properties of Maui so I'm not involved in the actual development. I'm just stating my understanding of the market so I'm not involved in the development or the construction.

COUNCILMEMBER ANDERSON: I see. So can you break down commercial—what you were just telling us—could you break down the demand in Central Maui for light industrial as opposed to retail? Are those two different categories?

MR. HOWE: They are two different categories although the zoning allows in Light Industrial where you can do B-1, B-2 and B-3. So historically speaking there has been a combination of mixed use. And, you know, as you can see in the Maui Business Park as an example in Phase I where they've had like McDonald's and you've got the mini storage and you have the offices as well as the irrigation company. So it's a combination thereof.

COUNCILMEMBER ANDERSON: Well, you know, I'm telling you, the reason I'm asking that question is just because of that. Because retail generates so much more traffic than light industrial so we have to be able to anticipate that. And I don't think it was adequately anticipated when Phase I got Light Industrial zoning 'cause most of the use on that is retail. So the traffic generated is much higher than was anticipated.

MR. HOWE: Yes, probably a combination of all because it's also office, you know, and quasi-office and showroom, warehousing 'cause lot of businesses require multiple, you know, types of usage. Ex...for example, if you have a tile company or flooring company that needs warehousing needs, there is a retail component or a service retail component. That's usually a combination thereof.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

COUNCILMEMBER ANDERSON: Yeah, so back to the question. Could you break down the demand for light industrial and retail?

MR. HOWE: Well, um. . .

COUNCILMEMBER ANDERSON: 'Cause you were just using the term "commercial".

MR. HOWE: Well, it's been about 400,000 square feet of...of absorption. Just to give you an idea, the Consolidated Baseyard's project brought on 800,000 square feet in the Waiko area and was sold on bonded final prior to its completion at top dollar. And it was absorbed, you know, very quickly.

COUNCILMEMBER ANDERSON: And that was light industrial?

MR. HOWE: Yes.

COUNCILMEMBER ANDERSON: All light industrial use?

MR. HOWE: Yes, yes.

COUNCILMEMBER ANDERSON: So can you answer the question? What the demand is for light industrial and/or retail?

MR. HOWE: Retail is...has a low vacancy factor right now also. So, I mean, I...I can't give you an exact number other than the Hallstrom study which I indicated to you earlier, talked about the additional square footage that was...I gave you the exact number that they quoted which they had said demand of some 2.65 million additional square feet of finished light industrial is what they came up with based on the studies that they did.

COUNCILMEMBER ANDERSON: 2.6...

MR. HOWE: .65 additional square feet of finished industrial commercial service equating to 270 gross acres of additional land.

COUNCILMEMBER ANDERSON: For Central?

MR. HOWE: Yes, just for Central.

COUNCILMEMBER ANDERSON: For light industrial?

MR. HOWE: Yes.

COUNCILMEMBER ANDERSON: And then do they say anything about retail?

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

MR. HOWE: No.

COUNCILMEMBER ANDERSON: Okay. Thank you very much.

MR. HOWE: Okay.

CHAIR MOLINA: Thank you, Member Anderson. Member Pontanilla?

VICE-CHAIR PONTANILLA: Chair, if we can have the testifier provide us that information that he spoke about on his testimony.

CHAIR MOLINA: In writing, okay. Mr. Howe, if you could?

MR. HOWE: Yeah, I'll just email it to all the Council Members and...(inaudible)...

VICE-CHAIR PONTANILLA: Okay. Fine.

CHAIR MOLINA: That'll be sufficient, yeah.

VICE-CHAIR PONTANILLA: Thank you.

CHAIR MOLINA: Thank you. Any other questions for the testifier? Mr. Victorino. Mr. Howe.

MR. HOWE: I'm sorry.

COUNCILMEMBER VICTORINO: Grant, hey!

MR. HOWE: Hey. How's it?

COUNCILMEMBER VICTORINO: How's it going? I...I...was hoping you wouldn't walk off too fast. Okay. My question to you is, with this additional inventory for light industrial and possibly some retail, what would be the economic benefit in your opinion because right now everything is at, what I call, all-time highs?

MR. HOWE: Yes.

COUNCILMEMBER VICTORINO: And, of course, supply and demand. Demand is high, supply is low. You...you increase the...the...the supply, I imagine the demand starts to drop and so will prices. What benefit, in your professional opinion, would you see as far as the pricing is concerned?

MR. HOWE: Well, I can only go through...from historical perspective. But --

COUNCILMEMBER VICTORINO: Okay. That's fine.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

MR. HOWE: --as an example, when Wakea was developed back in the 80s, mid 80s, they brought in a 150,000 square feet of...of warehousing space to the market and that definitely had an effect on the market where the prices came down. And again, it gets back down to supply and demand. You know, there was a lot more supply on the market and so, you know, that's what happens. It's just economics. So pricing does get affected to a certain degree to accommodate the market.

COUNCILMEMBER VICTORINO: Okay. Mr. Howe, thank you. I...I think that's important in this whole equation is we add inventory because it's an, you know, were at all time highs and we'd like to see some...some relief for --

MR. HOWE: Exactly.

COUNCILMEMBER VICTORINO: --for, for the businesses because that also equates to the consumer.

MR. HOWE: It gets all the way down to the consumer constituency.

COUNCILMEMBER VICTORINO: Thank you. Thank you.

CHAIR MOLINA: Okay. Thank you, Mr. Victorino. Member Baisa?

