

MINUTES

LAND USE COMMITTEE

September 5, 2001

Kihei Community & Aquatic Center Main Hall

RECONVENE: 6:03 p.m.

PRESENT: Councilmember Alan M. Arakawa, Chair
Councilmember Robert Carroll, Member
Councilmember Jo Anne Johnson, Member
Councilmember Dain P. Kane, Member
Councilmember Michael P. Molina, Member
Councilmember Wayne K. Nishiki, Member
Councilmember Charmaine Tavares, Member

EXCUSED: Councilmember Patrick S. Kawano, Vice Chair
Councilmember Riki Hokama, Member

ABSENT: None.

STAFF: David Raatz, Legislative Attorney
Yvette Bantilan, Committee Secretary

Danny Agsalog, Executive Assistant to Councilmember Arakawa
Adele Rugg, Executive Assistant to Councilmember Arakawa
James Johnson, Executive Assistant to Councilmember Johnson
Michelle Anderson, Executive Assistant to Councilmember Nishiki

ADMIN.: Bill Medeiros, GIS Specialist, Office of the Mayor
Clayton Ishikawa, Fire Chief
John Min, Planning Director
Clayton Yoshida, Deputy Director of Planning
Daren Suzuki, Staff Planner, Dept. of Planning
David Goode, Director of Public Works and Waste Management
David Craddick, Director of Water Supply
Ed Kushi, Deputy Corporation Counsel

OTHERS: Item 2: Gwen Ohashi Hiraga, Munekiyo & Hiraga, Inc.
(Applicant's consultant)
Hank Levaur, President, Maui Meadows Neighborhood
Board Association
Ron Sturtz

- Jonathan Starr, Palms of Wailea AOA
- Zandra Souza-Amaral
- Item 9: Susan Moikeha
- Gerald Bitnias
- Doyle Betsill
- Jeanne Trusty
- Dee Larson
- Patrick Ryan
- Darrell Murphy
- Carol Boylen
- Gerard Mazzacano
- Dick Kiligian
- Dwayne Betsill
- Joseph Scherling
- Jim Peterson
- Sherri Dodson
- Que Martyn
- Jerry Stowell
- Steve Betsill
- Heather Norman
- Erna Medina
- Kelli Peek
- Joyce Downey
- Sherryl Schussler
- Dorothy Buck
- Lee Guthrie
- Item 37: Ed Elkin
- Dee Larson
- Zandra Souza-Amaral
- Lucienne deNaie
- Dan Wuthrich, Kihei Community Association
- Jerry Stowell
- Daniel Grantham
- Christa Light
- Roy Figueiroa, Makena Resort Corporation
(Applicant's representative)
- Gwen Ohashi Hiraga, Munekiyo & Hiraga, Inc.
(Applicant's consultant)

PRESS: Ed Elkin, Haleakala Times
Brian Perry, The Maui News

CHAIR ARAKAWA: Call the Land Use meeting to order. (gavel) I'd like to introduce the Council Members that are here, we have Robert Carroll, Jo Anne Johnson, Dain Kane, Mike Molina, Wayne Nishiki, Charmaine Tavares; Riki Hokama and Chairman Pat Kawano are excused. Council Members, we started the testimony on Item 37 last meeting but in fairness to a lot of people who aren't here yet, what I'd like to do is I'd like to move to the Fire Station, LU-2, and then come back right after that because I think LU-2 will be fairly quick. And at that time, we'll, we'll be allowing people to come in so that they can testify and we can go through the testimony. Any objections?

COUNCIL MEMBERS VOICED NO OBJECTIONS. (RC, JJ, DK, MM, WN, CT)

2 COMMUNITY PLAN AMENDMENT AND CHANGE IN ZONING FOR THE WAILEA FIRE STATION (C.C. No. 01-234)

CHAIR ARAKAWA: Okay, on Item LU-2. LU-2 is the community plan amendment and change in zoning for the Wailea Fire Station by County Communication No. 01-234, the Planning Director transmitted the following: one, a proposed bill entitled, "A BILL FOR AN ORDINANCE TO AMEND THE KIHEI-MAKENA COMMUNITY PLAN FROM SINGLE-FAMILY TO PUBLIC/QUASI-PUBLIC FOR PROPERTY SITUATED IN KAMAOLE, KIHEI, THE WAILEA FIRE STATION"; and two, a proposed bill entitled, "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM R-2 RESIDENTIAL DISTRICT TO, OPEN ZONE, PROPOSED STREET AND A-1 APARTMENT DISTRICT TO P-1 PUBLIC/QUASI-PUBLIC DISTRICT" for the same property. Clayton, would you guys like to explain the issue?

MR. ISHIKAWA: Good evening, Mr. Chairman, and Members of the Council Land Use Committee. The subject property is located at the intersection of Piilani Highway and Kilohana, Kilohana Street and the Council is familiar with it in transmitting Resolution No. 01-62 calling for a change in zoning from R-2 to an open space to P-1 Public/Quasi-Public. In the Department's review of the proposed bill attached to the reso there, they felt that there was a need to clean out the community plan designation from Single-Family to Public/Quasi-Public for the property as well as to change the zoning to Public, P-1 Public/Quasi-Public for the development of the Wailea fire station. A public hearing was held on this matter on July 24th. No oral or written testimony was received at the public hearing and after due deliberation the Commission voted to file Council Resolution 01-62 and recommended approval of the community plan amendment and change in zoning proposed by the Planning Director.

CHAIR ARAKAWA: Thank you very much, Clayton. Last night, we had four people sign up to testify. I'm gonna read their names. If they are here, they're welcome to come up and testify. Patricia Berry, Hank Levaur, Ron Sturtz. Oh, Hank . . . well you're . . . please.

. . . BEGIN PUBLIC TESTIMONY . . .

MR. LEVAUR: Can you hear me? Can you hear me now?

CHAIR ARAKAWA: Yes. Thank you.

MR. LEVAUR: Okay, thank you. My name is Hank Levaur. I'm the president of the Maui Meadows Neighborhood Association and I am testifying on behalf of the association. We are all in favor of the firehouse because it is right across from Mapu and it is very close, connected to Maui Meadows. Secondly, I want to bring up another thing that we did talk about at length at our Board meeting and that would be paramedics. I know that probably the ambulance and the medical people on the ambulance are union, so I won't go into that part but what we, we, we decided not to talk about this, when the ambulance was coming up and put the full thrust towards the ambulance, which of course we did not get. We . . . now, I lived in a small community for a long time and everything was volunteer. We had volunteer ambulance, volunteer firemen, volunteer paramedics and I'm speaking towards the volunteer paramedics now whereas the training for these people could be carried on by the State and certified, which was done, which we used to have complete. It was the service club more or less but they were totally volunteered. The logistics on it was their own car and we paid per mile. Now, we have so many retired people here, some of them doctors, some of them nurses, some of them former paramedics. They could be working out of their house. The logistics could be worked on a pager system. It's, it's a matter of the ambulance taking 20 to 30 minutes to get up to Maui Meadows, whereas, somebody on the next block who had a medical bag could get there right away, start the breathing again, stop the bleeding, stabilize the patient in other words. When the transportation got there in the form of the ambulance then it would be handed off to the people in the ambulance and the medical people aboard there. But this, this would be a way to help our largely growing population having medical attention at their homes, at the beach, at the shopping centers. They wouldn't be too far away from any medical attention at any time. This is why we think it's a very, very good idea and should be looked into. I know it's not on the agenda but this is food for thought. The third thing I want to think, want to talk about is personal. I read the paper this morning and I think that we all owe you an apology. You work very hard, I think I, I figured out you must have been sitting in chairs for 12 hours yesterday. This is nothing I could do. I couldn't sit that long anywhere. I take my hat off, I salute you, and I apologize for the bum

rap in the paper. We all know that the papers have to have something a little exciting to sell their papers and they say it's the first amendment but actually it's, they get behind--well if there's something exciting someday then we'll be there at least. But I, I salute you all and I appreciate it and thank you very much. Thank you.

CHAIR ARAKAWA: Thank you very much, Hank.

AUDIENCE: (Applauded).

CHAIR ARAKAWA: And, Hank, the ambulance station was to help the fire station on the same lot, so we're talking about the lot. Thank you.

MR. LEVAUR: Yes, yes, I did read that. They, they'd have to be in a separate house or something.

CHAIR ARAKAWA: So, it's topical.

MR. LEVAUR: Yes, thank you.

CHAIR ARAKAWA: Ron Sturtz. Joann [sic] An., Joan Anderson would be after Ron.

MR. STURTZ: Aloha, my name is Ron Sturtz and tonight I'm, I am speaking on behalf of the same board that Hank's president of, the Maui Meadows Neighborhood Association. I'll, I'll speak to the zoning issues, and I'm actually here in favor of something. The Board has looked at this issue hard and fast for quite sometime and I applaud the location of the particular site. We think it's very appropriate for this intended purpose that the zoning is, is required for it and it should be appropriately granted. We've also been looking into the issue of, of, of moving a branch of the ambulance service up to this end of town. And at the last Mayor's meeting here I guess two weeks ago, I was talking with someone from the Fire Department and they said that they have dedicated the, several acres of the western side of this property for that purpose once, when the thing is available. So, I think the consolidation of those two purposes is, is prudent, wise, and appropriate. I have, I've heard the scuttlebutt in the community that the people immediately nearby it may have some concerns about it, it impacting on their quality of life. I, I came from a small town myself and we had volunteer Fire Departments and all the things that went along with that. I think that with, with proper attention by the, the Fire Department in terms of not turning on their sirens 'til they leave the location, not having the ability to affect the traffic lights when they leave, et cetera, they should be barely noticeable and I don't think it should be a real problem. I don't think it will change the character of the area and I think that it's, I'd like to support your granting of zoning variance for this--rezoning I guess for this particular purpose. Thanks very much.

CHAIR ARAKAWA: Thank you very much. By the way, I guess, I should go through some of the rules that we have for testifying. We're allowing people three minutes to testify. David Raatz on the far end is keeping time. At the end of three minutes, he'll signal me and I'll tell you that it's three minutes. At that time, if you can tie it up within a minute go ahead and complete your testimony. If not, we'll ask you to come back after everybody has testified to allow other people to testify. We'll give you another three minutes. Okay, and when you come up please state your name. The first person who I called up Patricia Berry, even though she's not here she had written down she was in favor of the project. Joan Anderson. Okay, Joan Anderson is opposed to the project. Johnathan Starr.

MR. STARR: Aloha, Council Members, I'm Johnathan Starr. I'm speaking as the Director of the Palms of Wailea Association of Apartment Owners and I'd like to request that you put this forward. This is a good project and I'd like you to vote positively. The project is long overdue and I hope that at some point it includes an ambulance along with the fire station. Thank you.

CHAIR ARAKAWA: Any questions? Thank you very much. Is there anyone else that wants to testify on this item? If not, we're going to--go ahead, Zandra and then fill out a form. Zandra Amaral.

MS. AMARAL: Aloha, kakou kou mau hou aloha. My name is Zandra Souza-Amaral and I testify before you as an individual and a resident of Kihei. I'd like to stand in support of the project for the fire station in Wailea because of our lack of infrastructure, getting in and out of. It makes it plausible to have the facility there to protect the residents there who are otherwise isolated from the facilities that is necessary for their health and welfare. I thank all of you. Also, Mr. Arakawa, I'd like to thank you for your comment when asked why late last night, I as a citizen would like to humbly thank you for not making excuses but foremost I have utmost respect for you for not placing blame on someone else. This as a citizen to me means a lot in your creditability, in your ability to stand for the people and with the people. I also want to thank all of you individually for caring enough for the Maui, the County of Maui and all its people in all its districts to staying from 1:30 'til 6:30 at a meeting that facilitat.., facilitated the needs of our sen.., senior citizens. As I understand it had you not acted prudently and in a timely manner, they could have possibly lost some very crucial Federal and State funding. I appreciate you all and I am grateful that you not only represent us but the entire County of Maui together. Thank you all very much.

AUDIENCE: (Applauded).

... END OF PUBLIC TESTIMONY ...

CHAIR ARAKAWA: Thank you. Zandra, you have to fill out a form please. We're going to--if no one else wants to testify we're going to close testimony on this item. And in your binder under Land Use Item No. 2, does anyone have any questions they want to ask of Administration? This is the project that we've accepted the property for and we've also in the community plan planned to have a fire station, and ambulance, and police station in this area. So, the fire station is the first facility that the Administration is going through for the community in this area and that's a little bit of a history. Jo Anne.

COUNCILMEMBER JOHNSON: I just had a question with regard to the water. I'm a little concerned having just read some of the comments that were made by the Water Department. So, if they could just assure us that there will be water supplied to the station . . . and, and certainly enough water to fight the fires.

CHAIR ARAKAWA: At this time, we don't have the Water Director here but, Jo Anne, what we're talking about is the rezoning of the property and the community plan amendment for the property. The acquisition of water will have to come through the Departments. So, tonight I'd like to stick to the issue of rezoning and community plan amendment. So, but water will have to be addressed.

COUNCILMEMBER JOHNSON: No, I just wanted to make sure that when we're rezoning that there is sufficient water that will be supplied to that particular area so that it is properly zoned. At least so that the water, we can be assured would be running through to that property because it doesn't make a lot of sense if it's not going to be able to get there. So, I just want the assurance that the people are getting what they're, they're paying their taxes for.

CHAIR ARAKAWA: I can understand that. Clayton, you want to respond to Jo Anne as to whether or not this property would be assured of water.

MR. YOSHIDA: Thank you, Mr. Chairman, Members of the Committee. On Pages 13 and 14 of the Planning Department's report, there is a discussion on water. There is--water consumption for fire stations range from 330 gallons per day to 3,900 gallons per day and brackish and/or reclaimed water sources should be used for all non-potable uses. Again, there is infrastructure within the area and I guess they, they would--well, I guess they are also going through a special management area permit process but we do believe that there is sufficient infrastructure as far as water for this facility.

CHAIR ARAKAWA: Thank you, Clayton. Any other questions for the Departments? If not, any more discussion the Chair would recommend passage of the bill--actually, the two bills. The first bill is the bill for an ordinance to amend the Kihei-Makena community plan from Single-Family

to Public/Quasi-Public for property situated at Kamaole, Kihei, Maui, Hawaii. The Wailea fire station.

COUNCILMEMBER KANE: So moved.

COUNCILMEMBER MOLINA: Second.

CHAIR ARAKAWA: It's been moved by Dain, seconded by Mike. Any discussion? Charmaine.

COUNCILMEMBER TAVARES: Yes, thank you, Mr. Chair. Just so that everyone understands that, we have discussed this project in-depth during the Budget session. We spent quite a bit of time talking about this project and at other meetings. So, it's not that this was a slam-dunk. We have discussed this one quite a bit and realizing the need for the service in this area I think it's a wise and prudent move and I'm looking forward to the dedication of the fire station. Thank you.

CHAIR ARAKAWA: Any other discussion? If not, all those in favor say aye.

COUNCIL MEMBERS VOICED AYE. (RC, JJ, DK, MM, WN, CT)

CHAIR ARAKAWA: Opposed? Motion carried unanimously.

VOTE: AYES: Councilmember Carroll, Johnson, Kane, Molina, Nishiki, Tavares, and Chair Arakawa.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Hokama and Kawano.

ACTION: FIRST READING OF BILL TO AMEND THE KIHEI-MAKENA COMMUNITY PLAN FROM SINGLE-FAMILY (SF) TO PUBLIC/QUASI-PUBLIC (P) FOR PROPERTY SITUATED AT KAMAOLE, KIHEI, MAUI, HAWAII (WAILEA FIRE STATION.)

CHAIR ARAKAWA: There is a second bill for an ordinance to change the zoning from R-2 Residential District to OZ Open Zone, Proposed Street and A-1 Apartment District to P-1 Public/Quasi-Public District for property situated at Kamaole, Kihei, Maui, Hawaii. The Chair will entertain a motion to approve.

COUNCILMEMBER KANE: So move.

COUNCILMEMBER TAVARES: Second.

COUNCILMEMBER ARAKAWA: It's been moved by Dain, seconded by Charmaine. Discussion? If not, all those in favor say aye.

COUNCIL MEMBERS VOICED AYE. (RC, JJ, DK, MM, WN, CT)

CHAIR ARAKAWA: Opposed? Motion carried unanimously.

VOTE: AYES: Councilmember Carroll, Johnson, Kane, Molina, Nishiki, Tavares, and Chair Arakawa.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Hokama and Kawano.

ACTION: FIRST READING OF BILL TO CHANGE ZONING FROM R-2 RESIDENTIAL DISTRICT, OZ OPEN ZONE, PROPOSED STREET AND A-1 APARTMENT DISTRICT TO P-1 PUBLIC/QUASI-PUBLIC DISTRICT PROPERTY SITUATED AT KAMAOLE, KIHEI, MAUI, HAWAII (WAILEA FIRE STATION).

CHAIR ARAKAWA: Thank you very much, Committee Members, and all of you in the audience. This is part of a program that we've discussed many times and we do believe from the Council that, we need make sure the infrastructure is in place in the communities as we build the communities. So, this is one of the first that is going in. We've had discussion also about ambulance and fire station, I mean, and police station in our Budget sessions and in other Committee meetings. So, look forward to those as well.

**37 REQUEST FROM ROY FIGUEIROA, GENERAL
MANAGER, MAKENA RESORT CORPORATION, FOR A
CHANGE IN ZONING (C.C. No. 00-242)**

CHAIR ARAKAWA: I'm going to move back to Land Use Item No. 37. Last night, there were a lot of people that signed up to testify and what I'm going to be doing is I'm going to be continuing reading the names of those people that have signed up to testify. And if they're not here, if they have made a comment on their sheets I will accept that comment and I'll read it to you. If there is none, I will continue to go through the sheets. If anybody who was not here last night or did not sign up to testify last night wishes to do so, you may do so. Okay. Barbara Gach . . . is not here. Alana Gilmore . . . she's opposed. Don Gilmore . . . he was opposed. Cheryl Sterling. Theresa Fradin. Morris Wolff. Pamela Palencia . . . she's opposed. Gene Zarro. Schaff, Lavenda. Let's see he says, Aloha, smart development, smart development indeed [*sic*] instead of fast. Too much traffic already not enough water. Charms of Maui going fast or getting lost. Diane Norman . . . she was opposed. Ken Elwell . . . opposed to the project. Joan Anderson was opposed to the project. Noel Newbolt . . . was opposed. John Colgan Norman . . . was opposed. M.A. Higgins . . . was opposed. Mark Palardy . . . would like to voice that I am opposed to LU-37, the change in zoning for Makena. Dan Wuthrich. Linda McDonald. Linda was opposed. Mali Kug, K-u-g . . . was opposed. Benjamin Berry . . . was in favor. Eve Hogan . . . was opposed. Christy [*sic*] Light. Steve Hogan. It is hard to believe that more buildings is being considered before power, water, sewer, and road and highway systems have been put into place. We also need to be very careful with restricting access to views with shorelines. Bottom line, does Maui need more buildings? Barbara Gach . . . is opposed and she writes, I am opposed to unconscious development. There needs to be an infrastructure in place first that supports and ensures the well being of the existing community before anymore development can take place. I am concerned about having enough clean water for the people. I don't want Kihei to turn into a big city full of concrete, high-rises, and traffic. I can't support that. People come here to get away from all of that. Developers need to be responsible for their actions, be more conscious of the existing community and how their actions will affect the people who already live here. Richard Mealey. I am opposed to any further construction in the Makena area. The traffic, noise, obscuring of natural beauty, et cetera, are developing, are developing the very reasons Maui has--excuse me--are destroying the very reason Maui has been viewed as unique. Laura Rosenthal. Robert Farland. Nikhylananda. Yoni Silberman, she's opposed. Ed Jor-El Elkins [*sic*].

. . . BEGIN PUBLIC TESTIMONY . . .

MR. ELKIN: Yeah.

CHAIR ARAKAWA: Ed.

MR. ELKIN: Aloha, Council, and fellow citizens. Sorry that all these folks couldn't be here but I thought it important enough not only to be here but to--I was going to speak off the cuff yesterday but I had time to write out my thoughts. So, here we go. My name is Ed Jor-El Elkin and I'm testifying for myself. I've lived on Maui for about 12½ years and I've been a resident of Maui Meadows in Kihei for about 6 years. More importantly, I plan to be around for the next 50 years or so and it's important to me what happens in my homeland. I'm semiretired as a psychotherapist and counselor with a PhD in psychology. I'm also a writer, a teacher, and an actor. I recently was a reporter for Maui Weekly for a year and I've been asked by Ken Pinsky of Haleakala Times to do some coverage of this meeting and the issues concerned. I'm a world citizen having traveled globally and wherever I go Maui is known as a little bit of paradise. I'd like it to stay that way. And basically, although I'm not opposed to growth, I favor smart growth and respect for what we have over catering to special interest groups and developers. I favor not rezoning now. All the arguments about the possible lack of water and insufficiency of the road system have already been adequately made. We simply don't have enough information yet to ask for a rezoning that would pave the way for a major drain on our water and road resources. As others have said detailed impact studies are essential before the approval requested here is granted. The possibility of an error that would seriously deteriorate existing quality and quantity of water is too horrendous to exclude. What good would the Makena resort property development be if no adequate water were available, not only drinking 'cause people could always drink bottled water but for watering and other uses? One issue that seems absolutely essential to me is that, the water use of private wells such as those used by the sugar companies be absolutely determined. My understanding is, is that such information has not been made available to the County. Most important to me is actually the long-range development of Maui, since as I said I intend to have my home here for a very long time. Maybe 50 to a hundred years from now desalination will be a reality facilitated by solar generated electricity from solar panels. Maybe sooner than that, a light-rail system will be developed that will negate the horrors we now have on our roadways, which probably will worsen in the short run. Most important is for us the citizens of Maui and its representatives, namely you and your successors, to plan ahead to determine in detail what kind of Maui we want in 2020 or 2050 or the year 3000 and beyond. It is from our vision of Maui's future that planning will develop and questions such as those that we are confronting today will be answered. For today's question my answer is clear, put the rezoning, all of it on hold until the key questions of adequacy of water and road usage are

answered then let's, let's begin deciding on how we want Maui to be in the future and plan accordingly. Thank you.

