

**URBAN DESIGN REVIEW BOARD
REGULAR MEETING
FEBRUARY 2, 2010**

APPROVED 03-02-2010

A. CALL TO ORDER

The regular meeting of the Urban Design Review Board (Board) was called to order by Mr. Anthony Riecke-Gonzales, Chair, at approximately 10:03 a.m., Tuesday, February 2, 2010, in the Planning Department Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Island of Maui.

B. ADMINISTRATIVE APPROVAL OF THE JANUARY 5, 2010 MEETING MINUTES.

Mr. Anthony Riecke-Gonzales: Second order of business is administrative approval of the January 5, 2010 meeting minutes. Hopefully all members had a chance to read through those and give Leilani any of the corrections that they may have come up with. We'll go ahead and administratively approve those.

**The January 5, 2010 Urban Design Review Board meeting minutes were
administratively approved as presented.**

C. UNFINISHED BUSINESS

1. **MR. JEFFREY HUNT, AICP, Planning Director requesting comments relative to compliance with the Molokai Country Town Business Design Guidelines on the project plans submitted by MR. CLYDE GUERREIRO of the MOLOKAI CATHOLIC COMMUNITY for the Blessed Damien Church including the demolition of the existing church and construction of a new approximately 6,000 square foot church facility designed to accommodate a larger assembly space, Church offices, and educational and social services at 115 Ala Malama Avenue, TMK: 4-3-002: 008, Kaunakakai, Island of Molokai. (M. Torgerson)**

The subject property is zoned B-CT Country Town Business District. The project plans were reviewed and discussed at the January 5, 2010 meeting.

The Board may take action to provide its comments.

Mr. Riecke-Gonzales: Our next order of business is unfinished business. Mr. Jeffrey Hunt, Planning Director, requests comments relative to compliance with the Moloka`i Country Town Business Design Guidelines. Mr. Torgerson will present for the Planning Department.

Mr. Mikal Torgerson: Thank you Mr. Chair. Mikal Torgerson, with the Moloka`i Planning

Department. As you saw the last time we presented this project, it was the Planning Department's position that the project was not in full compliance with the Moloka'i Country Town Design Guidelines. At your recommendation, a meeting was held where we discussed some of the changes that they were proposing in order to make it more compliant, and we discussed alternatives and suggestions given by the Planning Department as well. Multiple changes were made at – in response to some of the comments that were made at the last meeting. I'll let the applicant talk about them in a little more detail, but in a nut shell, a stained glass was added to the bell tower. Apparently, that was always envisioned in the design, but it was something that wasn't necessarily going to be done in phase one due to money constraints. But that was done in response to the Chair's concern about human scale in that particular element. Also along Ala Malama, a small shed roof was added which is a specific requirement of the Moloka'i Country Town Design Guidelines, and I think some additional detailing relative to that particular facade.

At the end of the meeting, we certainly felt like there was improvement made, that the current design is significantly more compliant than the original design. But it's still found to be deviating in the following ways, and I can go through those now if you'd like, we could –.

Mr. Riecke-Gonzales: Why don't you go ahead and go through them now.

Mr. Torgerson: Okay. The application is found to not comply with the strict interpretation of the Country Town Guidelines, Table 1 (1.1) and that is the building orientation. The building obviously orients itself at an oblique angle to the Ala Malama Street. The argument, or the applicant makes the argument that the plaza or the front of that area really does orient to the street, and that could certainly be understood. But in terms of the strict application, we find that doesn't quite comply.

The application was also found not to comply with the strict application of Table 1 (1.2) which is spacial relationships. The guidelines state that the site considerations included – should include the spacial relationships with surrounding uses. It talks about the well-established pedestrian street front and not creating gaps in that street front. Setting the project back as they have in this case, appears to not comply with the strict application of that guideline.

It was also found that the application doesn't comply with Table 1 (1.3) which is off-site parking. This is related to a more specific requirements that are found in Chapter 19 of the Maui Code. And the proposed stalls, as I understand it, are 16 feet deep, and the code requires them to be 18 feet deep.

They also asked for a drop-off and turn around area, and they've labeled the turn around area on their site plan. But as you can see in order to utilize the turn around area, you

would have to have a lot of empty parking stalls.

The application was found to be improved in the area of compliance in Table 1 (2.5) and that is street landscape planting. The guidelines call specifically for landscape trees. They call for them to be placed within planters or street grates. They have added a street tree which is appreciated and, I think, complies more so, but it doesn't completely comply to the strict application of that particular section.

Table 1 (3.2) relates to proportioning, and proportioning is discussed throughout those Country Town Guidelines, and they advocate a portioning of roughly 10 to 12, whereas the current application takes on more of a 12 to 7 portioning and that's sort of a function of the fact that it's a much larger building. That helped by the fact that it's stepping back and that sort of thing.