COUNCILMEMBER BAISA: Good afternoon, Mr. Howe.

MR. HOWE: Yes, Gladys.

COUNCILMEMBER BAISA: Thank you for being here. In regards to this question or this...this discussion of a lack of light industrial space. As a broker, do you see many people or do you experience many people coming to you looking for this kind of space and you're not able to accommodate them?

MR. HOWE: Yes, right now, actually we're below 1 percent vacancy in the industrial market. We have a lot of people looking for warehouse. We just don't have it available. And, as I've mentioned earlier, it has equated to higher...the highest prices we've seen, industrial. We went from about 75 cents triple net per square foot up to a buck fifty per square foot triple net, almost doubling the cost, you know, for warehousing here on Maui.

COUNCILMEMBER BAISA: Yeah. With my own experience living in a residential neighborhood, do you think that this might be playing any part of all of the commercial stuff that's going on in our neighborhoods?

MR. HOWE: I'm sorry, can...could you repeat that...I'm sorry.

COUNCILMEMBER BAISA: Okay. Let me try again. I live in a residential neighborhood.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

MR. HOWE: Yes.

CHAIR BAISA: Lots and lots of commercial activity.

MR. HOWE: Oh, okay. I see what's you're saying.

COUNCILMEMBER BAISA: Do you believe that this is a part of it? They can't find a place to have a baseyard or do a business?

MR. HOWE: It...it...well, it's hard to say 'cause, you know, a lot of times, you know, it starts off as a mom and pop business, you know. And that's how a lot of businesses get started here on Maui. They start working out of their garage, you know. And they might be repairing a car or doing some storage and manufacturing as a small business entity and then they have this need to go to the next step which is to grow. And that's what happens there, they can't grow because, you know, there's no place for them to go so...

COUNCILMEMBER BAISA: You know, we see commercial trucking businesses, tree trimming businesses, contractors all over the place, and sometimes I wonder if it's because they simply cannot find a place to operate out of so they do it at home.

MR. HOWE: Well, it could be part of that but, you know, I think it starts off as, you know, them trying to, you know, save on dollars, but then eventually they get to a point where the business becomes viable. That's when they need to expand and you know, with the population demands and growth that we have now, it's just inevitable that there's gonna be that need so.

COUNCILMEMBER BAISA: I think, and that's where Mr. Victorino's point come in. Maybe we can lower the price; maybe we can relocate them to a more desirable spot.

MR. HOWE: Exactly.

COUNCILMEMBER BAISA: Thank you very much.

MR. HOWE: Okay. Thank you.

CHAIR MOLINA: Thank you, Member Baisa. Member Johnson?

COUNCILMEMBER JOHNSON: Yes, Grant, thanks very much for giving us some information. One of the comments that you made is basically that there's this pent-up demand, I guess if you will—I'm paraphrasing what you said—because of population, because of all the growth that we've experienced. When certain businesses exist and then overnight they seem to close. You know, I...I guess my question is that even if we have the inventory, if we expand and we have something that's zoned properly, we're at 100 percent...almost 100 percent employment. What's going to happen in terms of your view of the people who would be renting these properties, where will they be getting their workers in order to open up businesses?

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

MR. HOWE: Well, I think, you know, getting back to the Hallstrom study, it...it's showing that there was a component of it talked about housing and how much housing was being developed here on Maui. There's a lot of housing starts that are coming up and because of that, we're getting more...we'll have more population which would, you know, again affordable housing is another component to this question that you have to where were you going to be able to get the workers to support the service industries? And that's just part of what happens with...with growth and Maui is the fastest growing island population in the State.

COUNCILMEMBER JOHNSON: So essentially what you're saying is that these potential locations will not be really employing people that are from here currently, that we will be bringing in droves of new people in order to fill these jobs?

MR. HOWE: Well, I think that'll be part of it, as part of absorption, yes. Bringing in—you know, that's exact...(inaudible)...

COUNCILMEMBER JOHNSON: If you build it, they will come.

MR. HOWE: Exactly.

COUNCILMEMBER JOHNSON: Thank you.

MR. HOWE: But the housing is there. Actually, the housing starts you there, the infra...the commercial infrastructure is not keeping up with the housing starts. That...that's the reality. Yes.

CHAIR MOLINA: Okay. Member Anderson?

COUNCILMEMBER ANDERSON: How many housing starts are you aware of, Mr. Howe?

MR. HOWE: I couldn't tell you that. The study that I had seen in Central, there was...uh...I know there was about 35...that...3,500 housing units that were being developed in the Maui Lani area as well as up in the Wailuku Heights. You have all the affordable housing that Jesse Spencer brought up also in that...that main corridor. And then you've got Town Realty and Stanford Carr's developments all up in that Central area. And. . .

COUNCILMEMBER ANDERSON: But what price ranges are those?

MR. HOWE: It varies. It varies from affordable. . .

COUNCILMEMBER ANDERSON: 'Cause I think you're gonna need affordable housing for workers in an industrial complex.

MR. HOWE: Sure. That's what I think Jesse Spencer has been really good in terms of moving towards bringing on affordable housing Central and that one project that he did.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

COUNCILMEMBER ANDERSON: Yeah. But that's all sold out too.

MR. HOWE: Yes. And I know that, I think there's another project that's being looked at up Waiehu side with Kim's project, yeah.

COUNCILMEMBER ANDERSON: Well, you know, you...the studies that you provided show that this...the build-out of this project will generate 7,800 jobs. And the 22 acres for affordable housing is only enough for...it's only enough for something like 135 house lots. So where are we going to put 700 and...7,000 people...7,700 people?