CHAIR ARAKAWA: Thank you very much.

AUDIENCE: (Applauded).

CHAIR ARAKAWA: Ralph Johansen . . . he is opposed to the Makena project. Nicole Smith. Lisa Woltz. Lisa says I feel strongly against the zoning change and high-density development in this area. I had wanted to testify, however, due to the lateness of the meeting I am unable to stay and speak. Thank you for hearing and reading my statement. Sincerely, Lisa Woltz. Robert Silberman is opposed. Walt Schmid. Susan Bradford. Jeff Heisel. Jeff writes I am against this Makena development. There's already too much traffic in Kihei. Anto Scolpin., Scolpini-Heisel, and I probably butchered this. I could not wait until 7 p.m., had to go to work but I really would like to express my opinion. We need to take care of what is already being developed. More ugly, huge empty malls, unfunctional roads, et cetera, rather than keeping building, keep building new development. Maui is getting quite jammed. Please let's keep it no ka oi, harmonious, functions [sic], and humanly pleasurable. Jeff Heisel. Jerry Stowell. Helen Nielsen. Keoki Sousa. Howard Kihune Jr. Helen Downey. Helen is, is opposed to any development proceeding without extensive studies of impact on community: resident quality of life, visitor appeal, ease of transportation, maintaining *aloha* spirit. We need time to develop an adequate infrastructure to accommodate the unchecked growth, which has already taken place then we need to decide how to limit any development to that which serves the *aina*. The *aina* supports an island experience, preserve the beauty and tropical experience, which is Maui. Daniel Grantham. Bully Kapahulehua. Lucienne deNaie. Is there anybody else that wanted to testify on this item? Please come to the mike, state your name and then afterwards could you please fill out a form.

MS. LARSON: Good evening, Mr. Chairman, and Committee Members, I am Dee Larson. I'm here to testify on the Makena project. I am opposed to this project principally for our children of tomorrow. Thank you.

CHAIR ARAKAWA: Thank you, Dee. Zandra, you had signed up to testify for this?

MS. AMARAL: (speaking from the audience). Yes, Mr. Chair, I have done that one first. Now, I'm going testify--

CHAIR ARAKAWA: Okay.

MS. AMARAL: (speaking from the audience). --with your permission.

CHAIR ARAKAWA: Okay, your turn.

MS. AMARAL: Again, good evening, my name is Zandra Souza-Amaral for the record and I stand before you as a citizen of Kihei. A citizen of the Territory of Hawaii; a time when Makena and Kihei was *kiawe* trees and dirt and a lot of rocks. I am torn between the project for the infrastructure because of the water and the roads, however, Council Members, as we look at the zoning what is being requested is--as I understand and this is not my *maano*, so I may be ignorant in some points and correct me if I'm wrong. They're requesting a scale down from what is now . . . it is zoned, and I might be wrong in that factor. But if that in fact is true, Makena has been, Makena Resort has been a good neighbor to us for the 28 years or so that they have been here and I have seen them grow. And I've seen them develop Makena into an area where my., myself, my brothers and my sisters and my family can go and camp comfortably--with permits today mind you--but they have developed roads, they have developed a community that is nice. Development is something that most of us would like to see not happen and many would like to see doors closed behind them and I don't think that's universally true to the State of Hawaii or the County of Maui. I think that is true to the Homo sapiens species, human beings. We like to protect what we've got and change is very, very hard but we know, I know from the days when this area was all *kiawe* trees and dirt and rock, change inevitably happens. And what we need is good neighbors like Makena Resort who comes and works with the community. This is not a plan that was put into place yesterday and you know that, all of you do. We do have some problems. I hear the Luuwai's, the Garcia's, and the Chang's testify before you in favor of the project. These are people whose beaches we used to camp on as children. Who invited us to put our tents up in their back lawn, so that we could be as a family. They have the most to lose I would think, because their taxes go up to an unaffordable rate to where they may be forced out of their community. But you see they know that growth is inevitable and they would like to see neighbors who work with and for the community. I humbly ask all of you, I do know that we have such a diversified interest, diversified population, many wants, many needs but remember there are some that call this their home because it's a paradise and there are some of us who calls this our homes because this is our native right. This is our birthplace; this is where our roots are. I humbly ask all of you to stand with the Makena Resort, work with them. And again, there was some contingencies put forth to you along with approving the project, I would humbly ask that you consider that. Along the line of covenants so that whatever is approved--God, be if it is--then it runs with the land and so then the population will be protected. I thank all of you for your time and I do know you've got a very hard job before you. And I love my community in Wailea, Makena, and Kihei and I appreciate the diversity. And I pray that we will all respect each other's opinion, though mines may not be those of the populace, I respect their wants, their needs and I humbly ask that they respect mines. I ask all of you, stand in back of a good neighbor 'cause development is my friends,

my brothers, and sisters, inevitable. Let us do it with someone who cares about our community. Thank you. Mahalo. A hui ho e malama pono.

CHAIR ARAKAWA: Thank you very much, Zandra. Lucienne deNaie walked in. So, Lucienne, would you like to testify? She will be followed by Dan Wuthrich.

MS. deNAIE: Aloha, thank you for putting me back in the line up here. I grabbed a little dinner remembering last night when none of us got to eat. My name is Lucienne deNaie. Thank you for this opportunity to address you all. Thank you for coming back again. I am speaking on the Makena Resort rezoning application. For one thing, I would like to echo the sentiments that I heard yesterday from Maile Luuwai about protecting our reefs. Even when a developer is a good neighbor and even when they are not developing in directly in the coastal zone, their actions have impact on what lies *makai*. And I was a panelist last night at the meeting on the future of the State park at Makena and folks brought up, you know, we can't just look at this little patch of land and say, wow if we can do a good thing here then nothing else will ever happen to our ocean. Oh, no. We need to look at everything surrounding a place like Puu Olai, our State park at Makena and realize that the actions of these different individuals and corporations can have far reaching impacts. And as the guardians of our resources as the County Council is, I know we would want to take that into consideration. I do hope you see the videos that have been made by Mr. Jeffrey's. They are astounding and they show the changes in 20 years in several little spots along Makena Bay and perhaps these have nothing to do with the fact that houses and resorts have been built there but if they do, we should really be looking into doing things a different way. Anyway, for the past 20 years in Maui County, lawmakers in good faith have been approving zoning changes and community plan designations on paper that seemed very sensible based on information from County Planning staff and landowning petitioners. But the actual effect of these approvals is visible everyday in our overcrowded roads, schools, and our overburdened public safety and services. The need for new planning strategies is perhaps most apparent in our water situation. To sum it up, no one knows how much water is being used on the island of Maui. How much water is available to use without affecting sustainable recharge levels, or how much water we should be conserving to hedge against climatic changes in rainfall patterns. In spite of this lack of overall knowledge, projects such as the Makena Resort are considered and approved by this Council and our Planning Commission every year. This approval process places unhealthy strains on existing water resources and allows private landowners to unregulatedly [*sic*] exploit water resources, which by State law should be held in public trust. I've been researching water resources and use patterns on Maui for many years. I've reviewed records at the State Commission on Water Resource Management. It's very clear that Maui's lawmakers should not be promising millions of gallons of water to future developments from public

sources without a complete and accurate study of the islands water resources and use patterns. And I would suggest that this study be done outside the box by those who have no interest one way or the other, other than telling the truth. Central Maui area is seen by the Commission on Water Resource Management staff as having several aquifer areas--

CHAIR ARAKAWA: Lucienne, it's over three minutes. Can you tie up--

MS. deNAIE: Oh, I'm sorry.

CHAIR ARAKAWA: --in a minute or do you want to come back?

MS. deNAIE: Yes, I just have another half page that should do it.

CHAIR ARAKAWA: Okay.

MS. deNAIE: Anyway, you have a little map that, that shows the ground water sources of Central Maui. It shows that the Iao aquifer has about 20 million gallons a day and the Kahului aquifer has a yield of 1 million gallons, and the Waikapu aquifer has a capacity of 2 million gallons; the Waihee aquifer has 8 million gallons. But what's becoming apparent is that all these are connected and while we have a handful of wells that supply our domestic municipal needs from Central and South Maui and also South--and, and also Paia area, these same resources, this same pool of water is being tapped by over 150 other wells. Eighteen of these are listed as unused; some are observations wells. But there are about 150 that are functioning in some capacity but pump capacity figures are not available for more than about 50 and that's why we don't have the information we need. I'm going to leave with you a study done by water consultants for the Maui Lani project in 1997. They noted a potential pumping around their project from only 11 of these 150 wells of 42.95 million gallons a day. If you add in some of the other wells, it jumps up to 60 to 100 million gallons a day. Please keep in mind that the capacity of this aquifer of all of Central Maui according to the State is 27 million gallons a day. So, I would like to share a lot more information, three minutes is a little bit limited time. But if you do a little research you'll see that even documents released like the Waena Power Plant EIS, show that 159 million gallons a day could be pumped out of the Central Maui with the existing wells that are there. Whether or not it's happening we need to know. I'll leave a copy of the Maui Lani little map and study with you, Chairman Arakawa, and--

CHAIR ARAKAWA: Okay. Thank you very much, Lucienne, and--

MS. deNAIE: --perhaps, it will be some food for thought.

CHAIR ARAKAWA: Okay, any questions for Lucienne? Jo Anne. Hold on, Lucienne. Jo Anne has a question.

COUNCILMEMBER JOHNSON: Yes, Lucienne, thanks for coming tonight. I, I wanted to find out, were you present when the presentation was done by the Water Department last night?

MS. deNAIE: I was not. No.

COUNCILMEMBER JOHNSON: Okay, well I think, you know, one of the difficulties we've been having is the information on these wells, which I believe you were just giving us some of the base data. What method would you suggest that the County utilize to try to get this information in one place so that we actually have the planning tools to know what we can go forward on?

MS. deNAIE: I would suggest a complete study. I've been to the State Department of Water Resources, Commission on Water Resources five times. I've spent countless hours in their records. Their records are extremely incomplete. They don't mean to be but they only have what people fill out on their forms. If you want accurate data on--they have a listing of every permit that's been issued, that's there, but the columns on pumping are often blank and the pumping is only the potential of these wells. They could be pumped considerably less and that would be good information to know. This is just the potential maximum that could be pumped with their pumps. We don't know how often they're pumped. We don't know their saline level on a lot of them. So, someone actually needs to call most of these folks and--this is a laborious task--and check on the pumping figures, the pumping records, and hope that people will be honest and reliable. You know, Central Maui has a lot of wells; Kihei has a lot of wells; Haiku has a lot of wells and some of them have considerable capacity. So, we should be aware of that. And now, now, these are not public wells. I'm not talking about that.

COUNCILMEMBER JOHNSON: No, and, and I just want to find out too. If there is not something like either in HRS or in any of the--let's say ordinances or any of the governing documents that we have that, basically compels people to complete this information? Is there anything that we could as a legislative body either try to move forward on as far as legislation or at least as far as compelling people who have these permits? That a requirement be attached that if they have the permit that they actually have to advise at least once a year, you know, some kind of report.

MS. deNAIE: That would really speed things along but I think you'll find that the State has the jurisdiction over that not the County. So, you'd have to, I think, create a working agreement with the State that the County could administer a portion of the permitting process. There's two permits. I don't want to take all your time, but when a person wants to apply for a well first, you apply for a drilling permit. And drilling permits are just always welcome because the State is interested in knowing more about

water resources and they don't have the money to drill test wells or observation wells. So, everyone that applies to drill is approved so that they can drill and at least get test information then there's a pumping permit. Some pumping permits are approved and some are denied, very few but some are, and this is where the real regulatory authority should come in. But when you meet with the staff of the State Water Commission they often are very, very reluctant to deny someone a pumping permit unless there's just a gross malfeasance, you know, it's gonna ruin someone else's well or it's too near a septic system or something like that. So, it's an education process.

COUNCILMEMBER JOHNSON: I think one of the things that we're also working on is our legislative package and this may be one of the areas that we could at least let the State know that this is a critical planning tool. That if they could even assist us so that we have some kind of a handle on what's going on. I think, you know, if we could get support from the community for that kind of inclusion in that legislative package, I'd really appreciate it.

MS. deNAIE: Well, I, I urge you in that direction and, of course, the State can designate a County system and have it under its control so, you know, maybe it could go back and forth. Maybe the County could request that the State put another layer of compliance on a permit that's issued at the State level. We can only hope. We definitely need more information. This is like having a checking account with a 150 signers and no one is keeping a balance. I mean that's exactly what's happening.

COUNCILMEMBER JOHNSON: Well, then I think that's what we're looking at in terms of the information in order to approve land use changes, we need all of these bits of information because these are critical planning tools. So, I really appreciate it.

MS. deNAIE: Thank you.

COUNCILMEMBER JOHNSON: Thank you. **(change of tape)**.

CHAIR ARAKAWA: Dan Wuthrich . . . and we saw Jerry Stowell come in, and Daniel Grantham. Okay, so, Jerry, you'll be after Dan.

MR. WUTHRICH: Good evening. Thank you for coming to Kihei for our public testimony. I'm representing the Kihei Community Association. I'm the president of the Kihei Community Association and have been for the past two years. I've been a member and a board of director of the Kihei Community Association for the past six years. We have a Planning and Development Committee that meets weekly to talk about all the development that's occurring in South Maui and try to give some public comment on all the development that goes on, is going on down here. It's just a huge amount here in the last year and weekly meetings, we barely

can keep up with it. What I want to say is that we have never had a presentation about this particular development in the time that I've been at the Kihei Community Association. I personally know very little about this and it is a huge development that affects South Maui and Kihei. And I've talked to many of our members. I talked to our, one of our past presidents Carla Flood, who was president for two terms about four years ago and she says that, at no time can she recall Makena Resort coming to KCA and doing a presentation about this development. So, what does that mean? The other two--let's just look at that for a second--the other two things on the agenda tonight, the fire station and the Betsill's have been extensively reviewed by the Kihei Community Association Planning and Development Committee. I know, I know just about everything there is to know about those. I know just about everything there is to know about almost all the developments going down here. Wailea 670 is coming at, with us several times but nothing from these folks. Now, I, granted this may have, has been going on for a long drawn out process and I don't even understand the process here with this particular development, which is just so bizarre. So, I guess, you know, all I wanted to say was, you know, it'd be nice to sit down and find out more about this development, you know, from KCA's perspective and how it's gonna impact Kihei in the future. I know, you know, just off hand, I would say traffic is going to be impacted tremendously and one of the conditions I would recommend is that, you know, they not get their zoning until the Piilani Highway is extended to Makena. But other than that, there's not really a heck of a lot I can comment on this 'cause I really don't know that much about it. So, you can take that for what it's worth and make your decision from there.

CHAIR ARAKAWA: Okay. Any questions for Dan? Thank you very much. Jerry followed by Daniel Grantham.

MR. STOWELL: Howdy folks, my name is Jerry Stowell. I find myself perplexed over this. We don't have any clue. I was here last night of what our water situation is--by the way the solution is to put meters on `em by the way. I know how to solve the road situation, it wouldn't be cheap, but it would work. The planning seems to be done, could be done as easily by picking a group of carrots. I don't understand the planning that's gone on around here. You're putting in a thousand homes and two hotels and if you've driven on that road, which no doubt you have, you know it's an enormous pig fight. And we know nothing about the water and I would urge you not only not give the change in zoning but that you take a very courageous step and not even give building permits until we get some of this stuff straightened out. The one gentleman said there's plenty of water, all we have to do is desalinate it. Well, I couldn't personally handle a \$500 a month water bill and it may be the only people that have green grass in all of Kihei are the millionaires down there in this new development. The rest of us are going to have dirt lawns and I'm not looking forward to that. So, I would urge you to not only take the good step but take the courageous step and just not let this thing go forward at all in any way. I empathize

with the large gentleman last night that talked about the construction jobs. There are very few well paying jobs on this island. I empathize with the nice realty lady that said that this place is *pau* because we're over building it. I empathize with the young lady that said that it's sacrilege to tear up such a beautiful area and pave it over. And I wonder if someday when we look back generation after generation, what are people gonna say when you were a party to the fact that we paved over Maui and made it look like Oahu. So, I would urge you to take a really desperate step and not let this thing go forward at all at this moment. Thank you very much.

CHAIR ARAKAWA: Thank you, Jerry. Any questions? None. Thank you very much, Jerry. Daniel Grantham. Was there anyone who had signed up last night that have come in that wants to testify? So, please let us know. After, Daniel first and then the lady in green.

MR. GRANTHAM: Thank you, Alan, for letting me come after, being a little bit late here but I guess it works both ways. I'm not going to go over the water or the traffic. I think you've heard plenty of that from some real experts here. I think you guys know yourselves the problems that are being faced here. I kind of feel bad that you guys are getting blamed for some of the really tough . . . oh, I'm sorry, my name is Daniel Grantham. Sorry you guys are getting blamed for some of the past over-development that's gone on here because, you know, you, some of you voted against it; many of you weren't on the Council. I applaud that your, your openness and your willingness to hear people speak and find out about what's going on. I applaud that we're having a smart growth conference coming up here that people can maybe look at different ways of doing things. I am concerned that we seem to be locked into a cycle of getting our, building our economy on mining the coastline. I mean that's what it is. Once you mine it once, it's gone. You're not going to get more, be able to do it again and rather than start on a rant, I'd like to read you some points from somebody who studied this particular project in, in depth because I haven't. This is some points that Rob Parsons wrote up and he has studied it. Let me just read these to you: Maui County needs a complete carrying capacity study; roads, traffic, schools, water, waste., wastewater, affordable housing, power generation, solid waste, and recycling capabilities, before approving anymore developments big or small. Restriping Piilani Highway would at best only help with the current traffic load and would create a construction zone for the next few years. No more zoning approvals without a regional traffic plan and pro rata impact fee structure. The Planning Department has revealed SMA approvals in South Maui totaling near., nearly 1,700 more units already approved, that would bring 3,500 to 4,000 more cars.

CHAIR ARAKAWA: Dan, can you tie it up in a minute?

MR. GRANTHAM: Yes, I think so. Yeah.

CHAIR ARAKAWA: Okay.

MR. GRANTHAM: Detailed project plans have been avoided in the application, yet our Planning Department was, has nevertheless recommended approvals. Infrastructure upgrades were permitted separately once again avoiding data for proper impact analysis, therefore, the Land Use Committee should send the zoning request back to the Planning Department for complete impact analysis as required by law. Affordable housing plans required by the County of Maui have not been submitted. Without this zoning request the applicant would still be currently zoned for about half the build out, therefore, denial would not be punitive or takings. The criteria for the Council to grant a change in zoning have not been met, Maui County Code 19.510.040.A4. I have a few, two more sentences here, do you want me to come back or finish it?

CHAIR ARAKAWA: Finish it real quick.

MR. GRANTHAM: The language in the Kihei-Makena community plan regarding infrastructure concurrency is again being overlooked or ignored. Smart growth can only be achieved through smart land use and planning decisions. Quality of life is essential to our community health and visitor industry future. Thank you.

CHAIR ARAKAWA: Thank you very much, Dan. Ma'am . . . could you please state your name for the record then afterwards--well you filled in a form so.

MS. LIGHT: I did, yes. My name is Christa Light and I'm glad I didn't get to speak yesterday. I had time to sit down at home and put my thoughts on paper, so I'll be reading this to you. When I first came to Maui in, in '74 and have lived here on and off since then, I'm against changing the zoning for the Makena development. Yesterday and today, I listened to many informed testimonials regarding water availability, and it sounded like water use on the island is higher than it should be and the availability lower than expected. It reminds me of the Federal budget surplus we had a short while ago and this tax refund that was based on these unrealistic financial predictions and now, all of a sudden there isn't enough budget to go around. We have been experiencing a drying out on Maui. What makes us so optimistic to expect rainfall to return to where it was five years ago? Err on the side of caution, my grandmother used to say. People talk about company survival and job security and I understand people need to work to eat and take care of the family and that concern is very valid but one cannot base decisions solely on that need. A company will only survive and people will only work as long as there is space to build on or fish to catch or trees to cut and then what? Our society is based on the wrong foundation and with every decision made in favor of a short-term solution we dig our own graves deeper. We can only continue to grow and develop and build and expand for a limited time, then it's all used up and it's over. This realization must be present in making

decisions that affect all of us not just businesses and its employees. By allowing this development to take place, we would allow one of the most beautiful areas on Maui to become even more swamped and overused as it already is. The reefs are dying, not much fish anymore and no matter how good an employer or neighbor or how recycle conscious a company we do not walk upon this earth without destruction. This development would make a major negative impact on the very fragile lands and coastline that is our responsibility to steward wisely and, of course, the roads. I live in Maui Meadows and the area is so full of diesel exhaust. In the four years I've been on this side, I've developed a permanent cough. Not to mention the noise of the trucks, cars and racing motorcycles. We all know about the traffic mess. If there is anything that I can think of that we really need is a way to get out of South Maui in case of a major disaster. The way the road dead ends now could potentially be very dangerous. To close, I support a mora., moratorium on all development in the Wailea-Makena and beyond area until it is absolutely certain that the water supply is available now and forever, until the roads are in place and until the reefs and the fishes are back. Thank you.