MR. HOWE: I didn't...just what study were you talking about?

COUNCILMEMBER ANDERSON: Well, just within your application. I...I don't know what. . .

MR. HOWE: Okay. Again, this is not my application. I'm sorry, I'm not with A & B Properties. I'm independent commercial broker here.

COUNCILMEMBER ANDERSON: Oh, I'm sorry.

MR. HOWE: That's okay.

COUNCILMEMBER ANDERSON: Too many Grants in the room.

MR. HOWE: Okay.

COUNCILMEMBER ANDERSON: All right. I'll let you off on that one.

MR. HOWE: I...I've been...not a...not a problem. I've actually...I came here in 1985 and I've been in the commercial real estate market since '85 so that's why I came to give...try to give you some of my perspective on the market.

COUNCILMEMBER ANDERSON: Okay. Thanks for being here.

MR. HOWE: You're welcome.

CHAIR MOLINA: Thank you, Member Anderson. It just does to show you we can't take things for granted. *(laughter)* I...I...it was too easy. Okay, okay. We need a little humor break here. If there's no other questions for the testifier, call on the next one. Thank you, Mr. Howe.

MR. HOWE: Thank you.

CHAIR MOLINA: Rob Parsons to be followed by John Santos.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

MR. PARSONS: Good afternoon, Chair, Members. Rob Parsons. I am a Maui Tomorrow board member. Maui Tomorrow has testified on this proposal a number of times in the past. However, I'm testifying today as an individual.

And I first testified before a Council eight years ago in 1999 when this item came up as Matrix Items 33 and 34 in the Wailuku-Kahului Community Plan revision. It's since gone to the Planning Commission, the Land Use Commission. It was voted down twice before it passed the...the Council in the Community Plan revision and there was a...quite a discussion by Kalani English and Dain Kane about urban growth boundaries. So I had concerns then, I still have concerns now that...that, you know, I know that the landowner and applicant is describing this as ideally located with proximity to airport and harbor and a logical extension of urban area. But what I see is it's a classic case of urban sprawl, of gobbling up prime Ag land on the outskirts without regard to growth boundaries for Kahului.

What I'd like to do is...is to give you some reasons not to approve this as you see it before you and then I would like to give some better alternatives as well. So I think we have a golden opportunity to redesign our entry corridor that 2.2 million visitors see when they come in our island. And right now they're going down the Dairy Road gauntlet and this proposal would do very much to recreate that on the airport bypass road. As is, it looks like the Oahuization of Maui with Zippy's coming in and car lots and who knows what else, recreating Dairy Road.

So some of my concerns are water and there's a discrepancy in what the applicant thought they would use. Planning Department said they would need probably twice that much so I hope that you will get the correct answers on the source of water and the amount of water. We're going on the market study that says all this acreage is needed. I don't know what the planning study...what the Planning Department has computed might be needed. But it's all predicated on a market study that was commissioned by the applicant. I don't think we need anywhere near the amount of the acreage that they've asked for and certainly not all in one area or the majority of it in one area to cluster it there.

And as Member Anderson said with 7,800 jobs expected to be created by this, is 22 acres or I thought Mr. Chun said 12...13 acres is now being suggested for affordable housing. I don't think that's nearly enough and I know that one land use commissioner said perhaps a hundred acres would be more in balance with what would be generated by a project of this size.

Traffic, you're looking at a three-year-old traffic impact analysis report. It makes a number of assumptions. I hope that you will go through it carefully. I know you don't have time to go through all of this and make a decision today. We're short on time. But when this comes back to this Committee, I hope you will have carefully gone through that TIAR and I don't. . .

MS. NAKATA: Three minutes.

MR. PARSONS: I don't have nearly enough time to get into that. But this is our transportation hub for the entire island as well as our commercial hub. And the concept is continuing this usage here

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

and what I think would work much, much better is to put smaller regional light industrial areas around the island. I'll give you five areas that could accommodate it. Waiko Road could be expanded. That's accessed by a four lane highway. Earl Stoner's baseyard, Central Maui Baseyard also accessed by a four lane highway. North Kihei could use some. Lahaina, Upcountry. This way we're not having all those outlying areas coming in and clustering all the traffic in already traffic-tied-up Kahului.

We're looking at two more traffic lights that would be created on your way in or out of town. That one of the recommendations of the TIAR is a six lane Hana Highway all the way to Haleakala Highway and back to Kaahumanu Avenue. Is this the future that we want to create here for our island? The mitigation. . .

MS. NAKATA: Four minutes.

MR. PARSONS: I'll...I'll finish this sentence if I may. The mitigation that's offered for traffic is the Hookele extension. But what that really is, is another entry and exit to the project and it's gonna be generating rather than miter...mitigating traffic. So, as I said the traffic report has a number of assumptions I hope you look into it in detail. And I'll probably come back at the next meeting because I have many more concerns that I didn't have time to express in the four minutes. Thank you very much.

CHAIR MOLINA: Thank you, Mr. Parsons. Committee Members, questions? Mr. Pontanilla, followed by Member Anderson.

VICE-CHAIR PONTANILLA: Thank you, Chair. Hi, Bob, Rob. When the project went through the State Land Use Commission, was there any talk about the expansion of the roadway from Puunene Avenue/Kuihelani junction towards the airport...to the airport terminal? And when is the projection for that?

MR. PARSONS: I wish I knew and I hope that you will ask the...the State DOT and...and the developer. Yes, there was discussion. I know that. I didn't attend all of the hearings. I attended some it. And I...I know that Commissioner Bruce Coppa urged both the County and the State to reconfigure where they presently have configured, that it was shown on the map earlier, the airport reliever road because right now it would go right through the middle of this project. And...and to me, if you look at the map—and I'd love to do that with you at a later date—it...it ought to go behind on the Puunene side of Home Depot and Wal-Mart because it's right now, it's...it's configured to enter Dairy Road before it hits Puunene between Puunene Avenue and the turn-in to Home Depot and Wal-Mart just past the fire station. And you can look at that and if you can explain to me how the heck that's going to relieve airport traffic, you know, because basically these are people that are going to go either to South Maui or to West Maui to hotel or time share destinations.

And I...I think that we really need to revisit that. This is...this corridor was planned many years ago. At that time they thought there would be a cloverleaf intersection. That's why if you look

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

at the map you can see that there's enough land that was acquired. So while these are still lines on the map, I would offer to you that we have the opportunity to do this right because I don't think the plan be...that's before you today is going to adequately handle our future traffic needs.

VICE-CHAIR PONTANILLA: Thank you, Rob. Thank you, Chair.

CHAIR MOLINA: Thank you, Mr. Pontanilla. Member Anderson?

COUNCILMEMBER ANDERSON: Thank you, Mr. Chair. Member Pontanilla kind of addressed my question. But, you know, Members, if we all have the EIS, this blue binder, and right past Page 16, is a really great map. If you want to look at that map because it shows where the proposed airport access road is.

And I...I'm in agreement with you, Mr. Parsons, that when you look at this proposed airport access road basically it is...what...what, is that north? It's at...it's on the Haleakala side of their proj...their North Project area. And I understand that the...they're extending the freeway...I mean the high...the runway, the airport runway and that this may be in the safety zone so I don't know. But anyway, they may have to change it. But the way it's laid out right now is, it bypasses, you know, it's Haleakala side of Dairy Road between Dairy Road and this new proposal which is great. But then it...it tails into Dairy Road. So it's taking all this airport traffic and taking it right into the intersection at Puunene and Kuihelani. And I just don't understand how that isn't going to be just another Dairy Road. If you're bottlenecking the traffic into the same intersection as all the Dairy Road traffic is currently bottlenecked at.

So Mr. Parsons, you've been on this project for many years. Do you think it would be possible to re-route the access road so that it goes below Wal-Mart on the Haleakala side of Wal-Mart and enters into Mokulele or maybe, you know, becomes part of Hokulele [*sic*] Street so that there's a diff...different intersection?

MR. PARSONS: Thanks for the question. I think that's the only way that you're gonna get some semblance of a rational traffic mitigation for the...for what's being asked for here, even without this project in there. I think if...that diagonal cut that puts it in front of the Home Depot parking lot just past the fire station and the Harley Davidson place, trying to connect there is crazy. And it's reflective of when the corridor was acquired before...before this was built out and grown out and we knew that, you know, there'd...there'd be this much more proposed light industrial, retail, commercial.

So, yes, I...I have looked at that. I think on the...the north side of Hana Highway, which is behind Costco and K-Mart, you know, I know we wind up using all our big boxes as our navigating tools here, I think that it probably would work there and then it would cross the highway. And where we went on the site visit today right by that drainage basin, what makes sense to me is to go kind of diagonally through the drainage basin and then on the Puunene side, the back side of Wal-Mart and Home Depot, and connects out there by where the Hookele connects with...between the sugar mill and the corner of Puunene Avenue and Dairy Road. Then

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

you have a adequate chance of...of having enough lanes and enough turns and everything to handle all those people, you know like I said, 2.2 million visitors to our island, many...the majority of which are going to South Maui and West Maui without running them through Dairy Road.

COUNCILMEMBER ANDERSON: Okay. So do you know when this corridor was acquired?

MR. PARSONS: I don't have the exact date on that.

COUNCILMEMBER ANDERSON: Or...it still says proposed...but you know, in their EIS...this is so confusing because DOT wrote a letter in September '03 saying that...that it...that...that...that this is a priority project for DOT and that construction is anticipated to begin within three years. And that it's contained in their short-term CIP. And so we're way past that. And then it says that in the TI...in their traffic report which was done in. . .

MR. PARSONS: May of 2004, I believe.

COUNCILMEMBER ANDERSON: No, this is re...uh, it was done in May of 2003 and then revised in July '04. But it says that DOT has indicated that the access road is a priority project and that the request for bids for design bills will be issued during the Fiscal Year '05 for the initial segment from Puunene to Hana Highway...and I guess that hasn't been done either. But that is the segment that I think needs to be reconsidered given the fact that Dairy Road...I mean, if you're...if you're just gonna take the same amount of traffic and bypass Dairy Road and then dump them on to Dairy Road at the end of the bypass, then I don't know how this is gonna be such a big help. And you don't either? Okay, good.

MR. PARSONS: Agreed.

COUNCILMEMBER ANDERSON: Thank you very much, Rob.

MR. PARSONS: Thank you.

CHAIR MOLINA: Thank you, Mr. Parsons, Member Anderson. Any other questions for the testifier? Seeing none. Thank you, Mr. Parsons.

MR. PARSONS: Thank you, Chair.