AUDIENCE: (Applauded).

CHAIR ARAKAWA: Thank you very much, Christa. At this time, is there anyone else that has not testified that would like to testify on this item? If not, I'm going to close testimony.

. . . END OF PUBLIC TESTIMONY . . .

CHAIR ARAKAWA: Committee Members, we've had a lot of discussion on this item and a lot of you have asked me if I would make a recommendation. On this particular item, I feel that we are not prepared at this time to be able to make a decision on this item. I have a lot of questions as to the water and to that end, I have hired someone to start researching water issues for me. And there's also some concerns about the highways. As I was driving to Lahaina this past week, I noticed that a lot of the roadways going to Lahaina are crumbling because of erosion and I'm very concerned that the State funding that comes to the island will have to be diverted from Kihei to Lahaina to be able to meet those eroding conditions. So, what I would like to do and we can have discussion on this, is I would like to defer this item pending doing a lot more research on those two items. Discussion?

COUNCILMEMBER CARROLL: Thank you, Chair. Many things have come up as the Chair has said and there are many things to be looked into. This project has been around for a very, very long time. The discussions on water, obviously, we need to pursue that there is no doubt, and it's really not fair to bring this to a vote tonight because the applicant is also at a disadvantage. He has no idea of the water and he's not able to answer

the questions that the Council would bring up at this time. But I would hope that we could do this, this particular application in some reasonable amount of time because it is not fair to the public out here, it's not fair to the applicant or this Council to leave this going much longer. I would hope that we would set at least a limit on the time that we will take and bring this to a vote and resolution. Thank you.

CHAIR ARAKAWA: Further discussion? Jo Anne.

COUNCILMEMBER JOHNSON: Mr. Chairman, I have met with the applicant and their consultant and one of the things that I've asked for is basically a graphic illustration of first of all, where we are in terms of the specific area. And, and when I talk about that I look at water, I look at power, I look at traffic, schools, socioeconomic concerns, all of the things that we've heard spoken about. I want to have a baseline so that I have that information as a planning tool. The next part of the graph, I would like to have filled in is that part that says in the community plan where we should be and that would be the same type of illustration. Where you're talking about water, traffic. Where we're supposed to be in terms of the community plan and the direction that we want to go as a community, the direction that Kihei residents wants for themselves. And the third line, on that graph I would like to see with all of the development on-line including the build out of this particular development, where we are going to be. And if those lines don't come anywhere close and there's no visible means of getting from one point to another point and it can be not, cannot be proven that that can be achieved by anything that's either within our power or within their power then I believe that that will give us an answer. Because in order to answer the questions we as Council Members or at least myself, I need to have that information. I can't make a decision when I don't have the tools in place and for me to go forward, I believe that when I'm making an intelligent decision, when I'm making it in the best interest of the community, those are the things that any person, any prudent person would ask. You don't leave on a trip and then think about well, oh gosh how much gas do we have in the car or, you know, how much food do we have to take along. You, you at least have an idea of where you're going and that that's just common sense. So, for me I would ask one more thing of the applicant and that is that they meet with the Kihei Community Association but I've also asked the applicant to help us in coming up with those answers because without having those answers I think it is impossible to plan. And particularly for me because I've always based my decisions on what I believe to be logic and reasonable and in the best interests for the people of Maui and I want to do the right thing but I can't if I don't have those tools. And I just want to say one more thing and that's that, I kind of look at us here out in the middle of the Pacific as being on a lifeboat. We're all here together. We're all in this together, and I think of the people that have been in situations where their lives have been threatened and there's people surrounding them in the water. And I know this, you know, from the movie Titanic. When does that last person sink

the whole boat? When does that last development totally destroy all the rest? I don't know how much space we have left on the lifeboat and I don't know how many more people we can accommodate but that's the analogy that I use in making my decision. So, I would just ask everyone to think about those issues, think about those questions and search your heart and try to find some way where we can get those answers, so that we know where we're going. Because I sure don't want to be the last person, you know, letting somebody onto the lifeboat that sinks the whole thing. Thank you.

CHAIR ARAKAWA: Any further discussion? Charmaine. Wayne, can you give her the mike.

COUNCILMEMBER TAVARES: There it is. Thank you. I, I have some comments that I would like to make to this subject for this project. On one hand, we have the Makena Resort, which has been the way we want development to occur. Infrastructure put in ahead of time. They've done roads, sewers. They built a water tank. All the things that we wish all the other developers had done as they were developing different areas. On the other hand, we have our community plan and please realize that in the community plan all of the change in zoning reflects what the community plan designations are, at least the majority of it. You can correct me if I'm wrong but I think that's what it is. So, we have a community plan that went through a process. That community plan--the CAC, the Planning Commission, and the Council approved the community plan, which designates this land accordingly. They are merely following the process to zone according to what the community plan says. However, in that same community plan there is talk about concurrent infrastructure and very specifically there is the statement in there about Piilani Highway and Mokulele Highway being four lanes. Now, is it reasonable to expect that this developer, if he wants to build shall build four lanes on Piilani and Mokulele? I don't believe so, more than that development will use those roads. We have an awful situation here. The water allocations or water--I don't even want to get into water too much--but it's very disappointing to me that each time that the Water Department comments about water availability the numbers change. It's very disconcerting to me as a Council Member. I'm sure it must be disconcerting to the Planning Department. I think that one of the things that we should be looking at is having those, whatever studies done whether it's the State Water Commission or not, so that we get some numbers that are supported by data with the best technology we have available today. And I suggest that we do water allocations the same way we do sewer allocations, "x" amount for commercial, "x" amount for residential, "x" amount for affordable, "x" amount for hotel, whatever the classifications are. It seems to work for wastewater, to me it should work for water also. People need to know. The landowners and developers need to know where they stand and not be supposedly the first in line and say because we want this. You can't, you can't pit a hotel resort development against affordable housing.

That's not a fair way to look at things. Both need to exist in order for our economy to prosper but we need a better system. We sure don't have one now. And I also would like to say that one other thing maybe the Water Department should be looking at is converting their fire flow water to reclaimed water. We don't need to have potable water in our fire flow. We can use reclaimed water for that if it's at all possible. And my last little--no, not my last--my second to that last thing. We've heard a lot mentioned about desalination as a, you know, cure-all for these problems. I think that we've talked about it. We've heard about it. Desalination, I think is coming. I have not yet, ever in how many years that we've been talking about it off and on, heard any hard numbers on what does it cost to build and operate a desal. system compared with what it would cost us to find source, develop that source, transmit the water, store the water, and deliver it to where it needs to be delivered. I've not seen any comparisons. The only thing I ever hear is that desalination is too expensive. Well, there are other communities that do it. In fact, I believe that Barbers Point in Honolulu is redoing their desal. plant. So, it's not something unheard of even in Hawaii. Maybe I'll just stop there because I feel very torn because I think Makena resort has been an excellent neighbor. They have developed the way we have told them we want development to occur and we don't get first class resort ratings because we just built nilly-willy [*sic*]. There has been a plan and that plan has been followed to date. If we're going to implement community plans we've got to implement it somewhere and one other caution that I wanted to share with my colleagues. If we deny requests for change in zoning or if we deny requests based on the lack of water, we better be denying all requests until we know exactly where we stand with water. I don't think it is fair to single out one developer. Let's say if the hotel were approved tonight, if, and they had a hundred units then we deny that hundred units but we allow hundred other units that are gonna use that same water source. To me that's not playing fair. You know, we need a better system. We don't have it right now and I sure as heck hope that we're all going to be working very hard on these critical issues because they are critical and not just to Kihei and Wailea and Makena. It's critical to Central Maui because we're all on the same aquifer, the same water source. Upcountry might be a different situation 'cause their water source is different but for Central Maui, you know, I don't know what it's going to take but we'd better be even handed across the board with development. Thank you.

AUDIENCE: (Applauded).

CHAIR ARAKAWA: Thank you, Charmaine. In--did you want to speak, Mike?

COUNCILMEMBER MOLINA: Sure.

CHAIR ARAKAWA: Go ahead.

COUNCILMEMBER MOLINA: Thank you, Mr. Chair. Boy, that's some tough testimony to follow up on but I must say for me this has been a real tough issue to look at. You have a corporation that's a real model company for all to follow. They followed everything to the "t" that the County has requested of them but on the other hand, you have the issue such as traffic and for me, water is especially important. I come from an area where I'm accustomed to droughts. I don't know how many of you have had to deal with conserving your water. It's very frustrating. And, Mr. Chair, I applaud you tonight for making the decision to defer this item to continue further study with regards to the availability of water. But a point I want to get across to everyone is that, we are all members of the community whether we have ties to the construction industry or not. We shouldn't look at developers or corporations as total monsters, although there may be some out there who act like it. But the Makena Resort has been a real model corporation for all to follow like I stated earlier. Many of us here tonight would not have a home or condominium if it were not for developers. So, I, I would just like to ask people too, when you give your opinions about this particular issue with the rezoning to keep in mind that we are all, we all live in the same community and again, in short more studies are needed. I think one of our testifiers said the pump capacity for 50 other wells, that study is not available. We need to get as much research into this matter as possible and I know it's frustrating for the applicant and it's frustrating for many of you out there. We all want a decision made but for myself I would like to make a decision that is well informed whether for or against the zoning and I leave you with that.

CHAIR ARAKAWA: Any other discussion? Okay, in looking at this project, when we first started discussion, you know, we talked about trying to change the way we look at development. I will say that Makena Resort in my mind has been an ideal applicant. The way that they've gone about doing things over the years, and if I looked at any other applicant they've done it the best way, and I would very much like to pass some of their projects out. And I had intended to when we were coming up to a vote, however, with all the testimony and with all the discussion that we have had I feel that there is sufficient doubt in my mind as to what we really have as availability water. What we have as far as roads. I don't think those questions have been answered adequately and we really need to get these facts down solid because as a community, we should be making decisions on best information. So, I had circulated earlier a list of questions and we're going to be working on some of those to try and make sure that we're asking the right questions to the right departments, to the right people to make sure that the community is adequately taken care of. We are not denying the project. I'll be very clear of that. What we are doing is we are delaying in order to be able to get the best information we possibly can, so we're making educated decisions. And I believe once we have that then we can make good decisions. We can decide how we want our futures to be and indeed, we all live in the same community and many of us have different dreams and aspirations. The project will be something

that I believe in the future will provide a lot of job opportunities, a lot to our economy and we really need to look at those benefits as well. At the same time, being very, very confused and I will admit I am very confused by the water numbers because every time I look at the water there's something else that I've missed or there's something that comes up that just, I cannot grasp. And as chair of this Committee, I don't feel that I should be forcing the Committee to make a decision if I myself cannot grasp the very basic fundamental thing such as what is the water availability. So, we're going to try and nail some of these questions down and I'm gonna ask all of the Members of the, of the Council if you have an area of concern, please forward them to me so we can start looking in each of these individual areas. And when we do finally come back for this item, we'll, we'll have a lot of those intact. Okay and it has to be a cooperative effort. Roy, I'll let you speak for a little bit as the applicant before we take our vote.

MR. FIGUEIROA: I'd just like to say I thank--my name is Roy Figueiroa, I'm with Makena Resort. I'd like to thank you for the time you've put into this. I know you still have questions in your mind. I know you can never come to a perfect conclusion, so I hope we're not going to wait for the perfect answer on this. I know we've waited a long time and if it sounds like a long study that's going to occur, that's something that's really going to hamper us in our development. I'd like to at this time, again try to put this particular application into perspective as I see it. It may not be as how you see it but it's as how I see it because we've heard people talk about the massive development that's going to occur. Seven hundred and fifty-five acres that was listed on the application but that wasn't the acreage that we were calling for as far as the change in zoning. Four hundred and seventy-seven of those acres have already been developed as golf course, clubhouse, tennis courts, the Maui Prince hotel, beach access, parks. So, these are already developed in accordance with the community plan and they require a change in zoning because the zoning does not match the community plan. So, all of these 477 acres require that change. The remaining 279 acres are vacant and of that, 153 acres require a change in zoning but 45 of those is from one urban designation to another again, to match the community plan. We've brought a lot of testimony as far as even the water that we helped to develop. I know that at times, many times I myself do not agree with David Craddick as he knows, but I thought a lot of the things he did make clear in his presentation, it was some of that, much of it was clear to me and I think we have to review that what he did bring up. And I have to give him credit though, for the Water Director that has tried to get some more water as far as developing source 'cause if you look, ever since the joint venture was formed I think David Craddick has been the Director that has tried to develop more source and we should look at, at that. So, as I said, I'd like to, for everybody to put it into perspective. As far as our entire development, all of the acreage that we talking about today, almost all of it is subject to the SMA review. So, it's not where you're going to approve

the change in zoning and then we're going to be able to build. It's a matter of going through the SMA process for each development. So, I'd like you to think about that because then while we're still studying this project, then others are going to come on line using the water just as others have already done while we still wait to see if we're going to get a change in zoning. So, we, we hope that you can get to this fairly quickly. Again, I'd like to thank you for your time.

CHAIR ARAKAWA: Thank you, Roy.

AUDIENCE: (Applauded).

CHAIR ARAKAWA: Council Members, any objections to deferral of this item?

COUNCIL MEMBERS VOICED NO OBJECTIONS. (RC, JJ, DK, MM, WN, CT)

CHAIR ARAKAWA: If not, this item is deferred.

ACTION: DEFER

CHAIR ARAKAWA: We now come to Land Use Item No. 9, which is the request from Kenranes, Ltd for a change in zoning--

COUNCILMEMBER KANE: Mister, Mr. Chair, I'm sorry. Can we take a five-minute recess please?

CHAIR ARAKAWA: Yeah.

COUNCILMEMBER KANE: Thank you.

CHAIR ARAKAWA: Well, I, I was going to take a break right after we get this because they're going to need five minutes to set up. Okay, so this is the Ka Ono Ulu commercial development project. We're going to allow the set up. It's going to take about five minutes to set up the power point, so we're going to take a five-minute break. Recess. (gavel).

RECESS: 7:26 p.m.
RECONVENE: 7:35 p.m.

9 **REQUEST FROM KENRANES, LTD. FOR A CHANGE IN
ZONING (KA ONO ULU COMMERCIAL DEVELOPMENT)**
(C.C. No. 99-193)

CHAIR ARAKAWA: At this time, we have a presentation. Susan Moikeha will be making a presentation for the group that is opposed to this project. And what we're going to do is we're going to have Susan do one and then we're going to have the representative from the Betsill's do, do a presentation. And what we're hoping after that is we're going to have testimony. If your testimony is covered within the project, within the discussions from the two groups, we can hopefully get a little bit shorter testimony and we actually can get down to deliberation and discussion in this case. Okay. So, Susan.

. . . BEGIN PUBLIC TESTIMONY . . .

MS. MOIKEHA: (30 minute PowerPoint presentation) Thank you. We'd like to begin by thanking the Council Members as well as the Chair for holding this meeting in Kihei. We can't tell you how much we really appreciate that. This has been a long process. We've been involved in this planning process for this particular project since 1998 and we've gone through a number of issues that are, in our opinion, still unresolved. We'd like to begin by letting you know we are opposed to the change in zoning to business use within Ka Ono Ulu Estates. We have supported the applicants already County approved projects, which include: 51 house lots, 140 multi-family units, drainage improvements, bike paths, and greenways. We find that these projects are consistent with the integrity of residential use currently under construction in the Ka Ono Ulu subdivision and these are some pictures taken this week of construction that's going on. In the upper left is boulders and that will be used to line the Kulanihakoi drainage ditch. Again, this lower picture with the individual walking there is the potential of the north-south collector road. All of these things are, are taking place right now and they're all conditions of the 51 house lot packages and the 140 multi-family units. I'd like you to refer to Exhibit 1A in your packets for the Council Members. Again, I've included the standard conditions and specific conditions of first, the 53--it says 53 but I believe it's 51 house lots. Okay, and on Exhibit 1B, on Exhibit 1B it talks about project specific conditions. All drainage is being asked to be done at this time. As you can see on Item 13, the north--they have to do the north-south collector right-of-way there--not only dedicate it to the County but provide improvement to that road. And that will start at Kenolio and they have the responsibility to take that all the way to Kulanihakoi Street. These are conditions of their already approved 53 house lots. Again, continuing on Exhibit 1C, talks about drainage again, other off site improvements. In Exhibit 2A, it references the

140 multi-family units which will be down on the I think it's on Ka Ono Ulu Street and the corner of South Kihei Road, where their current base yard is now. Again, 2B references the off site improvements that they need to do in correlation with their SMA approval of the 140 units. The reason why I've incorporated these exhibit's 2B, 2C into this report is because there seems to be some confusion about what has already been approved. We are not contesting that. All of these specific conditions are being met by these other two projects, not by approval of the commercial. We've also included Exhibit 3A which is their September revised 2000 final drainage, drainage and soil erosion control report. And on Exhibit 3B, if you look at conclusion there it says in the highlighted area, the detention basin which will be grated and improved as part of this project will provide approximately 198,700 cubic feet of storage volume. This detention basin will be used to satisfy the drainage requirements for the future developments of the 140 units, the 51 single-family subdivision, and the commercial project in Ka Ono Ulu Estates. The concerns that were raised from our last Council meeting about drainage and whether those things would be met are clearly laid out here in this report. That the work that is proceeding forth in this phase of the project--the 53 house lots or 51 house lots and the 144--these specific conditions regarding drainage improvements to the north-south are being met already by those two projects. We'd like to cover five areas of our foundation for opposing this project, specifically opposing once again the business use of this area. We'd like to go over Ka Ono Ulu Estates was and is a planned residential community. It is not a master plan community with commercial. We also would like to address the lack of due process. We don't feel at any point in time that we have had adequate input in a project that will impact us the most. The proposed request does not meet the definition of the general plan nor does it meet key objectives and policies of the Kihei-Makena community plan. Thirdly or fourth, the proposed request would adversely impact this residential community on roadways and transportation, water systems, social, economical and in general the quality of our lives. Per County of Maui Title 19.510, the proposed request does not meet the intent and the purpose of the district being requested. We'd like to address the sub., subtitle of the planned residential community, that it was back when we bought into it and it is now and that it is certainly not a master plan community with commercial. We have, will present it with certain documents and I'd like to briefly go over those. Exhibit 4A is a copy of our Bureau of Conveyances. I included that title page so you're aware that, this was dated March 11, 1992 when this CC&Cs [*sic*] or the homeowners association was incorporated under the State of Hawaii. We have been in existence since 1992. Exhibit 4B, and I'd like to draw your attention to the third paragraph highlighted, whereas declarant intends to develop said Ka Ono Ulu Estates and any properties next to Ka Ono Ulu Estates in the future as a planned residential community which will include a variety of residential units, townhouses, parks and open areas as, so as to provide a complete community that will grow and intensify in its uses, densities, and activities. These are the documents that were presented to

us. This is still being used after the applicant purchased the property, to this date it has never changed. We were told that it would be planned residential upon our purchasing of these properties. The Exhibit 4C is a copy of my deed which is standard for all that purchased. It's the second page of that deed. Again, number four and five returns [sic] refers to long-term residential use. If you look at number four, it refers to Book 23724 and on Exhibit 4D--I have a copy of that exhibit--the TMK is 3-9-01 [sic] a portion of 149. This is the same parcel even though the TMK today is 157, so don't be confused by that. What they did is they resub..., resubdivided this lot, and became 157 but it is referring to the same parcel. There is a certificate of long-term residential use here and again, another note to us that this was planned residential, what we were purchasing. Another document that was presented upon our, at the time of sales was a public offering statement and that's Exhibit 4E. I'd like to draw your attention to Exhibit 4F, the highlighted part once again, number four refers to parcel 149 as a certificate of long-term residential. By the way, that long-term residential certificate indicated that there were already building permits pulled for that particular parcel. Exhibit 4G, highlights shopping facilities nearest to us and that was the, at that time Azeka's Place. That was okay with us. We were fine with that. **(change of tape)** . . . a little shopping area that would, would address our needs. I'd like you to refer to Exhibit 4H, and this is a developer sales agreement that is given to each perspective buyer and if you'd look at Item 28 circled it says, the Ka Ono Ulu Estates project may eventually be comprised of approximately 100 acres of land and consist of 700 housing units more or less which will include a variety of housing types. A portion of which are intent to meet Maui County requirement for affordable ownership. And finally, if you purchased only a lot in this subdivision, you were given additional disclosures entitled lot-only purchase. I'd like you to refer to Exhibit 4J in the highlighted portion, number seven, and then if you could also turn to Exhibit 4L you'll see a map that will correlate with that. Okay and this is the map and I'm going to read and you will see these lots being identified. Lots adjacent to future development: Lots No. 18 through 31, and 132 through 141 inclusive are located immediately adjacent to an area planned for future construction of additional residential units which will be part of Ka Ono Ulu Estates subdivision. Another document telling us what these large lots were to become in the future. It's, it's pretty clear 141 is right next to a large parcel which is the 149 now 157, the proposed commercial center. You come into an area, you look at what you're going to buy, you question what are all these large undeveloped lots going to be. We'll, we were told that. We were told that in writing. It didn't just come from the developer or the sales agent it came within a document. All of these documents were presented to us for our viewing, where we had to initial, and these documents are recorded in the Bureau of Conveyances. These are legal documents. It made the buyer aware of what the intent of this subdivision would be in the future and I think that's reasonable. We were under the impression of a planned residential community and that is exactly what we hope to, to have and this is what was presented to us at