CHAIR MOLINA: Next to testify, we have Jon Santos to be followed by Sandy Baz.

MR. SANTOS: Aloha, Council Members.

COUNCILMEMBER BAISA: Aloha.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

MR. SANTOS: My name is Jon Santos. My company is JS Construction and Excavation. Thank you, Council Members, for allowing me to speak in support of the Maui Business Park Phase II. I was born here on Maui in the island of Maui. I lived here (*end of Tape 2B*)...I have worked my way up from construction industry from an apprentice to owning my own company and now a general licensed contractor in the State of Hawaii. Over the past 18 years, my company has grown from myself to nine full-time employees, thus requiring me to acquire adequate space for it, for my employees, my office and my equipment. Due to the limited amount of light-industrial commercial space available here on Maui, finding a centrally located unit has been a real challenge for me. Allowing this project to go forward will help allow small businesses like mine an opportunity to grow and develop and serve Maui. Also, A & B will provide the Hookele Street extension which will help take away congestion during the morning and afternoon hours on Dairy Road. Mahalo and aloha.

CHAIR MOLINA: Thank you, Mr. Santos. Committee Members, any questions for Mr. Santos? Member Anderson?

COUNCILMEMBER ANDERSON: Hi, Mr. Santos.

MR. SANTOS: Hello.

COUNCILMEMBER ANDERSON: Thanks for being here. Where are you currently located?

MR. SANTOS: I am on Lalo Street in...in Kahului.

COUNCILMEMBER ANDERSON: In the industrial area on Lalo.

MR. SANTOS: In the industrial...yeah. So I use Dairy Road every morning which is congested.

COUNCILMEMBER ANDERSON: And so you're...you've outgrown your space, or...

MR. SANTOS: You could say that...my space that I'm renting.

COUNCILMEMBER ANDERSON: So how more space do you need than what you have right now?

MR. SANTOS: Oh, the idea is to acquire a space that I could own and build my own...my own shop and warehouse--

COUNCILMEMBER ANDERSON: I see.

MR. SANTOS: --for have my own place.

COUNCILMEMBER ANDERSON: So it's more...it's not so much that you don't have enough space. . .

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

MR. SANTOS: And it would help to expand 'cause the company is growing, buying more equipment and more employees.

COUNCILMEMBER ANDERSON: Okay. Thank you very much.

MR. SANTOS: You're welcome.

CHAIR MOLINA: Thank you, Member Anderson. Committee Members, any other questions for the testifier? Seeing none. Thank you, Mr. Santos. Next to testify we have Sandy Baz, followed by Tony Takitani.

MR. BAZ: Aloha, Committee Chair Molina, Council Members. My name is Sandy Baz. I'm the Executive Director for Maui Economic Opportunity. I appreciate the opportunity to come and testify you before this evening.

Reading the editorial in the newspaper today, it mentions what Councilmember Baisa brought up to one of the testifiers about home-based businesses. It is something that MEO has been working to actually help create businesses. And we've helped to create over 600 businesses in the last ten years. A lot of those individuals are working from home which is technically illegal. And according to the Director of Planning will start cracking down on those individuals that are illegal home-based businesses. I'm positive that the Planning Committee Chair will take this up under her Committee and take this up to and including a new law so that we can actually have home-based businesses. But in the meantime, the need for commercial space is incredibly huge. MEO itself has used the services of Mr. Howe at Commercial Properties in searching for commercial space. There was none for us. We need ten acres of land for our transportation center. If you look in Central Maui, there is no ten acres of land of commercially zoned area.

Second thing I want to talk about...is workforce. It's been mentioned here that this will create jobs. It will create jobs. It'll create jobs that are good paying jobs. The industries that are in light-industrial commercial areas are industries that pay well. These are service industries, you know, mechanics; people like Jon Santos in his construction industries. These are things that people will be able to afford a decent-priced house, not the current market house, but a decent-priced house. And I feel that this is something that is a benefit to our community and to our workforce development.

And just a side note, Mr. Chair, the idea of 40 percent reduction of traffic on Dairy Road is a dream. I think that we could really use that. If you've ever traversed, which I'm sure you have, Dairy Road on...at about 2 or 3 o'clock in the afternoon when all the tourists come in from all the planes start arriving, they get into their rental cars and...and they start driving out. Between the Hookele Street extension and the proposed airport bypass road there, I believe that those will be a...a huge traffic mitigation. And I do think that the proposed alignment for the airport access road could be a huge benefit if it was looked at to realign that. . .

MS. NAKATA: Three minutes.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

MR. BAZ: If you ever stood...if you've ever stood at the end of Kuihelani Highway looking down Dairy Road towards the in-between area of Wal-Mart and the Harley Davidson dealer, you can see a clear path all the way to Hana Highway which will extend all the way to the airport. That clear path was designated without any stoplights with...with direct access and direct alignment to Kuihelani Highway which a lot of the traffic will be going to. If the airport bypass road was realigned to the other side of Wal-Mart to...through where Hookele Street is, then you would have not only existing businesses that are already starting up there, but you would have to realign that road with Kuihelani Highway for all those traffic going to West Maui which is quite a bit of the...of the tourist traffic. So, those are my comments for this evening, Mr. Chair, and I...I hope that this is something that will be looked for in the future. I do support this.

CHAIR MOLINA: Okay. Thank you very much, Mr. Baz. Committee Members, questions for the testifier? Seeing none. Thank you, Mr. Baz. We have Tony Takitani to testify next. He is the last person to have signed up to testify. The Chair will offer the public one last opportunity to sign up for public testimony on Land Use Item No. 49. Good evening, Mr. Takitani.