the time of the sales. Residential homes, the lower portion closest to South Kihei Road is the multi-family. This was Mr. Horita's original plan but this is what we bought into. This is what we thought we were having. Even in two years after Mr. Betsill and the applicants purchased this property, we were still under the impression that this is what this community would eventually look like. The next thing, I'd like to address is the lack of due process. The Kihei-Makena community plan review update disallowed formal notification. When you go before a zoning issue you're given five, within 500 feet it's required that you be notified. If a parcel is going within an SMA issue, you are given notice within 500 feet. Unfortunately, the process during a community plan update leaves that out. We are not formally notified that something is taking place this close to us. Public notice that was indicated during this community plan review update was noted as Ka Ono Ulu Estates was noted as "Project District 4". I think it's really prudent and reasonable to think that should we have known that Project District 4 was Ka Ono Ulu? You know, I really believe that that's not a reasonable thing to ask that we should know that. Thirdly, and I want to make a point here, I'm not holding criticism to the Council. I think we have a process that, that we can do better at and I'm pleased to see that the Council is taking that direction during this time to look at that whole process and, and scrutinize it and try to make it work at its best but this is what we fell victims to. Finally and where I hold and where this community holds the most responsibility for notification is the applicant. Ka Ono Ulu Estates Homeowners Association officers--now, remember it was incorporated in '92. Mr. Horita was the head of that organization. Mr. Betsill and his brothers Dwayne, Steve, and Randy, when they took ownership of this parcel in August 26, 1996, they became the board. They became the officers and they have held various positions until this year June of 2001 when they finally released the association to the homeowners. We believe that they've breached their fiduciary agency and let me define using a law dictionary what fiduciary agency is: a duty to act for someone else's benefit while subordinating one's personal interest to that of another person. It is the highest standard of duty implied by law and I think it's reasonable to, to state this because this is a corporation. This association is incorporated and falls under not only condominium law but also falls under incorporation law as, by it being a business entity. So, to draw the conclusion that they breached their fiduciary agency is reasonable. They did not notify us of their intent to seek any kind of zoning change on this parcel. Notification came two years after their purchase and if you look at number Exhibit 5A again to, to let you know under the heading of Ka Ono Ulu Estates Community Association it is a corporation. Exhibit 5B is a letter written by Mr. Takase their representative at that time, noted the date is September 9, 1996. It was addressed to Chair Morrow at the time of the Council and they let them know of their intent to seek rezoning of a B-1 and other proposed issues for this entire development. We were notified November 1998 by the Department of Planning as per law prior to the first hearing held January 1st, January 26, 1999. That's two years later. While the

applicants are pursuing their intent, they forget a very important integral part of the planning process. The most important part of smart growth and that's the community it will impact the most. Just a few footnotes regarding the community input. In 1992, and this is going on during the time of the community, Kihei-Makena community plan update, in 1992 the CAC never reviewed this project and that was not unusual. Out of 61 projects that came before the Council, 49 of those projects never were reviewed by the CAC. In 1993 the Planning Commission, '97 the Planning Department, all recommended single-family and multi-family to open space for drainage corridor, consistent with the residential that we bought into. In 1998, the Land Use Committee and County Council voted to redesignate to business use. There was a package and I don't mean to say a package deal in a sense to infer any kind of negative connotations to that but there was a package here. There were five acres being asked to be redesignated to business use and at that time, they were also presenting to you a ten-acre park, which ended up coming down to seven acres. That seven-acre park all along has only been two acres usable. The other five acres of it is comprised of the wetlands and the drainage. There's a notation I'd like to make here regarding the park. It is no longer a part of the package deal. In a mediation process, Mr. Betsill had addressed some questions and he indicated in one of the questions regarding the park that he was planning to donate this parcel with certain conditions to the Montessori International Hawaii preschool for their use. The Parks Department, Exhibit 6A talks about the ten-acre park. This information was from the site visit conducted on May 13, 1997, by the Council. It identifies by Mr. Takase what they had planned, the business use redesignation, the ten-acre park. Exhibit 6B is a letter from the Parks Department indicating they will not accept this park for various concerns of safety, maintenance, liability, et cetera, and that is on 6B. I'd like to also mention that the KC and Maui Meadows Association concurred with these other agencies that this should remain single-family, multi., multi-family to open space for drainage corridor. Thirteen associations were notified during this review process of the community plan. These two were the only ones that replied and they concurred with the department. I'd like to give an update. On March 1999, we finally had an opportunity to go before the KCA and I'd like you to refer to Exhibit 60 [sic], 6C and I'll quote from this the result of that meeting. The applicant was given an opportunity to present his project. We were given as homeowners equal opportunity to present, and this was the conclusion of the KCC at this time under the direction of George Fontaine. What happened to KCC involvement is the question. Normally, developers work with KCAs Planning and Development Committee to propose projects at the conceptual stage. KCA and P&D Committee then works with the developer in presenting the project to the community to get input and in most cases developing a project that is acceptable [sic] to both the community and the developer. In the case of Ka Ono Ulu Estates project, the developer never met with KCA and/or our P&D Committee, that's their Planning and . . . Committee and decided to develop and pursue the

project on their own. The result was a backlash of public opposition because of the lack of participation in our association at the beginning stages of this project with the developer, it is impractical if not impossible for KCA to render a position on this project. Mr. Betsill was at the time a board member of the KCA. He, he--I'm most certain knew their procedures in reviewing projects and involving the community and bringing something that would be acceptable to the community but he chose to avoid that route of bringing that project to light. It is our opinion that he avoided that because this needed to get redesignation. Once you have redesignation you have a strong foundation because then you have a map that says this is business use. In our conversations with the Director of Planning Mr. Min, he had indicated that the map takes priority in their planning process for recommendation not the objectives and policies but the map designation. This was a strong foundation that they needed to get this moving in and on its way. Had we even known of this project at that time, I assure you we would have been there to, to voice our concerns. This is a review of the District 4 (Ka Ono Ulu Matrix) map that was not only sent out to the 13 associations but it was, also gives a review of all those reviewing agencies from the Commission to the Department. And again, what did they concur together that, this should remain residential and for--

CHAIR ARAKAWA: Susan, we had agreed to about a 20-minute time limit. How much longer do you have, you anticipate?

MS. MOIKEHA: Can I have about 10 minutes?

?: (spoke from the audience) Yeah, (inaudible) last night. Give her 10 minutes. Come on.

CHAIR ARAKAWA: Go ahead. Yeah, go ahead.

MS. MOIKEHA: Thank you.

CHAIR ARAKAWA: Finish it up.

MS. MOIKEHA: Okay. The proposed request does not meet the definition of the general plan, and I'll read this right from your general plan and this is the definition. The general plan is a statement of resident's needs and desires. The majority of the residents of Ka Ono Ulu Estates oppose business use rezoning, and it does not meet their needs and this is what I mean by fiduciary responsibility. This is a perfect opportunity for the applicant to do a preference survey to expose his project through the homeowners association, homeowners association, which he declined to do. We did that. What you see in Exhibit 7A is a preference survey that we put together. We included all of Mr. Betsill's proposals for the change in rezoning, the positive and things that he was promoting and then we counter proposed with our position on it. We also included a future

planning of the entire development. We included two phone numbers. A Betsill's construction phone number where they conduct their majority of their business and Mr. Patrick Ryan's number. We took around this survey to all the homeowners at that time living in the area and we asked them to consider this to look at it. If necessary, we came back to give it, to, to give them time and what we have there is a visual effect of the impact of that survey. Once again, there were 67 percent against the commercial, 12 percent that favored the commercial, 20 percent who are vacant, or residents that could not be contacted. As a visual overlay, all the blue is those opposed--pay particular attention to where the commercial is located and those especially within 500 feet--the closest to the subdivision stand strongly opposed to this project. This pose..., proposed request contradicts the objectives and policies and we particularly would like to draw your attention to Exhibit 8A. This is a meeting during the community plan update. It was held on July 1, '97. It begins on Exhibit A, 8A, 8B and I'm going to quote from 8C. The conversation here is with Council Members and with Mr. Medeiros, he was the staff planner at the time. There was a discussion specifically about objectives of, location of commercial and I want to refer you to Exhibit 8C. Mr. Medeiros says, "Most of the properties along South Kihei Road has been developed, I mean, for the most part from Lipoa Street north and so, I think the intent in Section, Section G was to define specific commercial core, I think cores within, within Kihei. The fear, the danger they felt was that you would have commercial it, essentially strip malling [sic] all of South Kihei Road. And so, what they tried to define was okay, we'll have a commercial here and we'll have a commercial here and we'll have a commercial here and in between would be single-family. And I think it goes on to talk about densities, the commercial where it abuts single-family." There's such a subjective opinion about when we see the word enhanced neighborhoods. The buzzword of this era right now is smart growth but to take that out of the community plan, out of context and when you look at the minutes and the discussion that was going on, there was definitely four core neighborhoods. We cannot say that we're going to allow build out in every single neighborhood in, in Kihei, in Piilani Villages or Hale Piilani or Halama Street or Maui Meadows. Are we going to reasonably say let's go put a neighborhood commercial center there so they all can walk to it? That's, that's unreasonable to conclude that. What you conclude for clarity from Mr. Medeiros' comments here is that there were four core commercial neighborhoods and they are Suda's, which now has Maui Nui Park, 900 parking centers [sic] parking spaces; Piieka, which is the Safeway complex, those already zoned along South Kihei Road, and areas that's already zoned along Kamaole Beach Parks. But the position of the KCA--they held a workshop last year with Harrison Rue and they identified those four core neighborhoods. I'd like you to refer to your Kihei community plan on Page 30. Again, Item No. . . . F, develop Kihei-Makena Urban Design Guidelines to address architectural landscape and graphic design standards. Use the guidelines to establish a sense of place by defining distinctive standards for four neighborhoods;

Owapu Road, Suda store, Lipoa, Kama., Kalama Park, and Kamaole. I mean there should be absolute clarity at this point that there are only four core neighborhoods and that is where your commercial is. Surrounded in between these core neighborhoods is, is residential. Ka Ono Ulu is half way between Safeway and half way between Suda's. We are that residential community in between these two core neighborhoods. And finally, there is such a premium for housing today that this does not support single-family or multi-affordable housing for our community. Also, it does not allow development--it says in the community plan, do not allow development for which infrastructure may not be available concurrent with the developers impact. Although, issues of infrastructure is being addressed in their other two approved projects, what is the cumulative effect of this. You have 80 acres across from Ka Ono Ulu that is already approved for light industrial. How much more do we need to be impacted? Again, just real briefly and I'll go quickly through these but the proposed request impacts us tremendously. The roadway situation, the amount of traffic that this project is going to draw into here. This is not a neighborhood community proposed project. This is for the entire island and the visitors alike. Water sources are an issue. There's already 1,500 SMA approved units in the Kihei area as of a month ago. There's a decline in property values. Now, that could be subjective. The applicant says this increases our, your property values but other realtors will say it does not it causes decline. Can they guarantee that our property is not going to go down in value? The police burden in this area--and there's a picture, there's traffic--this appeared in the Maui News during the time of the Transportation Committee's community visits. I think it's, I think it's important to look at what the report from the Department of Planning had indicated on Exhibit 9A and when you take a look at that, in the second paragraph it says, this will have an impact on the police beat burden may increase significantly. You're talking about nuisance calls, you're talking about things going on at this commercial center where it's going to draw the police to have them come and check it out. According to the writer of this was Barbara Knoepfel this would be the first commercial center that the writer is aware on Maui in such close proximity to a residential area, area, therefore, it is recommended that this rezoning be carefully scrutinized. Okay, I'd like to quickly go over the, how this does not meet the intent and purpose of the, of the district being requested. This quote is a direct quote from the Planning Department, the addendum report that was sent with transmittal to you folks on June 1, 1999: Given the existing and proposed "Commercial-Business" uses there appears to be adequate business uses to service the Kihei-Makena community at this time. Let me remind you again, the intent of B-2 Community Business District, another direct quote from their report: A community business district intended to provide all types of goods and services for the community. Particularly, the purpose of zoning designation is to provide service for the community region. And this is their quote entirely emphasizing the Kihei-Makena area. They say it we don't need it. It's clear by the, by the zoning that they're seeking, B-2 is not neighborhood. B-2 is entire island

of Maui including their visitors and that's on Exhibit 10A. In conclusion, we ask that you look at your criteria for approving rezoning which is found in 19.510. I'm not going to go over that. The things we touched about, on tonight, the contradictions with the community plan, these things are all part of that criteria and all have to be met. All of it has to be met to be approved. The residents of Ka Ono Ulu are not willing to be inversely impacted for a strip mall that they do not need and they do not want. I'd like you to refer to Exhibit 11A. Again, you are, the County is not getting their seven acre park. Part of the package is gone here and to even bring that closer to an understanding look at Exhibit 11A. This was the map used during the community plan update. I'd like to refer you to Matrix 59A. It was originally zoned one-acre park and it received a redesignation to multi-family during the same, same time. Why would the County take a one-acre park, which seems to be a premium and allow a redesignation of multi-family if they weren't already getting ten acres or a seven-acre park just down the street. So, we say that this was part of a package. We truly believe that is what occurred. It is not the objective of this planning process to ensure financial gain for the real estate investments of the applicant. I'd like to refer you to 12A. This was at the KCA meeting where we both had opportunity to present our presentations. It is a direct quote. It is a true and accurate quote. Mr. Doyle Betsill stated there is no gain to us financially from putting the commercial center in. In fact, there's a financial loss to us in putting the center in. The motivating factor for creating this center was to create a real community in Ka Ono Ulu and to provide great parks, areas, and jobs and shopping areas within the walking distance. I'd like to refer you to 12B. It is an advertisement of sale for this property. This was sent out October 20, 1998, either as a fully developed turnkey, a vacant land with site improvements or vacant land as, as conditions, and a considerable amount of money. I'd like to also refer you to 12C. This appeared in April 5, 2000, in the Council files. This is a letter addressed to then Councilmember English from Mr. Richard Takase and he says giving them an update, however I would like to update you about the subject park. it is being sold to a local group, and then he goes on to say the sale is subject to final approval. This was a question that arose at the August 14th meeting when asked are you selling this property and the answer came, no they're just part investors. This does not sound like part investors. This letter sounds like a sale. Now, whether this is still viable or not it's not really relevant but the fact is that anybody can come here after their zoning, take possession and do whatever they want with this property and where are we left? Okay, and lastly, 12D is a letter from the Department of Planning. Please understand what the alternative is. Of this five acres, three acres is zoned R-1. Approximately 15 houses can fit on that R-1 zoning. Of the two acres left, it is A-1, and approximately 40 units could fit on that parcel. That is what the current zoning is. We are content with that, that meets our planned residential community. And finally, this is what we will be impacted by. The orange above is Rice's 80 acres already approved by the County of Maui for light industrial. Everything that Mr. Betsill and the applicants can

offer us in B-2 in this proposed project can be found across the street or in one of the other four neighborhoods, core neighborhoods in the Kihei area. We do not need this. We do not want this and we ask that you consider all the information that we provided you tonight and to please, please vote this down. What we would like to see happen as a conclusion of your voting this down is that you redesignate this back to residential. Thank you.

AUDIENCE: (Applauded).

CHAIR ARAKAWA: Thank you, Susan. Lee, Susan used about 35 minutes and in setting this meeting up what I tried to do was balance time. Lee Guthrie, you're going to making the presentation? Do you need time to set up? Or, Doyle, you're going to be making it? Okay, we'll take a short recess while you set up at the discretion of the Chair. (gavel).

RECESS: 8:13 p.m.
RECONVENE: 8:20 p.m.

CHAIR ARAKAWA: I'm going to call the Land Use Committee back to order. Members, I have had a request from one of the members in the audience who has a back problem and he's been waiting to testify. So, I'm going to allow him to testify if there are no objections.

COUNCILMEMBER CARROLL: No objection.

CHAIR ARAKAWA: Gerald, please state your name and . . . give us your testimony.

MR. BITNIAS: My name is Gerald Bitnias. I live in that subdivision and I've been on Maui two years now. Thank you for letting me speak at this time. I've had numerous back surgeries and knee surgeries, so it's difficult for me to stay in one spot for this long. I really truly hope that you let us be able to decide what we want in our neighborhood. I'm not here to dispute anything about the Betsill's. I understand he's a great builder. It's a great plan nobody's disputing that. Okay, it's just we do not want something literally shoved down our throats that we don't want. Okay, I personally and I've talked to quite a few other people in the neighborhood, we will not shop in those stores if they do come. Okay, it's just unwanted. I mean every Tuesday when I get the Maui News I get out the three major sections, Foodland, Star, and . . . Safeway. Thank you. And I look at all of `em. Okay, they got the cheapest prices, that's where we go shopping. We're not here to pay high prices at a convenience store. Everybody only has so much money. I'm retired. I only have so much money to spend but I will not pay top dollar for my items. I will get another car 'cause I can't walk anywhere it hurts too much and a lot of people will not take their

children to go walking down some of our streets, which are drag strips, to go take their children to walk to a store. So, I'm asking you please I'm begging you don't shove this down our throats. Take into consideration what you're going to do to the neighborhood. So, thank you again for coming tonight and I really appreciate all the hard work that you all do for the County of Maui. Thank you.

AUDIENCE: (Applauded).

CHAIR ARAKAWA: Thank you, Gerald. Thank you very much and sorry about your back. Okay, Mr. Betsill, introduce yourself and your position and your presentation on this project.

MR. DOYLE BETSILL: My name is Doyle Betsill, I'm one of partners, and Kenranes who is the developer of this master plan community. I'm going to try to move pretty quickly tonight 'cause it's late. Our commercial rezoning is basically part of a master plan community that we planned along smart growth principles. The parcel in question is approximately 5.1718 acres. It's bounded by Piilani Highway, Ka Ono Ulu, and Kenolio Street, which is the future north-south collector. One of the precipitating factors that moved us in the direction of, of putting this commercial center in it's, in it's present location that we're proposing was the fact that we, we built the homes across Ka Ono Ulu Street. We built 30 homes right along Piilani Highway just prior to planning this community and we had overwhelming objections to the highway noise, et cetera, from Piilani Highway. So, when we started envisioning this community, we started pulling together a lot of things. One of those things was how can we buffer the neighborhood from the traffic at Piilani Highway and Ka Ono Ulu and also the future north-south collector which will have quite a bit of traffic as it develops. Susan talked a lot about the community plan and I'm going to speak a lot about it too. We have different takes on it obviously. The Ka Ono Ulu neighborhood first of all, neighborhood commercial center is in the community plan and I think I've heard testimony over and over again from, from the Council level through, throughout the various levels of the community that we should respect our community plans. And I think we would need a compelling reason not to approve this project because it is in the community plan but more . . . I think just as importantly is the fact that it's there is why is it there. The Kihei community, the Kihei-Makena community plan is a very forward-looking document created in 1990. It, it contains a multitude of smart growth principles. In my mind, it was an exemplary document ahead of its time. So, I'm going to, I'm going to take a few quotes from the community plan and, and I think I can show convincingly that, that our community not only is in our community plan but it meets the criteria. Quoting from the transportation section, there is a need to lessen the dependence on automobiles through efficient land use distributions. Now, that efficient land use distributions is speaking to mixed use, which I'll get into later, and bicycles and pedestrian paths separate from automobile traffic would provide an effective alternative to

the automobile. We've done this also by putting our bike path in the drain way separate from the roadway. What we're trying to do is encourage bike and pedestrian traffic at the same, at the same level that we encourage automobile traffic within this master plan community. Moving on to enhancement of neighborhoods. I won't read through the first part but the second part says a general theme of the plan is to create more independent neighborhoods within Kihei thus reducing unnecessary vehicular trips to South Kihei Road and Piilani Highway. We can talk about an 88-acre industrial park across Piilani Highway. We can talk about Safeway several blocks down the road but a smart growth mixed use community in a walkable context has to have the parts in close proximity to each other. If they're not in close proximity to each other, they're not going to work. People are going to get in their cars and drive to do their shopping. They're going to drive to their jobs. They're going to drive to their recreation. What we're trying to do is create a truly walkable neighborhood and to do that it's got to be in close context. And it's difficult to tell, the drawings are a long ways away but our neighborhood center was not--there's, there's a multitude of strip malls in Kihei, I mean a multitude of strip malls. We went to great lengths to differentiate this community neighborhood center from a strip mall. We've moved the buildings onto the highway. We've created the feel of a road through the center of the buildings in the middle of the project, which this is an artist conceptual rendering of, of that streetscape. What we've tried to do is capture the ambience and feel of Paia, Makawao, Lanai City. The neighborhoods that people have said in the smart growth task force meetings that I've been to that, they like to see and they want to see more of. Under land use again, it says, establish a distribution of land uses which provide housing, jobs, shopping, open space, and recreation areas in close proximity to each other in order to enhance, enhance Kihei's neighborhoods and to minimize dependence on automobiles. I think through all these documents or all these things I'm bringing up, these quotes it's very clear there's a strong theme within the Kihei-Makena community plan to encourage independent neighborhoods. This hasn't been done. We're on the cutting edge. We're proposing the first independent, truly independent neighborhood that Kihei has, has seen as of yet. And we're having a lot of smart growth seminars and we're talking about smart growth principles and smart growth neighborhoods but what's important to see is an actual visible model neighborhood. We need your approval of this rezoning to create this neighborhood and it could be as Susan said the residential portions of the neighborhood are currently under construction. Within a year to two years, we could actually have a smart growth neighborhood that we could point to talk, talk about, and walk in within Kihei. Under economic activity, the community plan states, increase the availability and variety of commercial services to provide for regional needs and strategically establish small . . . commercial uses within or in close proximity to residential neighborhoods. Now, here's where Susan missed the point. (adjusted mike) I didn't want to be too loud. Is that about right? We've got two types of commercial centers.

We've got the regional needs, which are the four villages of which Suda store is one of these regional needs. To strategically establish the small scale commercial uses are the type of neighborhood center that we are proposing. And the point is the regional centers are the centers you get into your car and drive to, Suda store and the Maui Nui Park being one those centers. Neighborhood centers like we're proposing are the kind that you put within the walkable context, surrounded in, within the context of the residential areas. Under housing and urban design, the community plan states, provide for an integration of natural and physical features with future development of the region. New development shall incorporate features such as gulches, and wetlands into open space, and pedestrian pathway and bikeway systems. I'm real proud of this feature. It's not really part of the commercial presentation but we do have the bike path in the gulch, which has been proposed in the community plan, been talked about a lot. We're going to, we're going to manifest the first realization of that. We do have limited wetlands in the open space about an acre and a half but we're, we're still going to have five and a half usable acres of open space in our, within our, what will actually be our detention area. Under physical and social infrastructure, we have strengthened the coordination of land use planning and transportation planning to promote sustainable development and reduce dependence on automobiles. New residential communities should provide convenient pedestrian and bicycle, bicycle access between residences and neighborhood commercial areas, parks, and public facilities. Again, we're seeing the theme. This is like the central theme of the community plan over and over and over within every single category we're requested to provide commercial uses within residential neighborhoods. Now, to do that we have to zone commercial neighborhood areas within the neighborhoods as they exist and I, I know and I acknowledge and I sense that there's a fear among some of the homeowners in the neighborhood that this is an unhealthy manifestation. But it's not like a corollary to smart growth. The, the mixed use is a key element of every listing of smart growth principles that you will see in the hundreds of thousands of web pages that are currently on our Internet and, and knowledge accessible about smart growth. Under energy and public utilities, locate good services and employment in close proximity to residential centers to minimize energy expenditures for transportation. We have some employees that are buying into this neighborhood. We're planning, if we get this zoning approval to build offices in this, in this center and that by the way, is the, the, the solitary reason that we asked for B-2 was because offices aren't permitted within the B-1 designation. We wanted the B-2 so that we could have our offices. So, we're going to have people that are actually going to walk from this neighborhood to their jobs in our office centers and I, I feel certain that there--as other businesses establish there--there will be other people that will be able to do the same thing. So, as we create neighborhoods where you can walk to jobs, where you can walk to shopping, where you can walk to your recreational activities, we reduce the independence on the automobile. It's an elegant solution to our traffic crisis. Sure we're going to have to

build more roads but a much more elegant solution is to create patterns and create neighborhoods that encourage patterns, developmental patterns whereby people will stop thinking of the automobile as the only mechanism for getting around. So, we feel that our commercial proposal is in real harmony with the community plan. I mean we've seen item after item after item where it's recalled out. In fact, our proposed community is more in harmony than any existing neighborhood in Kihei and I think that's a big plus. Because at the latest task force meeting that the Mayor had on smart growth, people, we broke out into breakout groups and we were asked, okay name some good examples of planning and name some bad examples of planning. Over and over and over again, the good examples were Lahaina, Paia, Makawao, Lanai City; our older neighborhoods where we had the commercial center surrounded by the residences. Okay, what popped up most often under the bad-planning scenarios was Kihei. Over and over again, Kihei was brought forth. Now, North Kihei is currently dominated by condos and high-density residential neighborhoods. The previous developer had proposed to do exactly the same thing. When we looked at the plan we said this is the last major open space in North Kihei. If we follow this plan through it's the death now for any progress in design of communities for North Kihei. North community, North Kihei's fate is cast. So, we took the time to go back to the drawing board and draw up this smart growth traditional type neighborhood and even went so far in the commercial center design to emulate Paia and Makawao's architecture, so that we will create if you will an instant historical neighborhood within the Kihei area. Hope we got (inaudible) . . . the opposition. Let's go on. There should be more. In the previous testimony, the primary point of opposition was the gas station. Because of, because we felt it was an economically viable portion of this, this neighborhood center to ensure its, its economic viability, we hesitated for a long time about removing it from the plan. But after much thought and the fact that it popped up as introducing hazardous material into the neighborhood, we removed the gas station from the plan and it's no longer a part of our, of our current plan. Another thing that was brought up was increased, the fear that the commercial center would bring increased crime. In fact, and this is actually an indirect quote from Barbara Knoeppel who was our former community police officer in North Kihei, she said there are more reported incidents in a multi-family development than a commercial center of the same size. So, what that says to me is the commercial center will not bring an increase of crime but will bring a decrease of crime. I think another thing we have to think about is as we create the gathering places and the sense of place for the community, as we create a place for people to gather at a coffee shop and a restaurant, as we create the open space where people can gather for recreational opportunities, the neighborhood gets to know each other. As the neighborhood gets to know each other, crime becomes much and much more difficult to perpetrate because there's no place to hide. So, it's not just that in and of itself, there's less crime but that it will encourage patterns, which will cause a further decrease of crime. There's, there was,

there was, much of the testimony centered around the number of parking places. Unfortunately, we don't have any control over the number of parking places in the center but what we have done is we've tried to arrange them in such a manner that they're centered around the outside of the center rather than being in front of the center and separating it from the access. We're also working with Public Works to either decrease the number of parking places or use grass blocks in a number of the parking places. So, that we can have more of a landscaped and green feel in the, in the parking spaces that are least likely to be used and, and create better ambiance and have future parking if it's necessary. Decreased property value. We gave a lot of thought to this, a lot of study to it because obviously we're concerned about our neighborhoods that we build showing future prosperity. I found an interesting study by the Urban Land Institute. It found that home buyers were willing to pay an average of 11 percent premium to live in a new urbanist neighborhood, which our plan as proposed in its entirety would be considered new urbanist neighborhood. Talked a lot about, Susan talked a lot about her expectations when she moved into, into Ka Ono Ulu and I think one of the things we need to, to acknowledge is that, the previous developer was using basically 1970's type planning tools. They were doing what planners in today's contemporary mode call high-density suburban sprawl. What we're proposing I think is, is at least for Maui (**change of tape**) for Maui a fairly new concept which is to go--and it's, it's a new concept but it's an old concept. What we're talking about is returning to the design of a traditional neighborhood. When I was, when I was a youngster, one of my favorite things to do was to bike down to the community store in my neighborhood. That was part of our social activity as well as biking to the park which was within, which was in close distance. In this, in this particular instance, we provided this seven acres as open space simply because we thought it was the right thing to do. It serves as a buffer between our condominium project and the other condos. It's not a requirement for our park credits. All the park credits for this entire community and, and a, and a quite large surplus, were supplied by Horita's desig., dedication of the park immediately across South Kihei Road from our open space. So, what we're, what we did, what we thought was necessary was to create a green space within North Kihei because right now it's, it's, it is, it's developed. Every single spot has maximum development right to the road but we gave up our South Kihei Road exposure in order to have green space on both sides of the road for, in a permanent situation. The CC&Rs of the community specifically addressed commercial use within the committee [sic] within the community. Article 3 Section 301 Land Classifications in paragraph D list commercial and industrial sites as one of the uses allowed within the community. Article 3 Section 306 provides specifically that the declarant may designate specific lots or areas for commercial or industrial use subject to government approval, which process we're going through now. I think it's important to--I want to just real briefly touch on a couple other items that that Susan touched on paperwork-wise. The long-term residential use agreement

was an agreement currently in use at that time because if there was a sewer shortage in Kihei. And all this was that, when you pulled, pulled a permit, and build a house you promise to keep the use of that house for a long-term use. That did not apply to any of the open areas, undeveloped areas, specifically this parcel but only to the lot and the house that Susan purchased. She had extensive documentation regarding the previous developer's plan and we had an SMA from the previous developer, which we could have used. But our problem was we did then, we do now feel that we didn't need anymore high-density neighborhoods in North Kihei, that what we needed to do was to show and demonstrate an alternative. There's been a lot of discussion about traffic impacts. It's, it's a major issue, maybe the major issue on the island today. I think it's important to note that our proposal does not increase the traffic impacts of this neighborhood. The, the reduced residential density where we cut in half basically, we, we halved the number of houses and condos, reduce the traffic impacts to compensate for the increased impacts of the commercial center. These numbers don't take into account at all the fact that if this community functions and works as planned, the mixed use and the walkability will actually also increase traffic impacts. As far as water impacts, which is another major concern for South Kihei. The use of on site--we're going to, we're proposing to use on site water for irrigation of the landscape, which will reduce our water usage. We're using an extensively and almost exclusively indigenous plant material for our planting materials, which will reduce the amount of water necessary. And last but not leastly [*sic*], the number of residential units which we deleted from this project will, will decrease the amount of water impacts. So, this master plan neighborhood provides affordable and single, single and multi-family housing for local residents. We also are using sustainable building techniques such as solar hot water, which will reduce energy requirements. And one thing I'm particularly proud of is we've pioneered the use of Hi-Bor as a, as a lumber treatment on Maui. And over the last two years, we have convinced Honsador to convert to, to Hi-Bor as their primary lumber source and Truss Systems Maui has, Truss Systems Hawaii has converted to Hi-Bor. As, as of right now, we're using it in the majority of our homes. This wood can be, it, it uses essentially "20 mule team borax soap" instead of arsenic as the, as the agent to deter the termites. Therefore this lumber, the waste lumber from our projects can be ground up and used as a soil amendment rather than having to go to the landfill. Our vision we chose an in-fill project because--we chose an in-fill location for our project because we feel that an in-fill is a way to go. We feel that our town should have limits around them. We feel that we should focus our development on the existing town centers of the existing towns. Unfortunately, if you chose an in-fill site you're going to have neighbors. There's no way to get around it. Also, we felt that the original high-density reg., residential suburban sprawl plan was, was, was improper. North Kihei is dominated by these projects and we didn't think you needed to see another one. So, what we proposed instead--and, and, and perhaps we were a little bit ahead of our time and there was a lot of

misunderstanding about why, why we were proposing this commercial center in this context. It was because we thought that smart growth principles and smart growth means a lot of things to a lot of people, but again mixed use is common to every smart growth program that I've seen in a walkable context. That's why when we--again, it's difficult to see from this distance but we've got raised residential, we've got raised walkways with a different texture from the roadway. We've got medians with landscaping separating the, the lanes of the road and what we're trying to do is give the pedestrian a safe place in between crossing the traffic to rest in the lanes and in, and in general encourage pedestrian use of, of this center in the neighborhood in general. We also have created gathering places that I spoke of before where a community can develop a sense of place. So, basically to me the principles we're proposing aren't really new, they're just a return to the traditional neighborhood. Again, the mixed use equals reduced traffic impacts. I think this is real important. I've said it a couple of times but I think it's a real important point. I believe that the design of the commercial center is reminiscent of good examples of planning such as Paia and Lanai City. Even in the architecture, we're creating a historical feel for our buildings. We've got some examples of a, of master planned communities on Kihei, I mean in, in Wailea, in Lahaina, in Kaanapali but we don't really have any affordable examples of, of this type of community and I think it's important for us to provide this type of community for people from all economic walks not just high-end. The Parks Department turned down our seven acre, offer of a seven-acre park. Actually, we've made the same offer to the Kihei Community Assoc., I mean the Ka Ono Ulu Community Association, and they turned it down. But as we, so we decided that we would make this a private park and be handled as a, as an adjunct to our condominium project because we still feel that the open space is an important part. And what, what happens is if, if the rezoning doesn't occur for the parcel up on the highway, this open space parcel in the, that we've designated open space in the community plan is desig., is, is already zoned for multi-family. So, basically what we did was we didn't just give up five acres of residential on the top end of the project, we gave seven acres of, of apartment zoning up on the bottom of, of the community. If we don't go forward with this rezoning . . . the alternative, which we presented an alternative plan would be not only to reverse the community plan designation for our community, our community center but also for the seven acre open space down below. Over a period of time, we, we started having some conversations with the Montessori preschool and, and we felt that they had a great vision. They just didn't have a place to put it. They wanted to emphasize Hawaiian culture, actually grow taro, and ecology, and provide another element a preschool within the community. So, there's one more reason that you don't have to get in your car. Their, their architectural concept was of a real low density Hawaiian village feel. We thought it was appropriate for this open space, that's why we said with conditions. We have the right to approve their designs but so far, what they brought us we found very encouraging. The remaining, we're donating a portion of the land to them

if we do get this rezoning. The remaining area will still be used for open space. Recreation areas will be maintained by the condominium association. We're envisioning some parking for the use of the open space, barbecue grill, showers coming back from the beaches, et cetera, all this would be maintained by the condos. We feel that the addition not only of the Montessori school and the educational opportunities within the community but also there's at least one church that's also, that's still going to be locating within the community even though Hope Chapel has moved. We'll provide an overall real, in other words, we've got a small town in a small area and we feel that's, that's a great concept to go with. Susan's information regarding the Kihei Community Association was a bit outdated. We did meet with the Planning and Development Committee prior to our public hearing. I was on the Planning Development Committee at the time. Our meetings were informal. They had a lot of input into the design not just of the commercial center but of our whole community. A lot of it is to the credit of the KCA Planning and Development Committee but these were informal meetings. They weren't official and we didn't make a formal request. So, they felt even though I was a member of the committee we should play things, you know, strictly by the book. So, they took, at that point a neutral position. Since then, we have gone through the process. We have brought this plan and received feedback from them and you have a letter from the KCA. So there can be no doubt as to--it's in your book--so there can be, there can be no doubt as to the position of the KCA with, with, if we meet the conditions that they've requested which we have, they have enthusiastically endorsed our project. Other people who have endorsed our project were Haleakala Gardens and Kihei Bay Vistas. In both these communities the, the managers polled their communities and came back to us and said, hey we would much prefer to have this open green space buffer between us and your community then have condos built right adjacent to our condos. And I think another--I mean there's also Piilani Village, which has strongly supported our project, there's Southpointe, there's any number of communities. We can't--I don't, I think it's unfair to assume that Ka Ono Ulu is the only neighborhood adjacent to our project. We're actually surrounded by a total of about seven or eight different communities and condo projects. I think another real important segment is the 191 buyers, a larger number than is, that are currently owned in Ka Ono Ulu who are buying into this next phase. We've had overwhelming support from the people we've, who we've shown our vision. We've said if we can get the zoning this will be a real example of a traditional neighborhood. All the buyers thus far and we've sold 47 of the 51 homes, have, have endorsed our concept and we feel it will find the same reception from the 140 condo buyers as they materialize. In the past, the community has said that the gas station was the primary focus of their opposition. We deleted that. Since we've done that I've spoken to many homeowners in the Ka Ono Ulu neighborhood who have reversed their position in opposition to our, to our proposal. I also spoke to Smokey Burgess who was the cochairman of the CAC Committee and he felt that our proposal was in

harmony with the community plan and heartily endorsed it when I shared it with him. In summary, our plan was approved by a previous County Council for inclusion in the community plan. We've been through a multitude of, of hearings over--I quit counting at 15 but we've made a strong effort to reach out to the community and to communicate with the, with the community with communications including a mediation between this hearing and the last hearing. Good communication requires a two-way street. You gotta be willing to talk, you know, and work things out. You gotta be willing to compromise and, and we just never have been able to do that. Susan mentioned that I said that there was, that I didn't see a difference in profitability between the two proposals, the original proposal that Horita made and the proposal that we're making. I want to make it clear. We never ever claim to be doing this pro bono. We've always had profit, as one of the motives for this community but what I was saying in my statement was that both plans had equal profitability potentiality. The one plan had an additional 200 units, you can figure the revenue from 200 units it's substantial. The one plan was already approved. We've gone through a very lengthy and expensive hearing process to get this proposal approved. So, there's been additional costs associated with this path. There's been some things we've given up to follow this path. Our motivation was yes, to still create a profit when we do the project but our motivation was also within the context of that profitability to bring to North Kihei an exemplary example of a model community. So, it also, our proposal includes the key components requested by the community plan. I think there's unquestionable that, that we demonstrated a theme of mixed use. I think it's important to note that we can provide this community, that we can build this community in a fairly, fairly short period of time and I think it's important when we're talking about smart growth to be able to point to examples not just to keep talking about it. But we need your help and we need your support, and we need your approval to move forward and do this. Lastly, I think the decision should be based on planning principles. We're, we're planning, we're, we're proposing a plan that can, can serve as a model. We're proposing a plan that, that are not just the people that are here tonight but our grandchildren, our children, future generations are going to see and I'd like to be able to say that, hey we worked together with the County Council, with the people of Maui. We created a neighborhood that is now pointed to as an example of smart growth on Maui. Thank you for your time.

AUDIENCE: (Applauded).

CHAIR ARAKAWA: Thank you very much. You and Susan must have gotten together because you're both within a few seconds of each other, much over 20 minutes. At this time, we do have about 20 people that have signed up to testify and I will allow you to testify if you want and I'll call your names and please indicate to me if you do want to testify. The intent tonight, if there is not a whole lot of time taken on the testimony, is for us to be able to ask questions, deliberate and perhaps even come to a

decision on this issue. So, if we go through a lot of testimony and we take all the time up in, in the testimony, we won't be able to discuss things among ourselves to try and come to a decision. And we've had requests from both parties that they would like this committee to come up with a decision. So, you judge, I'm going to call your names to testify. Jeanne Trusty followed by Sherryl Schussler.

MS. TRUSTY: Mr. Chairman, Council Members, thank you for the opportunity to speak with you. My name is Jeanne Trusty and I'm speaking as an individual. I'm in the process of purchasing a home in Ka Ono Ulu Estates. In fact, we close next week and I'm very excited about that. It seems like a great community. When I think of a community I think of homes or rather a neighborhood, I think of homes and the amenities with the homes and the families that live in those homes. When I was a child growing up there were a lot of things that created really good memories for me; walking to the park with my mom to play with other moms and neighborhood kids, walking to the ice cream store with my sister when I had been a real good little sister that week. She treated me to ice cream with the money that she made from her job and then later on in high school I worked at that ice cream store. All those things have in common is the fact that they were things that I was able to walk to without crossing a major street or highway. It created or added to my quality of life growing up and I'd like to see the same thing for my family. I think that when you have a community center that has businesses that allow for shopping, recreation, dining, it can bring a community closer and I also think that the impact on traffic will be diminished in the area. If even a little bit I think that's definitely worth it especially in light of all the traffic concerns that we've heard about the last couple of days. So, I think in this plan I highly support it. I think it was a step back looking at the model that worked from traditional neighborhoods and taking a step for the future in an area that desperately needs it. I also want to add that I do have personal friendships with Lee Guthrie and Doyle Betsill but in all sincerity that has no impact on how I feel about this proposed change. I would support it regardless of who was building it and who was making the change because I think it's good for my new community where I'm going to live and raise my family. Thank you.

AUDIENCE: (Applauded).

CHAIR ARAKAWA: Thank you, Jeanne. Any questions? Sherryl Schussler followed by Dee Larson. Is Sherryl here? If not, Dee Larson followed by Dorothy Buck.

MS. LARSON: Good evening, once again I'll make this short and sweet. I support this project. My reasons are: one, the village is compatible to the neighborhood, inclusion of business and homeownership, feasibility of being able to walk to work and run errands literally or right a bike to and fro, architecture is old plantation style, low-key impact, unobtrusive layout

of village with unobtrusive parking, convenience, practicality, eco-friendly, fuel efficiency--excuse me--fuel efficiency such as solar and also they've been composting the grub on site and this helps our land, our local landfills. It's, it's a neighborhood family orientated little shopping center and it takes cars off the highway. It's really nice to have the convenience of a neighborhood locally run and business gathering place where we can share and talk story while seated on benches along walkways and open air, little coffee shops, and little restaurants and markets along with other small business. The small business commercial village will serve as an attribute. One can walk from the beach, get some grinds, and back in the water. Convenience and time. What can I say? Thank you.

CHAIR ARAKAWA: Thank you, Dee. Dorothy Buck. Lee Guthrie.

MS. GUTHRIE: (spoke from the audience) I'm going to decline, Chair.

CHAIR ARAKAWA: Okay, Lee's declining. Patrick Ryan followed by Darrell Murphy.