MR. TAKITANI: Good evening, Chairman Molina and Members of the County Council. Thank you very much for this opportunity to testify. My name is Tony Takitani. I'm the president of the Maui United Soccer Club. And I am here tonight to support the Maui Business Park Phase II.

The Maui United Soccer Club has ten teams presently. We look to expand eventually to 20 to 25 teams in the future. We have been in discussions with A & B for a little...for about a little over a year now. And we've recently started discussions with the County of Maui. Maui needs more park space, in particular for soccer. We look forward to working with Parks and Recreation as well as with A & B to provide the much needed soccer fields. The area is large enough, as you saw from a...the video presentation, to accommodate five full-size soccer fields.

We have tremendous talent on this island. You can ask Councilmember Victorino. You see his son on a daily basis. We need the fields and along with these fields, I forgot to mention that this basin area is also just at the outside of the basin is large enough to accommodate a facility in which the kids can train indoors for speed and quickness, weight training, classroom training as well. We believe that this will help our...our young athletes to attain their full potential.

We also believe that this location is extremely ideal in that it's centrally located. It's central to Wailuku, Kahului, parts of East Maui, Upcountry, Kihei and actually even...we even have a couple of players from Lahaina on our teams. And we feel that this would benefit the community tremendously and we ask for your support. Thank you very much for this opportunity.

CHAIR MOLINA: Thank you, Mr. Takitani. Committee Members, questions for the testifier? Mr. Mateo.

COUNCILMEMBER MATEO: Chairman, thank you. Mr. Takitani, good afternoon.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

MR. TAKITANI: Good afternoon.

COUNCILMEMBER MATEO: In your...in your discussion with...with A & B as...as we all saw today in our site visit, unless your ball going weigh 40 pounds, it's gonna blow away. It was very...it was very gusty.

MR. TAKITANI: Pretty windy.

COUNCILMEMBER MATEO: So...did...is there an alternate site other than the one that you just recognized?

MR. TAKITANI: I actually initially was talking some with the people that developed the park out at Maui Lani. But that one, being so close to the school and it was kind of a small site, I didn't think that it would be appropriate.

COUNCILMEMBER MATEO: Okay.

MR. TAKITANI: I also think as to...as far as the wind portion goes, because it is a sump, a lot of the wind will go over. And we can also possibly put up some windbreaks.

COUNCILMEMBER MATEO: Okay. Thank you. Thank you, Chairman.

CHAIR MOLINA: Okay. Thank you very much, Mr. Mateo. Committee Members, any other questions for the testifier? Seeing none. Thank you, Mr. Takitani.

MR. TAKITANI: Thank you. Mr. Chairman.

...END OF PUBLIC TESTIMONY...

CHAIR MOLINA: Committee Secretary, has there been any additional request for testimony?

MS. FRIAS: No, Mr. Chair.

CHAIR MOLINA: Okay. If there is no objections, Members, the Chair will close public testimony for Land Use Item No. 49.

COUNCIL MEMBERS: No objections.

CHAIR MOLINA: Okay. Thank you very much, Members. Members, the Chair is aware of the time and that we do have a couple of Members that have some prior evening commitments. The Chair will ask for your consideration of this proposal. We do have some resource personnel that have come here and made themselves available and, obviously, the Chair would like to at least

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

hear from them, give them an opportunity to speak. I would ask the Committee Members to withhold asking them questions because of the time constraints we're under. But because they've made themselves available here, I would like to at least have them share their...give their comments with regards to this item. So if there are no objections, the Chair would like to proceed in that fashion.

COUNCIL MEMBERS: No objections.

CHAIR MOLINA: Okay. Thank you very much, Members. The Chair would like to focus on, I guess, one of the major aspects related to this project and that is the subject of traffic. And we have here from the State Department of Transportation, I believe Mr. Cajigal is here as well as representatives from the Maui Police Department. I would like to ask Mr. Cajigal and the Police Department representatives to please come up to the front.

COUNCILMEMBER ANDERSON: Mr. Chair.

CHAIR MOLINA: Member Anderson?

COUNCILMEMBER ANDERSON: You know, I appreciate the time constraint but if we have resource people here, especially someone from DOT, and we're prevented from asking questions, then I don't know how we can make an informed decision.

CHAIR MOLINA: No, no. Member Anderson, the Chair's intent, first of all, is no decision will be made tonight. I do realize the magnitude of this proposal and we will be revisiting this issue in the future. So that is why I've asked just out of courtesy to have them speak. . .

COUNCILMEMBER ANDERSON: I appreciate that but the Police Department can always come back. My...my question is if we have DOT here, and we can't ask questions, then will they come back when we can ask questions?

CHAIR MOLINA: We will make sure...make an attempt to have them come back. And, of course, we have Mr. Cajigal. He can respond to...uh...that...the question that you brought up here. Mr. Cajigal, if you come on and please take a seat in the front.

And I want to thank the Members who've extended their stay here and I appreciate you staying a little longer than anticipated. Mr. Cajigal, if you could open up with your comments on this as well as, I guess, introduce the person that's with you as well.

MR. CAJIGAL: Thank you, Mr. Chair. My name is Fred Cajigal. I'm the Engineering Program Manager for State Highways here on Maui. With me this evening is Mr. Glen Soma. He's the Manager of our Statewide Transportation Planning Office for the Department and he will be the spokesperson for DOT from here on.