MR. RYAN: Aloha, welcome. Thank you for coming. My name is Patrick Ryan and I live in Ka Ono Ulu Estates. Welcome to Kihei. Thank you for scheduling the meeting here. Now, do you remember how large the parking lot was when you came in to this location? Their proposed parking lot for a walk-to facility is larger, larger than where you parked tonight. Upfront, I wish to express my strong opposition to this rezoning request. This five-acres should not be rezoned business. It should remain residential as certified in our purchase documents. In fact, it should be redesignated residential in the Kihei-Makena plan. In the interest of time, I refer you to my May and August letters. These letters summarize the situation. They are attached to this statement, which was distributed to you--actually, it was placed in your binder for tonight. The attachments to the earlier letter are in your LUC binder by chronological date. The other point about the parking, walk-to neighborhood facility, there is no way to walk to this project without crossing a scheduled major road. The north-south collector and the proposed upcountry road. There is no way to walk here without crossing a major road. Here we have a proposed commer., B-2 community commercial development documented by the Maui Planning Department as not needed and overwhelmingly rejected by established residents. They did have a--we didn't have a choice. We just heard there were people coming in saying, oh that's not so bad, that's going to be over there. They have a choice that's wonderful, that's a beautiful part of smart growth. Make it a planned facility instead of a residential community. I'm not against smart growth. In fact, the development Kahului Maui Lani appears to be an excellent example, excellent location for such a commercial unit within a to-be developed community. The nearest commercial location there is one and half miles from the development gate. This distance increases as the development builds homes inward from the front gate and there are no

other services in any other direction. Contrast that with this rezoning request. We are surrounded by commercial services: Kihei Gateway Plaza, quarter mile away; Safeway complex, three quarters of a mile; the 88-acre Rice project directly across; Suda store, Azeka Place, et cetera, et cetera. And do not confuse, again we hear a blending of benefits that are already cast and approved, the bike path, the--

CHAIR ARAKAWA: Can you tie up in about a minute or so?

MR. RYAN: Yes.

CHAIR ARAKAWA: Thank you.

MR. RYAN: And the what-have-you that are not dependent on this project and remember we have--wetlands was one of the reasons the park was rejected, that doesn't change. The CC&R allows commercial subject to the approval of the government agency and that's why we're here to ask you to please reject this request. Thank you.

AUDIENCE: (Applauded).

CHAIR ARAKAWA: Thank you, Patrick. Darrell Murphy followed by Carol Boylen.

MR. MURPHY: Hi, my name is Darrell Murphy. I want to thank you all for coming here tonight and those of you who came last night, everyone here who came last night. The plan as it's presented is, is beautiful. I mean it looks nice. My major opposition in the beginning to this thing was that I didn't want a gas station in my neighborhood. I'm really happy that he's agreed to pull that out but we have no guarantee that someone else won't put one there later once we, the zoning has been approved that someone else could come along decide a gas stations a good place, you know, good place to put one. But if you're cutting down on the amount of cars coming in which he said was his main idea, why would you put a gas station there in the first place if you don't want cars coming there. And, and when you're doing smart growth and developing a community such as Wailea or whatever, a beautiful well developed community, you don't see gas stations there, you don't see office buildings there. There's certain things you want in your neighborhood, certain things you don't. I bought into that neighborhood. I spent ten years living on South Kihei Road, putting up with the traffic, all the commercial stuff that's down there. I wanted to live in a neighborhood where that wasn't happening. I bought into a neighborhood that I had conversations with the Design Committee, the Landscape Committee, the Betsill brothers, each of them individually to find out what this neighborhood was like and, and how they were working to improve it before I purchased my home. I had done my research. Never once did anyone say if you really love the community now, wait 'til we put in our five-acre commercial complex you'll love that,

you know, you'll have your dream home right behind the mall. Nobody said that. So, although I think it's a nice development, I think the artist rendering is nice. I've never seen anything built on this island that looked anything like the artist rendering. There's nothing here on this island that looks as good as that and that isn't going to look as good as that either. It takes a long time for trees to grow, landscaping, irrigation doesn't happen the way it's always suppose to. I just feel that with all the other things that are around our neighborhood, the Gateway Center, all these things. This is a nice development. It's a good idea but we're not developing Wailea, we're developing a couple of blocks in an already existing town, so it's really not necessary. So, I feel there's enough commercial area in our neighborhood to serve the people in that area. If you go down to Azeka's right now, you'll find almost 50 percent empty stores in that place. So, you know, we don't really need anymore commercial stuff here in Kihei and especially in this neighborhood. So, I'm asking that you do not approve the rezoning.

AUDIENCE: (Applauded).

COUNCILMEMBER TAVARES: Wait, Mr. Chairman.

CHAIR ARAKAWA: Charmaine. Patrick, I mean, Darrell. Sorry.

COUNCILMEMBER TAVARES: With the removal of the gas station you're still against the project?

?: (speaking from the audience) Yes.

MR. MURPHY: I feel it isn't necessary. I appreciate the removal of, the removal of the gas station.

COUNCILMEMBER TAVARES: I'm sorry, I'm asking him the question, please.

MR. MURPHY: Yes, with the removal of the gas station I still feel it is not necessary because we have plenty of other commercial stuff around the area that we could go to.

COUNCILMEMBER TAVARES: Yeah, and just for your information. If it were that the gas station was the problem, we would write a condition that there would never be a gas station there.

MR. MURPHY: Well, that would be wonderful.

COUNCILMEMBER TAVARES: So, that would be a condition of zoning. So, you wouldn't have to worry about somebody selling it and then somebody else putting in a gas station.

MR. MURPHY: But that, that would be nice if that, if that would happen.

COUNCILMEMBER TAVARES: That's not the only contention. So, thank you.

MR. MURPHY: Yeah.

CHAIR ARAKAWA: Okay. Thank you, Darrell. And for those of you that are in the audience, you know, I would really appreciate it if you'd be courteous to everybody. This is a public hearing and both sides, everybody should have their say. So, no ruckus in the background please. Carol Boylen followed by Patricia Berry.

MS. BOYLEN: Hi, my name is Carol Boylen. I'm a resident of Ka Ono Ulu and I'm against this project for all the reasons everyone has already said. I'll save the time by repeating them but I bought in knowing that it's all going to be residential and now they want to change. They call it smart growth. It, it's not what we bought into, you know, how can you just change. I think it will increase our traffic if there's a bar or a lounge or a restaurant, people are going to be coming into the neighborhood to go to this facility and it's just not a good idea for our residential community. Thank you for coming here.

AUDIENCE: (Applauded).

CHAIR ARAKAWA: Thank you very much. Patricia Berry. Linda Murphy. Geraro [sic] Mazzacano. Close?

MR. MAZZACANO: Terrific. Gerard Mazzacano. The last name is usually the toughest. Thank you for the opportunity to speak. About ten years ago, my wife wanted to take a trip to Hawaii and I'm not going to go wondering around I said no way I don't want to go. She talked me into it, twisted my arm. We came to Maui visiting and I fell in love with it and I said, you know, when I retire I want to move here. I worked for the Philadelphia Electric Company for 35 years. I've seen the problems that they've run into with generating when they were just building things without any preplanning and I know you're talking about that down in another area. I, I've also been a volunteer fireman for 25 years back in Norristown. I moved from Philadelphia because we had those corner stores and they were nice but they were too expensive. We had all concrete, cement, macadam, no grass, no this or that. I moved from there to Norristown when I got married. We did away with those corner stores; we went to the malls who is a lot cheaper. I don't want to see corner stores here. They may be convenient to get maybe milk or bread but you're going to pay an arm and a leg and another thing you're talking about walking to them. Have you ever watched the traffic on Ka Ono Ulu, 20 miles an hour is 50 miles an hour. I don't want to see kids walking to a store there, someone's going to get killed. The reason why I mentioned about the Fire Department too is I, the water is still a concern too, and I don't know which would create more of a water problem. And I, I don't

use reclaimed water on a house, I'm sorry. I don't think I would move back into a house after it's been fused with, you know, the fires been doused with reclaimed water. Yeah, I, I really, I am totally against the development of a commercial unit there even though there are promises that there will not be a gas station there. I thank you for the opportunity. Thank you.

AUDIENCE: (Applauded).

CHAIR ARAKAWA: Ernestine Hedrich. Dick Kiligian followed by Dwayne Betsill.

MR. KILIGIAN: Yes, I'm Dick Kiligian. Actually, the name is Kiligian. I just wanted to make this short and sweet and say yes I agree with everything that, that Susan said. But I also wanted to point out that when we moved in Ka Ono Ulu in 1998, my wife asked Steve Betsill what are you going to do with that extra property over there and he said, well we haven't made up our mind yet, he said, but we're, we're leaning towards having a horse stable and a park and my wife says, hey that's great, that's really good. Well, you can see what's happened since then. Thank you.

AUDIENCE: (Applauded).

CHAIR ARAKAWA: Thank you. Dwayne Betsill followed by Joseph Scherung [*sic*].

MR. DWAYNE BETSILL: Dwayne. Good evening. Just real quick. Just wanted to simply say the Mayor has appointed a task force for smart growth. The County is sponsoring, helped co-sponsoring a smart growth conference here in October. We're trying to implement against a small amount of opposition. We have a large solid majority that has not come here tonight but we just want to encourage you to allow us to do a smart growth principle community. Thank you.

AUDIENCE: (Applauded).

CHAIR ARAKAWA: Thank you. Joseph followed by Jim Peterson. Pronounce your last name for me.

MR. SCHERLING: Scherling.

CHAIR ARAKAWA: Thank you.

MR. SCHERLING: Joseph Scherling. I'm just in favor of this. I'm a Betsill employee. As you know Betsill employees probably would be in favor of this, it's a given. Recently, I was blessed with a home through Betsill in a community here in Kihei next to Safeway. I'm kind of nervous. It's close to a shopping center, that's a big thing I believe is important. We, me and my wife thought about buying a lot there in Ka Ono Ulu but there wasn't a

store close in walking distance so we, we decided not to do that. I believe that's one of the important things there and so I'm just in favor of it. Appreciate it.

AUDIENCE: (Applauded).

CHAIR ARAKAWA: Thanks, Joe. Jim Peterson followed by Sherri Dodson.

MR. PETERSON: My name is Jim Peterson and I've lived in Kihei since 1985 and I also am a Betsill Brother employee and, of course, I favor this project. But there's many reasons why and I've heard `em all tonight and I agree with them. One of the most important I think is that, really building a house right alongside that highway is, is not very safe. It's kind of dangerous. I wouldn't want my kids playing in the backyard and maybe a car go out of control and crash through my fence. So, I think the fact that it's a buffer, that a commercial center is probably the only logical development that can go there in that area and by the way, the drawings are beautiful and I think it would be nice to have a good-looking shopping center. It's close to my home and I would use it. Thank you.

AUDIENCE: (Applauded).

CHAIR ARAKAWA: Thank you very much, Jim. Sherri Dodson followed by Que Martyn.

MS. DODSON: HI, I'm Sherri Dodson. I'm currently the president of Ka Ono Ulu Estates Homeowners Association but I'm not here on behalf of Ka Ono Ulu Homeowners Association. I'm here on behalf of my home, which is 500 feet from the proposed project. I lived too on Kihei Road for 25 years, a half a mile from Foodland and a half a mile from Star Market and I can assure you I never walked to either one of those places. If a project comes up in my community now I will not walk to it either. I work during the day, I drive home from work, and that's when I pick up my groceries. I'm not going to stop at a convenience store to pick up milk and bread. I walk my dogs every morning along Ka Ono Ulu Road and cars travel anywhere from 40 to 60 miles an hour down that road. That road is right behind my home. I hear the cars down that road. I'm not going to cross it and I'm certainly not going to expect anybody in my community to take their children and cross that road to get to a store. It's going to be extremely dangerous. I know as Piilani Highway and Kihei Road get busier more people are going to use our roadway, Ka Ono Ulu Road, to get from one spot to the other especially when, if there's a proposed highway from upcountry then the traffic is going to get worse. The majority of the homeowners are on the other side of Ka Ono Ulu Road. We're going to have to cross that road to get to anything on that side and we're not going to do it, it just too dangerous. I've, I've tried in the mornings when I'm walking my dogs and I'm not going to do it. The cars come barreling up there and if we put a commercial project in there it's

going to get worse. The cars are going to go faster up that road to get up there or to come down from the project. So, I'm strongly in opposition of the project. I would like to see it stay residential. I think that Maui is in desperate need of affordable housing. This is my first home that I've owned and it took me a long time to be able to afford it and I specifically wanted a community that was residential. Because I had lived on Kihei Road for 25 years, got to the point where I could not come out of my driveway to turn left on Kihei Road without waiting 20 to 30 minutes for the traffic. So, when I was researching my new home it was really important to me that it be a residential area. That my neighbors were homeowners and not a commercial. So, I ask you please don't rezone this area. Thank you.

AUDIENCE: (Applauded).

CHAIR ARAKAWA: Sherri, I'd like to ask you a question. As president of the association, earlier Susan had showed us the, a map of all the area, all the residences depicting who approved the project and who didn't. Were you part of that group that got all of those approvals or disapprovals from the neighbors?

MS. DODSON: I think as Susan pointed out too, the Homeowners Association was under the control of Betsill Brothers up until June of 2001. At a meeting at that time, they pulled out their empty acreage into another subdivision, so that we for the first time since 1992 I think it is, are in control of our homeowners association. Since that time we have had one meeting. We could not get quorum at that meeting but there were 40 people there, approximately 40 people at that meeting and every single one of those people voiced opposition to the project. They were told to come here tonight. I think they showed up last night and wanted to testify but we as a homeowners association have not gotten organized enough to poll anybody because we just got control of the association just a few months ago.

CHAIR ARAKAWA: Okay. Thank you very much.

AUDIENCE: (Applauded).

CHAIR ARAKAWA: Que Martyn followed by Jerry Stowell.

MR. MARTYN: Hello, my name is Que Martyn. I want to thank you for coming to Kihei again. I wanted to comment about the, about the traffic plan that was, that was done actually twice for this project. The first time, which was, which was an update to an old 19.., I think 1988 plan that we questioned and as a result a new plan was done. But the, you will find that your departments who are allowed to comment on traffic reports will comment only as to the conclusions of that traffic report. There's a major flaw with, with, with the system that the County, whereby the County

allows a developer to, to . . . allowed to, to dictate to the people doing the traffic impact report what criteria they should be using. It seems that there's no overriding County controls over the, what we feel is major abuse, for example, the traffic report refers to a complete build out of Horita's project including the wetland zoned portion. Now, that was then this is now. In today's society with the wetland Federal laws, there is no way that you could build a complete build out on that portion. That's just one example. Also, the traffic report assumes a complete build out of all of the roadway systems and I actually believe even the gulch and so, and so, they compare, they're not comparing apples and oranges compared to today's, today's society and today's State laws, County laws and Federal laws. I also wanted to sort of bring up an issue that that I think is real important for this, for this change in zoning request and this is, this is the Anthony Ranken case. We are asking that this parcel not only be denied for a change in zoning but that the Council strongly consider a redesignation of this parcel back to its original zoning. In the confirmation hearings for the Anthony Ranken case, Kalani English who was the Chair at the time, he asked Ms. Cairns of Corporation Counsel to comment on whether or not they could, that they had to follow the community plan or not. This is what she said, Chapter 46 is a State law of the Hawaii Revised Statute and it gives the Counties powers to zone and with that authority is the mandate that the zoning be done in accordance with the general plan. The community plan, plans are a part of the general plan according to the Maui County Code. This community plan is to be used as a guide only. It is not a rubberstamp approval for a change in zoning. I'm sure you're all aware of that. Another thing I wanted to point out is **(change of tape)** . . . since, since the last meeting a lot of reading as to smart growth principles.

CHAIR ARAKAWA: Que, can you tie it up.

MR. MARTYN: Yes, I will and I think if you take a close look at smart growth principles there's certain things that must be in place in order to implement smart growth. One of `em that is, that is, that underlies everything is, is sort of a harmony that must exist between the developer and the people in the community. I think if you poll the people in Ka Ono Ulu you'll find that there is pretty much no harmony whatsoever between the people and the Betsill Brothers. And I don't say that as a personal attack, I'm just saying that you can't just stand on the outside and rubberstamp smart growth into this project and talk about bringing the community together when you're not a part of the community. So, if you're going to, if you're going to approve smart growth I think what the Council should do is make it mandatory on developers to follow certain guidelines. Some guidelines include walkways, walkways for people to go there, parks, community centers. The community center was sold out to a church. Okay, we have no sense of community in our subdivision. So, I'll just leave it with, with that and thank you very much.

AUDIENCE: (Applauded).

CHAIR ARAKAWA: Thank you, Que. Jerry Stowell followed by Steve Betsill.

MR. STOWELL: Hi again, boys and girls. I just talked to you a while ago. My name is Jerry Stowell. I too, like Betsill believe in smart growth only his definition and mine differ slightly. I think they should have turned the five acres into a couple of nice soccer fields that will give us a nice buffer. Put some trees around it, some sprinklers, flatten it out and then that would give some place for the kids to go. Put a bridge over that ravine, widen Kenolio all the way down to Suda's, put a nice bike path in there--the kids, that will give us a north-south connector road. The kids can go all the way from North Kihei, all the way from Suda's to the store on their bikes. And put an overpass on Ka Ono Ulu because when they connect that to upcountry the cars are going to be going through there a zillion miles an hour and I'd like for the kids to be able to get across there to go to the Safeway, to go to school and everybody else can drive down there. It will take pressure off South Kihei Boulevard and the Piilani Highway. So, I believe in smart growth but I think the center is already built, we just need to be connected to it. Thanks a lot.

AUDIENCE: (Applauded).

CHAIR ARAKAWA: Thank you, Jerry. Steve Betsill followed by Heather Norman.

MR. STEVE BETSILL: Thank you very much. I was going to decline but, you know, one thing I hate is lies and deception and they seem to think that we've done that to them in many times in the things they've said. But I, as I listened, I took notes of lies and deceptions that I wrote down and as I saw `em they signed papers. It says the declarant has the right to change it to commercial or do the uses that he wants; yet they say they didn't see that. I have 51 homeowners that were signing up for the new subdivision and everyone of `em read their CC&Rs and they review `em and they see what's in `em. Why did these people not take the time to read their CC&Rs, I don't know. Seems to me if they had read their CC&Rs they would know what they were buying in. They keep saying we bought into this. We bought into this. Susan brought up on 4L that you have before you and if you'll look at that 4L you'll see on the right hand, on the left hand side of that it says, residential lots, on the other side it says, proposed residential lots. That means there's a proposal there made by somebody but it may not be followed through but then it says the declarant has the right to do what they want with that property. So, proposal and he has the right to do what he wants. We, we turned the, the association over to them because we had the number of votes to make quorum every time. We turned it over to `em, this lady says she's the president. Yet, I just had talked to one of the people out here they said they don't have anybody, they're just there temporarily. They have not elected their

officials except the Secretary, and the only reason they did is they needed a secretary to collect the, the . . . proxy's for their, their association. They can't even get their own association together now because nobody wants to be the president, the secretary, or the treasurer of their association. That's the reason we pulled it out was because the people we sold to in Kenolio and the people who are buying in the condos did not want to be a part of their association because they can't agree on anything. We came with a good proposal. We went to mediation with `em. We tried to work things out. We gave up a, the first thing we gave up was the car wash that was a problem, then we gave up the gas station. They can't agree on anything and they come here and, and put this up. I'm saying we have put a good proposal together. We have talked to the community. I went out personally with my family and got--you've, you've seen the, the, the pile of, list of people who signed the document. They say that's not worth anything but these are people in Piilani who are right next to this commercial, people in the condos down below, people that are in condos around, people in the community. This is a community thing. This isn't just 3 to 10 to 20 people that can voice their opinion and say that they represent somebody. They do not. Even at their own association meeting people called me the next day and said they couldn't agree and that they were telling, why don't we get onto the issues at hand which are our subdivision? Why don't we clean up our lots? Why don't we do this or that? So, I'm just saying we have, we have gone before them a number of times. We have talked to the community. There are a number of people--and those you asked the question about was she a part of that taking of the list of who were against and who were opposed. If you look at that, that Susan also put up, the gold, the gold ones represented people who didn't vote also. So, if they didn't vote they just assumed that they were against it. So, I mean we can use any number of statistics we want but the statistics would show that the overall community--all the way down to the baseball park that I used to be a coach at--that people want things like this to happen and we are trying to do that. So, I just want to conclude just this one last thing. Parking, if we put in the condos that we're doing we'll put far more parking. You all know that, that's a sensible thing you put in 280 more units that's 560 parking plus guest parking, that's more than it will ever be. So, I'd just like to say these, these are my list of things that were incorrect. I didn't go through all of them because of time. Thank you very much for your time.

CHAIR ARAKAWA: Thank you, Steve. Heather Norman followed by Erna Medina.

MS. NORMAN: Hi, thank you very much for your time. I just bless you for being here, and I'm a homeowner in Meadowlands and I think that this plan is an excellent--

CHAIR ARAKAWA: Can you speak a little bit closer to the mike?

MS. NORMAN: Oh, I'm sorry. I'm tired.

CHAIR ARAKAWA: Thank you.

MS. NORMAN: I think this is an excellent plan. I think that this is smart growth. I think as a homeowner I would like to have this closer as opposed to residential, more condos, more houses. Just a few streets, I'm just a few streets over so I think this is a really smart plan. I think it will be good for the community and I just thank you for your time.

AUDIENCE: (Applauded).

CHAIR ARAKAWA: Okay. Thank you, Heather. Erna Medina followed by Kelli, and I can't read your writing for your last name.

MS. MEDINA: Oh, I'm sorry it's cold in here. My name is Erna and--

CHAIR ARAKAWA: You have to speak closer to the mike.

MS. MEDINA: Oh, sorry. I believe I'm the closest 'cause I live directly across the commercial site. I, since the construction we already have been robbed. Our street we change our mailbox like three times this year, I mean ever since January. I don't know why they come to that neighborhood. So, I, I do believe that when the commercial is there, there's going to be a lot more kids that's going do those things. I also have two little kids. Right now, they can play in the neighborhood, I mean right in front of our garage but I don't know if they can I mean they will be able to do that when we have that major road that's gonna open up. And I definitely opposed to the commercialization of that neighborhood. Thank you.

AUDIENCE: (Applauded).

CHAIR ARAKAWA: Thank you, Erna. Kelli followed by Joyce Downey.

MS. PEEK: I do have a prepared statement but I would like to say a couple things. Steve Betsill--

CHAIR ARAKAWA: First give us your name.

MS. PEEK: My name is Kelli Peek and I live within a hundred yards of the proposed development, 183 Hoopili Akau. Steve just addressed the homeowners association and most of us are not involved because as usual in the past we have not been informed of any meetings, I'm sorry, any meetings at all. And we have been informed it's been either that evening or the following day and we can't get babysitters or whatever. So, I think that's unfair, Steve. Doyle, I'm appalled that you would bring religion into this issue. My grandfather was a developer for years and

years and he was a minister, and for you to bring Montessori into this is really bad.

CHAIR ARAKAWA: Okay, Kelli, I'm going to ask you to speak to the issue, not to the people.

MS. PEEK: Okay, I'll read my statement.

CHAIR ARAKAWA: Okay. Thank you.

MS. PEEK: Dear County Council Members, I would like to thank you for hearing our request. My name is Kelli Peek and I reside and own a home in Kihei at Ka Ono Ulu Estates. I have lived in Kihei for 16 plus years and in this time, all I have seen is growth. I have no problem with it. I for one think growth is very healthy. What I have a problem with is simple greed. And again, as a daughter and a granddaughter of a developer and in my life time I can assure you what my family has done has always been put to a vote to the general public and agreed upon. Never have I seen the total disregard for a community. We live at 183 Hoopili Akau less than a hundred yards of the proposed strip mall or gas station. I can't really believe that we would grant commercial zoning for this community. We have at least five gas stations and malls within one mile. Does Kihei need another? Do we need the extra-added traffic? I know this is being worked on and I applaud your efforts but let's face it another strip mall will make it where, where is the benefit to the Kihei community. I would like to address the fact that the Betsill family no longer resides in the community, hooray for them if that's what they choose. I know where the Betsill compound is and it's beautiful. Right next to my general manager of the company I work for.

CHAIR ARAKAWA: Okay, Kelli, can you finish up.

MS. PEEK: I will quickly read this. Let's just for--imagine a strip mall near where they live. How would they like that? Doyle Betsill, imagine there's a gas station or mini mall adjacent to your property and your children are outside just running around and having a good time and all of a sudden somebody decides to rob them all because they're on drugs and the quickest escape [*sic*] route, escape route is through your neighborhood. Imagine your child being run over or gun down while innocently playing. It does happen here, as much as we would like to deny it maybe you'd think about that again. We all know that drugs and crime are hand in hand and we don't want to accept the fact they are prevalent in our neighborhoods but they are and I don't want my 19-month-old daughter to experience the travaties [*sic*] travesties of life at such a young age. Traffic again is the hot topic. Again, we are trying to, to fix the traffic. I can sit on my lanai and watch it, they sit for 20 minutes, but I am vehemently opposed to this project in Kihei. We don't need it. We don't need another mall. Look at

all the retail space that's, that's empty. We just don't need anymore. Mahalo for your patience.

CHAIR ARAKAWA: Thank you very much.

AUDIENCE: (Applauded).

CHAIR ARAKAWA: Joyce Downey. Is there anybody else that wants to sign up to testify? If not, Joyce.

MS. DOWNEY: Okay, I live in Ka Ono Ulu--

CHAIR ARAKAWA: Speak into the mike.

MS. DOWNEY: --which is very difficult for me to say but I wanted to say to Steve Betsill that out of our homeowners meeting, I was one of the people that counted the votes. He didn't win but we were already told that he was going to be on the board so that's how he got there. Anyway, beside the point, our residential area is rated R-1, that particular corner is rated R-1. It is not giving us apartment houses. It's giving us residential. If they want to build apartment houses in the next two acres that's okay with us but that particular corner is rated R-1. We don't have to put up with a gas station or any kind of complex. I didn't say I was opposed to a gas station but that's not the problem. We shouldn't have to have any kind of complex there, we should have homes. I sold that lot to the Betsill's and when I sold that lot to the Betsill's they told me it was going to be homes. I would never have sold it if I had known that we were going to have to go through all this conflict of having it be some kind of shopping complex. I didn't move into Ka Ono Ulu to have a shopping complex on that corner and I pray that you will please listen to the people that have voted against it. All the people here that have voted for it are either Betsill employees or brought here by the Betsill's. All the people that were opposed to it are all people that live in Ka Ono Ulu. Please listen to us. Thank you.

AUDIENCE: (Applauded).

CHAIR ARAKAWA: Thank you, Joyce. We had, Kenny Barr submitted testimony, written testimony, and because he didn't make copies, I'm going to read it to you. I think you should side with the neighbors in what they want in their neighborhood or what they want their neighborhood to be. There certainly is enough commercial space available in Kihei. If you do, do decide to rezone, why not condition it to have no parking spaces. Use all the parking area as open space grass, that way it will truly be a neighborhood small [sic] or neighborhood mall where the only access would be a pedestrian bike lane and it will prevent more traffic on and off the highway into the neighborhood. If the developer truly believes it's for a neighborhood then by having it only accessible by the neighborhood through a pedestrian like [sic] path is a win-win solution. I make this

suggestion only if you plan to approve and the condition must be run with the land in case of a sale for the property.

AUDIENCE: (Applauded).

CHAIR ARAKAWA: Okay, that was the last testimony. If nobody else wants to testify, we're going to close testimony.

. . . END OF PUBLIC TESTIMONY . . .

CHAIR ARAKAWA: And at this time, I'm going to take a five-minute break. So, we're going to do a short five-minute recess. (gavel).

RECESS: 9:45 p.m.
RECONVENE: 9:53 p.m.

CHAIR ARAKAWA: I'm going to call the Land Use Committee back to order. (gavel). Members, at this time, most of you are familiar with this project. Do you have any questions that you want to ask of any of the presenters or the Department? Charmaine.

COUNCILMEMBER TAVARES: I wanted to ask Susan when you did your little colored map of the residences and which ones were for the commercial or for residential, when was this done? See dates are missing on almost all of the documents. It's hard, it's kind of hard to tell.

MS. MOIKEHA: Okay. Susan Moikeha. That was done in March '99. I believe, it was early '99 and it was presented to the Department of Planning at its February meeting which was I believe deferred. So, I think a record would be in their report. As to when they received it, I believe it's in the addendum report June 1, '99.

COUNCILMEMBER TAVARES: So have you or anybody attempted to poll the community now?

MS. MOIKEHA: What we did following that 'cause I think our next Land Use meeting was August 14, 2000, is that whenever there was information about the project coming up we would send out flyers. And I do remember on one of those flyers and maybe Pat can confirm if another flyer also had this information was that, if you had participated in their survey and you would like to change your vote please contact us. And we always included phone numbers on that.

COUNCILMEMBER TAVARES: Thank you. My next question is for Doyle.

CHAIR ARAKAWA: Doyle.

MR. DOYLE BETSILL: Hi, Doyle Betsill again.

COUNCILMEMBER TAVARES: Thank you.

MR. DOYLE BETSILL: Thank you.

COUNCILMEMBER TAVARES: Likewise did you attempt to survey the community after the mediation?

MR. DOYLE BETSILL: We discussed it, Charmaine, but we didn't and the reason was, you know, we had, we had hundreds of signatures on petitions that we gathered in the course of only about three days in support of our, our process. There was this conflicted survey which I do know that in, in on that survey, for instance, there were several households where one person was for it and one was against it and they universally marked `em against. But we felt that the time was past for surveying just this one particular neighborhood because this is only one part of like I say hundreds of people that live around this, this, that surround this neighborhood. And, and we felt that the surveys were all done kind of like whoever was doing the survey implied, you know, presented the survey in a form that, that favored their particular survey. So, we thought that it was a biased process. We thought it was best just to go with the information at hand.

CHAIR ARAKAWA: Any further questions? Okay, Susan, I have a question on the--oh, Wayne, you have a question or Mike? Okay, go ahead, Mike, you're first.

COUNCILMEMBER MOLINA: Hi. Actually, my question was--well okay, I guess I can say this for you, Susan. Susan there's been a lot of allegations made about notification of meeting with the developers. Can you elaborate on that? I know it's been said that there was not enough notification. The other side seems to be saying that there was ample notification made. Can you elaborate a little bit more on that?

MS. MOIKEHA: Susan Moikeha. As I had mentioned in my presentation, our first notification came by way of the Department of Planning prior to the January 26, 1999, first public hearing. So, that would have been sometime in October of '99 that they received, within 500 feet, formal notification. We received no notification prior to those two years, before the time when Betsill bought, the applicant bought into the subdivision. There was a meeting after receiving a number of calls to Mr. Doyle Betsill, to our great surprise as to what was being taken, was going to take place. He held a meeting at the Kihei Youth, Youth Center in October 26 of '99 where he sent out notice to the community residents. This was the first meeting we had had with the new developer even on a level of a

homeowners association. We had never met with them since they bought the project even though the by-laws require annual meetings. So, we never met with them until that point. There were about 30 in attendance. I'd say maybe ten were of the Betsill employees and family members. There was a great deal of discussion about the homeowners association and covenants that weren't being kept. There was a presentation presented similar to what you see here tonight by, by the Betsills promoting their project. Many questions from the audience with a conclusion response that they would get back to us, we never heard from them again until January of 1990 [sic] of 2000. They sent out a letter again proposing their project. We went to the Commission, January 26th of 2000, I'm sorry, '99, that would, that would be '99 and then at the conclusion of that, it was deferred. They were being requested by the Commission to go back to the community and discuss usage in the community. There was particularly two commissioners that, that remarked that if there was going to be a gas station they were going to vote no right there. So, they asked us to, asked the applicant to go back to the community. A meeting was held here in this facility. Again, I would say the average attendance of these were probably about 20, 30 people from the community along with the applicant's entourage and they again tried to mediate with Mr. Hart, Chris Hart. They would not allow us to discuss the usage of the carwash and the gas station--oh, I'm sorry--the gas station. They wouldn't allow even discussion of it. At the conclusion of that meeting, I raised my hand to Mr. Takase and to Mr. Betsill and I said what about the gas station and they said, we already know how you feel about it and as a result of that conversation, they indicated that, that they weren't going to allow us to discuss it at all. And on my comment to that, you know, we have new people here from the community that know nothing, I think you should give them the opportunity to have input. They refused input. They went back and sent a letter to the, to the Department of Planning and indicated that we had discussed the gas station and that we were accepting it as a usable, as the business use in this area that is in there.

COUNCILMEMBER MOLINA: Susan, thank you. Thank you. I think you've more than answered my question.

MS. MOIKEHA: Okay. Thank you.

COUNCILMEMBER MOLINA: Appreciate it. Thank you. Okay, Mr. Chair.

CHAIR ARAKAWA: Susan, if I can get you to answer a couple questions. We've gone--the last mediation meeting that was there I went to and the groups were supposed to get together and try and work out some kind of agreements and consensus. Almost nobody showed up to that meeting, very few residents. In trying to understand what the neighborhood is and how the neighborhood is feeling and what the emotions are, I sort of get the sense that since the gas station and the car wash are out, most people

are fairly indifferent one way or the other. And yet, there are still some people that are very strong but there is nothing that I can see that would verify this one way or the other. Do you have any kind of documentation or any kind of survey of the community that would show that people, since the gas station has been taken out and that's, you know, fairly recently--

MS. MOIKEHA: Okay.

CHAIR ARAKAWA: --how they feel about the, this development, the commercial area.

MS. MOIKEHA: Okay. First, notification for that meeting was one week's notice. We received notice in the mail like on a Wednesday and this meeting was to take place on a Tuesday. Very short notice in my opinion. I think that's one reason it contributed to that but you have to understand too and I know you're familiar with this. You get a community and there's always going to be a core group but we, we took this to the community. We want this survey we did. We went to each house. We tried to inform them. We tried to ask them for their input into this project. I, I would say of all the meetings that we've held, the majority there have always stated they we're against this project whether they identified the gas station as the problem or other issues, they were always majority, against it. We have not done a survey since then. We, we have not polled the community that is true and neither has the Betsills. Mr. Betsill's petition he talks about occurred 1999 as well, 400 signatures majority outside of the community. So, you know, to me the survey was something that I thought was, was fair. I mean it addressed both concerns of this project, pro or against it and asked for your input into it. But I think in a community like that you have to do that, you have to go door-to-door because a lot of people have conflicting schedules. They work two jobs. They have families. To get anybody to attend any kind of meetings is, is like pulling teeth to get them there but I, you know, this accusations that we are just a few three vocal people it's untrue.

CHAIR ARAKAWA: Well, again what I'm trying to get to is I'm trying to find out exactly or some kind of assemblance [*sic*] that we can say, well the community does feel this way or the community doesn't feel that way. And from what I'm hearing and from what I've been able to see so far in the newer versions of the project, I really cannot see where there's any evidence one way or the other on this particular thing where it's strong one way or the other.

MS. MOIKEHA: But there is no newer project. This is the same project that they presented in 1998 nothing has changed, except that--

CHAIR ARAKAWA: That service station.

MS. MOIKEHA: --they may have taken out the service station.

CHAIR ARAKAWA: Right, and that that was the sticking point as I understand it, when it came up before the Land Use Committee in the last term. The service station was one of, was one of the major problems. Is there--

MS. DOWNEY: (speaking from the audience) Most of the people don't think you care, that's why they aren't here.

CHAIR ARAKAWA: Joyce.

MS. DOWNEY: (speaking from the audience) I'm sorry but she's not answering your questions.

CHAIR ARAKAWA: In, and, and again, in trying to decide, you know, what's going on, it's really difficult at this point for me to understand exactly what's going on in the community. And whether we're looking at a housing project, we're looking at a business area that is really where the difference lies. So, it's whether the community wants a housing project or wants a business area and I'm trying to decide, you know, and that's what we're charged with is trying to decide where the community lies in this and what is best for that community. So, you don't have anything.

MS. MOIKEHA: I would say given the meetings that have been held through this process, given the three meetings that Mr. Betsill has held, the majority of the people in attending these were always against the project. And if, I don't know if that answers your questions but the majority were always against it. There was no majority for this project. There may have one or two individuals.

CHAIR ARAKAWA: Okay. Thank you. Dain.

COUNCILMEMBER KANE: Thank you and I have a question for Susan and a question for Doyle, Mr. Chair. So, if I can proceed?

CHAIR ARAKAWA: Go ahead.

COUNCILMEMBER KANE: So, I just wanted to confirm some information, Susan, that you presented. Exhibit 5C is a letter to Chairman Morrow dated September 9, 1996, and then your contention to this is that, the intent of the developer is located in the first paragraph which talks about the various--and I'll just read it. The new project would include parks, single-family subdivisions, elderly housing, church site, preschool site, multi-family, and a small commercial area. So, you're, you're contention is that they had the intent already to have all these various uses and the first time that you folks were notified of this is in 1998.

MS. MOIKEHA: Uh-huh. Through the process of the Department of Planning through certified notice within 500 feet and that's only a portion of the community not the whole community.

COUNCILMEMBER KANE: And the general objection or opposition that you folks have is based on when you're looking at smart growth concepts, that the major smart growth concepts is to engage, be engaged, the developer is engaged with the com..., with the community on its intent.

MS. MOIKEHA: Exactly.

COUNCILMEMBER KANE: Okay, thank you. Mr. Betsill, in your presentation you opened up using the words master planned community and you said it a couple of times in your, in your opening statements prior to getting into the specifics. My, my question is where, where did you arrive at utilizing this master plan community title? Where did that, is that something you came up with or is that something that is already existing in the plan that is before us?

MR. DOYLE BETSILL: That's a term I use, Dain, to, to describe our total concept because I think the pieces have to be all together for it to really function and work. We can't just talk about one segment, each part individually; we have to look at the whole thing. So, we talk about them, our master plan for that entire parcel.

COUNCILMEMBER KANE: When you folks came in to buy this property that you folks have were you folks also aware, and I think you did so I'm just asking for verification. When you folks came in your understanding was that it was an old suburbia type of concept of development and your intentions were to come in and do a smart growth concept. And is that something you had back in 1996, which is stated in that letter that was sent to Chairman Morrow in Exhibit 5C?

MR. DOYLE BETSILL: I, I think I want to say that, we were in the preliminary terms of, of exploring smart growth concepts and how they could be used in this particular community. Our awareness of the concepts has grown over a period of time. I mean there's been an evolution. We've, we've been learning, we've been studying smart growth now for five more, you know, five years since this letter, that original letter was, was written. And the concept has evolved and I think there's more than taking a gas station out. This is the third design of the commercial center and we had input from Harrison Rue and Alan Fujimori in this final design. Harrison said I want to try to bring you to a point where you're providing what the community as a whole has asked. So, actually this last design was a direct response to community input. You know, like I said earlier if there's going to be community input, there's has to be communication and, you know, you have to be, you have to be willing to dialogue and we dialogued

with hundreds of people but I mean there's a small group that it's been difficult to form that dialogue with.

COUNCILMEMBER KANE: So, along that lines, I think the original point that the opposition has to your project is that, the very dialogue that you're talking about you didn't engage or initiate when you had the initial intent to move forward with a smart growth type of concept to come into this community.

MR. DOYLE BETSILL: Right.

COUNCILMEMBER KANE: And so, that's the contention that from 1996 to 1998 which is almost two years, you folks didn't take on that that aspect which whoever you talked to they would consider as an important aspect of smart growth.

MR. DOYLE BETSILL: And, and I acknowledged that, Dain. You know, that two-year period--

COUNCILMEMBER KANE: I know you did and I'm asking you to re-acknowledge because it's a contention that's--

MR. DOYLE BETSILL: Right.

COUNCILMEMBER KANE: --being brought to this table for us to consider

MR. DOYLE BETSILL: We're guilty as charged but I mean, but I think what also we need to note is that, from the period of 1998 to 2001 over the last three years we've, we've had enumerable meetings and, and, and enabled the community to participate them in, in coming to some kind of solution that would make everybody happy. And we've, we've made moves that have moved towards what people were telling us at the time, it's like we were hitting a moving target. If, if the gas station--if the, if the car wash was the problem we deleted the car wash then all of a sudden it was the gas station. So, we took the gas station, it was the problem. It was the strip mall, so we brought the buildings to the front, came up with a whole new architectural and design technique.

COUNCILMEMBER KANE: Okay. Okay, the final point that I have is the Chairman has asked a question about if the existing neighbors who live in the Ka Ono Ulu Estates . . . the Chairman made a comment that he sees indifference since the, the gas station was removed. Is this the first time that your project has been presented in a public forum as far as the gas station being removed from the project, tonight?

MR. DOYLE BETSILL: The first, first forum since the mediation where we, we presented it at the meeting. We presented it in a letter to the community and then we, we presented it as, as an item of mediation that we were, that we're willing to discuss and we eventu., and after that mediation, we

decided to delete it. So, this is, so we've had a couple of preliminary meetings in regards to this.

COUNCILMEMBER KANE: And would you say that the people from the Ka Ono Ulu Estates subdivision were aware of the gas station being removed?

MR. DOYLE BETSILL: Yes. We wrote a letter to everyone in the community in regards to the mediation, asking them to come to the mediation and telling them that that was an item on the table that we were willing to listen to them about.

COUNCILMEMBER KANE: Thank you.

CHAIR ARAKAWA: Okay, just because I see a lot of people in the audience trying to raise your hands. At this point, the Council is the one asking questions so we're not going to be accepting your questions and your grilling of whoever, whatever questions we're asking. Just to set the record straight that's the, once we close the testimony the Council is going to be deciding and having discussions. Okay, any other questions, Council Members? Jo Anne.

COUNCILMEMBER JOHNSON: Mr. Chair, I just want to hear if the Department has any comments. They've been sitting here, you know, I'd just like to hear what their--they have no comments?

CHAIR ARAKAWA: If you have something specific that you'd like to ask them we can, if not the Department just wanted to sit by and listen to a lot of this. John, you want to comment?

MR. MIN: No. Actually again, we'll be available, you know, available to answer any specific questions. When this item was reviewed by the Planning Commission, it was almost two years ago and this project has, you know, gone through an evolution to the point that it is today. And I think the information that was presented earlier by both Susan and Doyle covered a lot of the ground of the issues that relate to this project. So, unless you have any specific questions I have nothing further to add.