CHAIR MOLINA: Okay. Proceed, Mr. Soma.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

MR. SOMA: Thank you. Aloha. All that the DOT...well, two things the DOT would like to say is, first, we appreciate what A & B and their contractor has done. They've complied with Land Use Commission's decision and orders and in a very timely and professional manner. So we appreciate that. And secondly, all we ask is that when Maui County Council does go ahead and work on the zoning that they include in the zoning request items that are consistent with Land Use Commission's decision and orders.

CHAIR MOLINA: Thank you, Mr. Soma. Any...any other...other comments from the Department? Okay. Thank you very much, gentlemen. And at a later point down the road, we'll be calling you to again come to our...our meeting. Maybe Mr. Cajigal or whomever from the Department to --

COUNCILMEMBER HOKAMA: Chairman.

COUNCILMEMBER ANDERSON: Mr. Chair.

CHAIR MOLINA: --respond to questions. Mr. Hokama.

COUNCILMEMBER HOKAMA: Just a question for clarification, please, for Mr. Soma.

CHAIR MOLINA: All right, proceed.

COUNCILMEMBER HOKAMA: Mr. Soma, since this project also has some impact from the airport's perspective and whatnot, would you be able to answer besides highway questions with Mr. Cajigal, questions that pertain to...to this project relating to the airport and possibly the harbor? Would you be the person--

MR. SOMA: Yes. I'll try my best.

COUNCILMEMBER HOKAMA: --who would have authorization to speak?

MR. SOMA: Yes.

COUNCILMEMBER HOKAMA: Thank you very much.

CHAIR MOLINA: Okay. Thank you, Member Hokama. Member Anderson?

COUNCILMEMBER ANDERSON: Yeah, I think it would be helpful, Mr. Chairman, if Mr. Soma could tell us...and...and it's not just us. This is a public hearing and the public is interested too. So what are the conditions that DOT has imposed or rather that the State Land Use Commission has imposed that would affect DOT that you want us to carry forward?

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

CHAIR MOLINA: Okay. I'm gonna allow this one question and that's it, okay? 'Cause I do have other people waiting and I'd like to hear from them. Mr. Soma, one question and please be brief. Thank you.

MR. SOMA: In a nutshell, the three areas would be the traffic. At this point, Alexander and Baldwin is not quite sure or concise as to the amount of traffic that will be promulgated by the development. So as their development continues along and they can refine these numbers, we would really appreciate knowing what they are so that we can come to a mutual agreement as to what the traffic improvements will be. So traffic is one.

The other is the airport runway extension. The De...Department of Transportation is still wrestling with the length of the runway extension because as technology improves, it seems that a full 9, 600 foot extension is not really necessary. But how much of it is necessary and...and that, of course, will impact where the impact zone, the safety zone, for the runway will be.

And third, of course, is the drainage. We really like the drainage collection systems but at some point, you know, there may be runoff—not runoff but drainage all the way to the sea. And it's very possible that that drainage system will impact both the airport extension, the access road extension as well as the runway extension. So those three areas.

COUNCILMEMBER ANDERSON: Chair, just to clarify. Mr. Soma, you mean that the...the drainage basin is gonna have to have an outlet to the ocean?

MR. SOMA: Well, we would appreciate that master plan, knowing what the master plan is for the drainage. If everything is contained within the basin, that's fine, but if it does have to run to the ocean, then it's possible that it will impact both the new access road and the runway extension.

COUNCILMEMBER ANDERSON: Yeah.

MR. SOMA: Yes.

CHAIR MOLINA: Okay. Thank you.

COUNCILMEMBER ANDERSON: We'd like to know that too. Thank you.

CHAIR MOLINA: Okay, gentlemen, thank you. Next, we have the representatives from the Police Department. If they have any statements from the Police Department with regards to this proposal, the Committee would like to hear from them. And after the Police Department, Members, we still have a few more minutes. I'd like to hear the aspect with regards to housing and we do have Director Medeiros with us here this evening as well. Good evening, gentlemen, if you could please identify yourselves before you make your comments.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

MR. IBARRA: Lieutenant Wayne Ibarra, the Ac...Acting Commander for District 1 in Wailuku. This is Sergeant Stephen Orikasa. He is the Administrative Sergeant who handles all projects within our district.

CHAIR MOLINA: Okay, gentlemen, do you have any position statement from the Department with regards to this project?

MR. IBARRA: We...(clears throat)...excuse me. As with all development within the County of Maui, it will have an impact on police services. As far as the exact numbers, sir, we're not at...ready to give that answer.

CHAIR MOLINA: Okay. All right, so you're just here more to answer questions at this point from the Committee Members. Okay. All right, if there's no...any points for clarification. Mr...Member Hokama?

COUNCILMEMBER HOKAMA: Chairman, then maybe to assist the Department and the Lieutenant and the Sergeant, maybe we can ask for a future meeting for their response. You know, this...depends how you want to read this. You know, this portion is a...this is a 15 to 20 year build-out of the proposed acreage. And so if it goes through the various stages, I would ask you, through your Department, through your Chief, to maybe come up with some manpower requirements as far as expansion of the district as well as do we need another substation? And when we look at increasing of personnel, of course, there's the requirement of operations and equipment financing. So if that could be part of the possible projections of the Department to needs in response to a growing business commu...and residential community sector, I think that would be appreciated, Mr. Chairman.