COUNCILMEMBER KANE: I have a question for John. John, I guess a lot of the presentation that were given, the two presentations specifically that were given, they depended a lot with, with what was shown to us on the community plan. Are you willing to make a comment as to which presentation reflected more accurately what the community spirit or, or intent is?

MR. MIN: This was a question that came up I think when this item was first reviewed before the Planning Commission. In this particular instance, the community plan land use map--the designation for this property is

commercial and from our standpoint, it's a very clear policy. Now, in the text portion of the plan, there are various related policies but there are no policies in there that I can recall that are specific to this particular property. And I think you've reviewed many of the community plans and you have policies that, you know, cover transportation, land use, economic development. There are a number of different types of policies but I think the land use map is a very key part of the community plan and it provides very specific guidance in terms of land use and that is what has guided our review of this, of this request. Okay, now I realize that there are issues related to that but again within the context of this application, it's based upon the community plan and the designation is commercial on the map.

COUNCILMEMBER KANE: Can you help me understand the time frame between the original community plan and when it was adopted and this amended plan? As far as when the specific amendment was made based on a specific project request and therefore a community plan or a planning mechanism was put in place for a land use issue. Which by the way, Charmaine, I think is one of the main reasons why we have a problem in our planning process because we look at land use issues in a planning mechanism. So, maybe we need to talk about that later. I'm sorry--

MR. MIN: Yeah.

COUNCILMEMBER KANE: --so, I'm just looking at the time frame between when the original plan was adopted and the actual amendment was made to, from what it was originally intended for and--the business or the commercial written amendment.

CHAIR ARAKAWA: Okay, Dain, if I can help I will--

COUNCILMEMBER KANE: Thank you. Yeah.

CHAIR ARAKAWA: --because I was the Planning Chair. The plan was adopted with the map in there, however, the CAC when they first looked at it, it was not in there throughout the process until the Planning Committee put it in at the recommendation of the Planning Department.

COUNCILMEMBER KANE: Thank you. Thank you for the clarification.

MR. SUZUKI: We didn't recommend, we didn't recommend that the designation be changed at that time. The Committee changed that designation itself.

COUNCILMEMBER KANE: So, okay. So, thank you for clarification then, Daren. The CAC--

MR. SUZUKI: I'm sorry, yes.

COUNCILMEMBER KANE: No, thank you.

MR. SUZUKI: I'm, I'm trying to locate the Matrix right now but--

COUNCILMEMBER KANE: While you're doing that then let me, let me try and figure this. Now, it went through a CAC--this particular business change did not get reviewed by CAC, did not get reviewed by Planning Department, did not get reviewed by Planning Commission and only when it came before the Council was that amendment requested and changed at the Council level.

MR. SUZUKI: That's, that's correct.

COUNCILMEMBER KANE: Thank you.

CHAIR ARAKAWA: Wayne, was that correct? You, you remember that 'cause you were at the same meetings I was. (Silence). Okay, so any other discussion?

COUNCILMEMBER KANE: Your recommendation, Mr. Chair.

CHAIR ARAKAWA: I'm actually not going to make a recommendation on this one right now. I'm going to ask for anyone to make a motion. This can go any of three different ways. You can vote to deny or file the issue. We can make a recommendation to approve the project or failing to have a five vote for either one, it would be deferred until our next meeting and then we would make a decision with a full body.

COUNCILMEMBER KANE: Mr. Chair, I have a question for you.

CHAIR ARAKAWA: Yes.

COUNCILMEMBER KANE: Although, you made a comment earlier to let us know that both sides of this issue are asking for I guess closure in this as far as a decision tonight. A question that you asked regarding the indifference of the gas station and apparently the people who are going to be impacted by the change that was made. And in response to your issue would you feel it would be necessary to ask for a response from the people in the Ka Ono Ulu Estates that would resolve your question of, at this point you said, it's, it seems indifferent. But we don't have any updated polling done and each side thinks that the other side is doing a biased polling process.

CHAIR ARAKAWA: That's actually something I'm toying in my mind. So, I was asking--

COUNCILMEMBER KANE: Okay, so I'm just asking. I'm putting it on the table for you, Mr. Chairman.

CHAIR ARAKAWA: But, but if, if we did that, what I would do is I would look at 500 feet to 1000 feet around the entire project. But, you know, it's up to the Committee and we need to decide one way or the other what we want to do with this project. In my mind, as far as we're looking at either commercial or we're looking at residential, I'm not seeing any real clear cut difference in the community plan one way or the other and I'm not seeing any real cut, clear cut difference one way or the other with the residents. And I say that, because I have a lot of friends that live in this area as well. Wayne, you want to make a motion?

COUNCILMEMBER NISHIKI: No. No comment. I'm ready to make a decision and a motion.

CHAIR ARAKAWA: That's what I asked you. You want to make a motion; I'll accept the motion.

COUNCILMEMBER NISHIKI: Move to file the item.

COUNCILMEMBER TAVARES: Second.

CHAIR ARAKAWA: Okay, it's been moved and seconded to file the item. Discussion?

COUNCILMEMBER NISHIKI: I think it was clear that you had mentioned to us that both sides and, and, and I'm not choosing sides, want a decision made. But in lieu of testimony tonight, in lieu of what I've heard over perhaps six meetings when the project initiated from the last Council, I always side on the community. And in this, in this instance I've heard those that live in the area, those that are part of this development come out and voice strong objections to this development. Number two, when I look at the area that is most affected as was presented in testimony earlier by those that live within 500 feet, I see 100 percent objection to this project. And finally, when I look at the kinds of business areas that are around it and all I need to do is look right across the street in which many of the members here were part of that rezoning. I see an 80-acre parcel that can accommodate much of the kinds of considerations that a community would need. So, for this reason I made this motion. I will be voting to file the project. Thank you.

CHAIR ARAKAWA: Charmaine.

COUNCILMEMBER TAVARES: Thank you. Anybody who thought our jobs are really easy I think you're learning that it's not. My reason for supporting the motion to file was because if you remember **(change of tape)** this Council that dealt with this and it was through a discussion that I initiated that led to it being deferred in the first place. And the deferral was for the purpose of having the developer go back and meet with the community

and get some kind of resolution. Mediation was suggested and I think that if Mr. Doyle had outstanding support for the project, he would be here with that information. What's unfortunate about this is that from both presentations, Susan's and Doyle's, there are many flaws in each of those presentation and I don't want to take up time nit-picking what those flaws were. The number one thing that bothers me about the presentations in general is that, there is so much reference to smart growth and, Doyle, I know you're on the task force and was working with us to develop smart growth. The smart part about smart growth is that it is a consensus building process that everybody, the stake, all the stake holders are at the table to work out what they think smart growth is for their community. As we go through this process of determining what smart growth is for Maui County, we're going to have some general smart growth principles that will apply throughout then each community is going to take those and further refine it for their particular communities. And what I see is a further refinement of that and I hope that our next round of community plans will actually reflect in much more detail what each of the sub-communities or neighborhoods feel should be included in their smart growth plan. I think this is a wonderful project. It's the right kind of project. It's just in the wrong place and the wrong time. This is the kind of stuff we want to look for pedestrian scale. We've gotta fix some things about our parking requirements because they are required by law to have the number of parking spaces. I asked in that meeting--and it's amazing when you think about it some of the stuff that comes back to you--I asked in the meeting if it was legal? Could we make a condition that would reduce the number of parking stalls and the answer was from Corp Counsel as I recall, you cannot put in a condition that's contrary to a law. And from there, we were stuck but we incurred, well if you can live with--we can fight and support a variance, things like that. But I just think that unfortunately a project like this, which I think everybody would love to see happen, has to happen in an environment where people are agreeing that this is good for the community. And when it's right next to a lot of houses that wasn't there first and then the houses came around, it's a difficult decision to make to approve something like this with so much opposition in the neighborhood. And, you know, I, I want to applaud Betsill, Doyle, and your, your corporation, your company for trying to implement smart growth principles and objectives in your projects. I think you're one of the few developers in, on Maui that are proceeding this way and while I would like to support it as much as I can, I just don't feel that I can in this particular sense. I hope that we will see other projects that will come up like this to meet our needs. And also, the other thing is we just, you know, went through a mess with Makena Resort regarding the water and, you know, how do you say yes to one, no to one, yes to the other? I think we have to be consistent and we've got a serious charge. I tell you we've got to really take a look at what this water thing is doing and we have got to get to the bottom of it and not a study that's going to take two years. We've got to get somebody on this fast and we need to address this. This is a critical, critical issue. You know, I'm not saying the "m" word but if we don't give

out any more water meters that will be an "m" word. Upcountry had a moratorium on building for years. Did upcountry die? No, it didn't die. So, we gotta take care of these issues now and for the future. I'm sorry I rattled on so long but I wanted to explain what my position was. Thank you.

CHAIR ARAKAWA: Okay. Bob.

COUNCILMEMBER CARROLL: Charmaine said almost everything already so she didn't leave me much. But I've been involved with this project probably before many of the Council Members. It was something that I've been trying to work out with the community and with the Betsill's for many, many years. But like Charmaine said it's a process, which I've always encouraged from the beginning to where we would have mediation and get people together and work it out. It hasn't worked and I'm sorry to say it hasn't. The Betsill's have I'm sure done everything that they could and I'm sure Susan has done everything--her group has felt, feel that they have done everything they can in working together. But the bottom line is and I've said it many times on the Commission, the thing that holds the most weight is the communities desires and because of that, I will be supporting the motion to file.

CHAIR ARAKAWA: Dain.

COUNCILMEMBER KANE: Thank you, Mr. Chairman. I too, will be supporting the motion to file. I think the reason why this hasn't worked is because echoing what Charmaine said but I think in addition is that, the concept of smart growth was applied in a situation where you already had the concept of suburbia already in place and mind-setted [*sic*] in. And I think that was the nail that really or the barrier that held two entities that were vying for the same outcome and that is their quality of life. And right now, the Doyle's feel that they have a presentation and a project that will bring a good quality of life and I agree with that. But I think what happened is you went in when there was already people there who felt that quality of life for them was different and they had that mind-set already. A lot of people would say that this is a classic case of NIMBYism, you know, not in my backyard, but you know what it's a lot deeper than that I think. And I think it's a matter of if we're going to apply smart growth concepts, we're going to have to start fresh with it with I think set plans or set I guess guidelines. That whether it's not us that have to apply `em but it's people like the Betsill's that have to come forward and push this through. How do you do it? How do we do it? Do we say yes to you, Doyle? And if we say yes then do we create a divisive community. The, the very people that are going to be living right next door, literally right next door to you folks 'cause you're going to be there everyday working in that office that you wanted to put there. And yet, these people are gonna and maybe it's just a core of people here but I think there's other people out there that feel the same way. Look at our, look at our meetings. A lot of people come up

and say I represent or I know the majority of the people in Kihei are opposed to this project. And yet, there's 26,000 people that live in Kihei-Makena and we have 200 people in this meeting and we have people in here representing a majority and we can't do that. And so, we have to I think as people who make decisions, really have to look at our relationship with people in the community and not only just in this neighborhood but other neighborhoods as well. So, I too apologize, Mr. Chair, for rambling. This is a difficult one but I think we have what Charmaine said last year this time, we felt that on a very tight vote that we would allow this thing to continue regarding the, the mediation and seeing if they could come together and it didn't work. It didn't work and I for one would have to side on the, on the side of the people who are there already and who will have to now feel I guess a sense of betrayal. And I don't think that the Doyle, I don't think Doyle and, and the rest of the brothers and the corporation, I don't think you can feel betrayal. And although you may say that you're going to feel it, I don't think you can feel it like how the people who are there with their understanding of what their quality of life was going to be like. You're trying to establish a quality of life, these people are living their quality of life, you know, and that's my opinion. So, I'm supporting the motion to file.

CHAIR ARAKAWA: Jo Anne. Okay, Mike.

COUNCILMEMBER MOLINA: Thank you, Mr. Chair. On top of what has been said already by my colleagues. I've always felt public safety should be put over economic concerns and I, I think about kids running through the streets and quite possibly getting hurt with all of this going on. I was involved in a situation somewhat similar to this back in the mid '90s or early '90s regarding the Barto project in Makawao, some of you may have been familiar with it. We were in a position, I was on the side on much like that of Susan and her friends there, and we made an effort to work with, with the developer. And eventually, we reached some type of compromise with the developer, scaled down his project and for whatever reasons the developer never continued. I can only guess maybe his profit margin would be lessened with the project that was scaled down. But the point I'm trying to make is I've been, I'm not as familiar with this project as the rest of my colleagues but I've been hearing a lot of the classic he said, she said this, a lot of possibly there's some miscommunication along the way and it's a real bad feeling. And to see a project like this go up as beautiful as it is and I think it's a project that would be good for a new neighborhood but one that's preexisting right now could cause a conflict and it will get tagged. It will have a stigma attached to it as that, oh that horrible or that that vaunted commercial center in Ka Ono Ulu and it would be unfair to that project to have that kind of stigma or tag attached to it because from all accounts it is a nice project. And with any commercial venture you bring in all kinds of unwanted elements into the community and I can empathize with the members, the residents in there who, when they first bought their homes had the impression that this is going to be strictly

residential. We have enough commercial venues surrounding the community and--

MS. DOWNEY: (speaking from the audience) What about the Makena?

COUNCILMEMBER MOLINA: Let me finish please. And when, when taken into consideration you folks have, have, were led to believe that this is what you were going to have and all of a sudden, this may have been sprung upon you. I feel for your folks and in no disrespect to the Betsill's. You have a very reputable company, you do good work but it's just a project that maybe was, it's not its time. It's not meant for this area. So, therefore I'll be supporting the motion that was initiated by Councilmember Nishiki, Mr. Chair.

CHAIR ARAKAWA: Thank you. Jo Anne.

COUNCILMEMBER JOHNSON: I, I thank all of you guys for your patience and your endurance and I'd like to say Lee and Doyle are my friends. And this really, it's really hard because I think that many of the people here that came to speak on both sides of the issue, we live in a community with such diverse opinions and with such passions on either side. And I really think that, we have to be able to try to get along and work through these things and as painful as it might be sometimes we just have to go back to the drawing board and rethink what we're doing. I know that even though Doyle doesn't support my moratorium, I don't hold that against him and I hope that no one holds this against me but I think that this is not a place for enforcement of covenants and restrictions. This is the wrong, this is the wrong body to look for enforcement of covenants and restrictions. It's not the right place for that. That's one issue. Another issue that comes to mind is the issue with making last minute changes in our community plan process and I know that Charmaine's working really hard on trying to deal with that. But, but the bigger question for me is always going to come back to the fundamental and that is how do we know where we're going if we don't know where we are? It will come back to water, it will come back traffic, it will come back to the same questions that I asked when I spoke about Makena. We're all here together. If we don't find out the answers to these fundamental questions, we're not going to move forward. We can't do it. How can I plan, how can any developer plan if he doesn't know the answers to those questions? How can you ask the Planning Department for a recommendation or the Water Board when we get inconsistent information? These are the fundamental questions. Carrying capacity is one thing, how much do we want to build out is another thing and these I believe are the things that as a community as individuals and as neighbors, we have to ask before we can really make progress. And I know we disappoint people, I know we upset people and when you're sitting here it's, you know, very easy to do. I've done it several times already. So, I think that filing the issue maybe doesn't give resolution to anyone but we need to answer these questions. So, if, if it

were to come to a yes or no vote, I'll support the filing of the issue but I think that the fundamental questions which I asked earlier about Makena and which I'll ask on everything else remain to be answered. Thank you.

CHAIR ARAKAWA: In, in this issue which, which has been a very difficult issue for me to look at because I was the Planning Chair when we did the community plan and I have been trying to respect the community plan and how we actually came out to the decisions on this. At the same time, the community people that do come out to these meetings represent the community just like we represent the community that we attend the meetings. So, those people that stand up to be heard should be heard and we've heard very consistently those people that live in the community don't really like this project. With the resolutions of trying to mediate this again, I was very disappointed at the turnout of that mediation group and talking to friends that I have in the community it's kind of like, well they're going to do whatever they want so who cares. And that's why I say indifferent and I do have some friends that do live fairly close to this project. So, in trying to decide on whether this is a good project or, or a bad project, the community and my philosophy has always been the community that has to have the most effect of the project should be the ones to make the decision. Unfortunately, you know, in trying to--if I ask the questions what does the community really feel, we don't have a definitive answer because the, the polls that were taken, the information that was taken is kind of old. But I will support the filing of this motion 'cause I believe that those of you that did take the time to come out and did take the time to go through all the trouble and compiling all the presentations, really care enough about the project and your opinions to make it felt. The developer has done a good job. I believe in following what the community plan was and the intent of the community plan and he's tried very hard to try and do smart growth concepts. And I think Charmaine is very right, smart growth in any form that I've ever seen requires consensus within the community. Smart growth is trying to enhance the quality of life for everyone within the community and for one group to say, well this is what you should have and another to say, well we shouldn't have. Again, it comes down to a consensus within the group and not everybody is going to be completely satisfied with any solution and not everybody's going to be surprised [*sic*], excuse me, is gonna be content with every solution. So, in this case, you as a community that have taken the time to come out here I think deserve our support. So, we will support this. We have a motion on the floor. Any further discussion? If not, all in favor say aye.

COUNCIL MEMBERS VOICED AYE. (RC, JJ, DK, MM, WN, CT)

CHAIR ARAKAWA: Opposed? Motion carried.

VOTE: AYES: Councilmember Carroll, Johnson, Kane, Molina, Nishiki, Tavares, and Chair Arakawa.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Hokama and Kawano.

ACTION: REFERRAL TO THE LAND USE COMMITTEE OF THE MATTER OF THE COMMUNITY PLAN DESIGNATION FOR PROPERTY IN KIHEI IDENTIFIED FOR REAL PROPERTY TAX PURPOSES AS TMK: 3-9-1:157 AND FILING OF COMMUNICATION.

CHAIR ARAKAWA: Charmaine.

COUNCILMEMBER TAVARES: Mr. Chairman, I move that we direct the Planning Department to prepare the documents to change the community plan designation back to residential, so that the--

AUDIENCE: (Applauded).

COUNCILMEMBER TAVARES: --the, the owners do not lose, you know, like being between a rock and hard place 'cause this is something that would require SMA. So, therefore they would have to have community plan concurrence.

CHAIR ARAKAWA: In--Ed, in this particular issue if we accept the motion to go back to the original designation, can we do that as a, as a Council?

MR. KUSHI: What, what is your question again, Mr. Chair?

CHAIR ARAKAWA: Currently, in the community plan the project is business--

MR. KUSHI: Correct.

CHAIR ARAKAWA: --and Charmaine is making a motion to take it back to what it was before the designation of business in the community plan. Can we

by motion of this committee right now, take it back to what it was, out of business back to residential?

MR. KUSHI: My understanding is that and John Min can correct me if I'm wrong but I would refer and advise this committee to do a separate matter to, on a separate day duly noticed and, and pass a resolution.

CHAIR ARAKAWA: Okay and I'm asking that because I think we may have a notice problem. We didn't notice it on our agenda that we would do, be doing this.

MR. KUSHI: Exactly.

CHAIR ARAKAWA: So, that's what my concern is. (Inaudible) a new issue and then change the community plan at that time.

MR. KUSHI: Start the process or be it a motion or a resolution.

CHAIR ARAKAWA: Okay, Charmaine, so--

COUNCILMEMBER TAVARES: Yeah. Yeah, if can ask Corp Counsel a question. Isn't this considered a related issue? Because of the action we've taken here it's related to that community plan designation then if we leave this, you know, in limbo.

MR. KUSHI: Well, that may be right but to be clear and, and, and to be crys., crystal clear and, and, and not be subject to challenge. You're only dealing with the rezoning petition here on the application. You're not dealing with a motion to redesignate. I would much rather have it noticed and on your next agenda.

COUNCILMEMBER TAVARES: Okay, thank you. So, I'll withdraw my motion, Mr. Chair.

CHAIR ARAKAWA: I, I would appreciate it though that, uh, if you do make a note to my Committee that we bring this up as an issue. So, we'll put it as an item in my Committee and we will be very happy to go back to the designation change, community plan amendment.

COUNCILMEMBER TAVARES: Mr. Chair, can we just keep the subject matter in, in Committee?

CHAIR ARAKAWA: We voted to file the item I believe.

COUNCILMEMBER TAVARES: Okay, well, I'll, I'll send a separate letter then to consider this as a new item.

CHAIR ARAKAWA: Well, let me check with Corp. Counsel. Ed, even in filing the item can we keep the subject matter--we filed essentially the request for rezoning. Can we now keep the subject matter in Committee and just bring this up under the subject matter?

MR. KUSHI: Yes.

CHAIR ARAKAWA: Okay. Then what we'll do is we'll file the rezoning request. We'll keep the project in Committee and we will bring this up as a recommendation next Committee meeting.

COUNCILMEMBER TAVARES: Thank you.

CHAIR ARAKAWA: Okay. Thank you very much. Any further business?

MS. GUTHRIE: (spoke from the audience) Hey, Alan, can you tell us what it means to file, tonight? What that means?

CHAIR ARAKAWA: Uh, wait. Let me adjourn the meeting and then we will have that discussion. Thank you. Meeting adjourned. Thank you very much every one. (gavel)

ADJOURNED: 10:45 p.m.

APPROVED:

ALAN M. ARAKAWA, Chair
Land Use Committee