CHAIR MOLINA: Okay. Thank you, Member Hokama. And we can also forward your concerns through...through the Committee staff as well.

COUNCILMEMBER HOKAMA: Thank you.

CHAIR MOLINA: Okay. Thank you very much, gentlemen. We know we took up a lot of your time today but we appreciate you being here.

Okay. Members, we have Direc...Housing Director Medeiros. We would like to...would like for you to come up and offer your comments with regards to the issue of housing as it relates to this project. And then...and Members, of course, down the road you can forward questions to...through the Committee Staff and we'll send your questions out to the various resource personnel. Before we ask Member Medeiros...ah, Member Medeiros...Director Medeiros to give us a comment, Member Anderson?

COUNCILMEMBER ANDERSON: You know, I appreciate what you're trying to do, Mr. Chair, in getting us out of here by 6:30 and allowing people who've been waiting around all day to come up and give their comments. But, you know, we're the decision makers and if we don't have

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

the...the opportunity to ask questions of the resource people, then how are we going to...what good is it for them to be here?

CHAIR MOLINA: Well, my response to that, Member Anderson, how can we make a decision when we can't legally have a meeting when we're going to lose quorum? So that's my stance.

COUNCILMEMBER ANDERSON: Well, I know, but I mean.

CHAIR MOLINA: No more, Member Anderson.

COUNCILMEMBER ANDERSON: You know, the people that we do have here we should be. . .

CHAIR MOLINA: Member Anderson. You are out of order, please. I would like to ask Director Medeiros to give her comments on this. Director Medeiros.

MS. MEDEIROS: Thank you very much. Very simply, we received a letter asking for our response with respect to Chapter 2.96, the Maui County Code. Upon advice of our Corporation Counsel, our determination is that Chapter 2.96 does not apply to this development.

CHAIR MOLINA: Okay. You did send a response. Now according to the...our Corporation Counsel, Mr. Kushi, it was mentioned that this project would not be subject to the Housing policy. Am I correct?

MS. MEDEIROS: Correct.

CHAIR MOLINA: Okay. Members, that was transmitted...Staff, when was that document...was that today, the response from the Housing Department and Corporation Counsel?

MS. NAKATA: Mr. Chair, it's dated July 3rd but it was received today.

CHAIR MOLINA: Okay. I just wanted to make the Members aware of that. So, okay, Members. . .

COUNCILMEMBER MATEO: Chairman, clarification.

CHAIR MOLINA: Okay. Mr. Mateo?

COUNCILMEMBER MATEO: Thank you. It may not be subject to the Housing policy. It is still subject to condition of zoning.

MS. MEDEIROS: Yes, that's true.

COUNCILMEMBER MATEO: Thank you very much.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

CHAIR MOLINA. Okay. Members, so more things for you to ponder, Members. Thank you very much, Members. Those of you who have stayed late, uh, we're going to lose quorum and again, the Chair apologizes for not being able to continue through the late evening. However, we will revisit this matter in the near future. So if there's no objections...Member Hokama.

COUNCILMEMBER HOKAMA: Chairman, if I may request --

CHAIR MOLINA: Sure.

COUNCILMEMBER HOKAMA: --through your signature, please, on behalf of the Committee. Can we have...I know we received a letter but I would like to see a written Corporation Counsel opinion --

CHAIR MOLINA: So noted.

COUNCILMEMBER HOKAMA: --and I will so state that it is an opinion. I don't believe that was the intent of our legislation, Chairman.

CHAIR MOLINA: Okay. Staff will make note of that, a written opinion from Corporation Counsel. The letter we got was a letter from the Housing Director so I guess to make it consistent, I guess, with the comments of the Housing Director, we will get a written response from Corporation Counsel. And I believe Mr. Kushi opined on this matter.

So that being said, the Chair thanks you, Members. It was a very, very long day and for the public's information, we were out there on a site inspection today so we got a look up close and personal. It was a very, very windy day and again, the intent of this meeting was to familiarize you all with this project and needless to say, there will be much more discussion on this issue in the future. So if there are no objections, the Chair will defer the matter.

COUNCIL MEMBERS: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS (excused: BM, JJ).

COUNCILMEMBER ANDERSON: Mr. Chair.

CHAIR MOLINA: Yes, Member Anderson.

COUNCILMEMBER ANDERSON: Could you please make sure that we have a representative from DOT at the next meeting so that we can ask questions?

CHAIR MOLINA: So noted, Member Anderson.

COUNCILMEMBER ANDERSON: Thank you.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

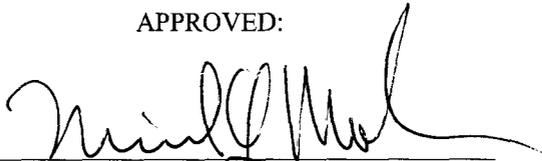
July 5, 2007

ACTION: DEFER pending further discussion.

CHAIR MOLINA: It is ten minutes after 6:00 p.m. The Land Use meeting for July 5, 2007 is now adjourned. . . .(gavel). . .

ADJOURN: 6:10 p.m.

APPROVED:



MICHAEL J. MOLINA, Chair
Land Use Committee

lu:min:070705

Transcribed by: Reinette L. Kutz

LAND USE COMMITTEE MINUTES
Council of the County of Maui

July 5, 2007

CERTIFICATE

I, Reinette L. Kutz, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED this 30th day of July 2007, in Wailuku, Hawaii.


Reinette L. Kutz