The application does not comply with Table 1 (3.2) but it does comply with the Maui County Code as it relates to height. Essentially, there's a conflict within the code. The Country Town District Guidelines requires a maximum height of 30-feet, whereas the code, Chapter 19, says a maximum height of 35-feet. So they are complying with the Maui County Code, but not the Country Town Guidelines in that respect.

The Table 1 (3.6) talks about wall finish. The proposed project is tilt up concrete, and it was found that the tilt up concrete in culmination with the stone wainscot along Ala Malama was inconsistent with the guidelines which talks specifically about not using stones along Ala Malama.

The application was found not to comply with the strict application of Table 1 (3.9) and this is ornamentation. This is a bit more nebulous. It talks about not applying ornamentation for the sake of ornamentation. It was my view that the tilt up concrete walls, particularly in the gothic tower, appeared insubstantial. They're just a six or an eight foot thick concrete at that height. The proportions would appear sort of pasted on and not quite in keeping with what -. They're talking about ornamentation, more consistent with the western plantation and avoiding the pasted on look, so that becomes a fairly nebulous question but that was my interpretation of it.

And then lastly, it was found that the application didn't comply with Table 2 (1.3) which refers to the off-street parking, and requires parking for the disabled person. I think the applicant has argued that the last spot, here, would be an ADA accessible parking stall, but it's undersized both in length, and the loading area required for an excessive space can't be within a turn around area.

So in general, I'd say that improvement has been made, and it's certainly appreciated. It's, I think, what's before you is whether to interpret these guidelines in their strict form as laid

out by the Country Town Business Design application, or are they only required to meet the intent of the guidelines? With that, I make myself available for questions.

Mr. Riecke-Gonzales: I'd like you to clarify what the Planning Department is looking for from this board is a recommendation for this design compliance with the Country Town Business Guidelines or recommendations on acceptance of the design with, I guess, would be a variance from the Planning Commission?

Mr. Torgerson: There are kind of two things. We're looking – ultimately the Director will decide whether or not this complies with the Country Town Guidelines. We're looking for a recommendation to the Director from this Board as to whether or not this design complies with the Country Town Guidelines. And then secondarily, if you wanted to, you could revisit the SMA application which you've already approved but ask that certain items be addressed, and that would probably want to be a separate vote. But it's not necessary that be readdressed since was approved.

Mr. Riecke-Gonzales: Okay.

Mr. Michael Hopper: Just to clarify your advising on the design guidelines, whether or not the project, in your opinion, meets the guidelines. The Planning Commission can essentially overturn the Planning Director. But, right now, you're only being asked to give the Planning Department a recommendation on whether or not you believe this project, based on your reading of the guidelines, complies with the guidelines. And the Planning Commission has the ability to approve it, the project, even if it doesn't comply with the guidelines if it is basically in consistent with the scope of the neighborhood, or of the character of the neighborhood. So at this point, you're being asked, and it's in the Planning Commission Rules and it's in the County Code that you give the Director a recommendation. The Director makes a decision. If the decision does not comply with the guidelines, then the Planning Commission can overturn the Director's decision and say that the project isn't in compliance with the guidelines.

Mr. Riecke-Gonzales: I guess the area that's still gray in my mind is if it's a strict interpretation or just reading through this, does it comply, doesn't it comply, that's one aspect. The other aspect is do we indicate any kind of recommendation to the Planning Commission of if we find that it doesn't comply that we think it should be allowed.

Mr. Hopper: You could have that as part of your recommendation. I mean, it is a bit open ended. Your main goal is to advise does this comply with the guidelines? But, you know, if you read the guidelines and say that well it doesn't comply but you think the guidelines are sort of flawed in their application in this particular case, then you're very free as to what you recommend. But the main point is to allow the Director to determine if it complies with the guidelines. And the Director is basically required to determine if the project complies

with the guidelines. In the Code, it states that design plans for improvements within the BCT Country Town Business District shall approved by the Planning Director in accordance with the established guidelines. So that's the Director's job. Does it comply with the guidelines. And the guidelines themselves may be broad enough to allow, you know, for some interpretation, but, you know, the Planning Department is obviously telling you now that they don't believe, that there are certain aspects that they don't believe comply.

Mr. Riecke-Gonzales: And that's why I'm a little confused. The Director is asking us for a second opinion?

Mr. Torgerson: It's required by the Code for you to give a recommendation to the Director.

Mr. Hopper: Yeah, you've got to give a recommendation to the Director. I guess the Director, so that you don't have a blank slate totally, the Director is saying here's what we believe is the situation, and here are some highlights for you. Your task is to look at the entire project and all of the guidelines. It's not just these issues the Director raises. It's to do your own review. The Director could have given this to you without any Planning Department recommendation and said we like your recommendation before we do anything. They decided to basically say here are some aspects that we are concerned about, what's your opinion on those? And you're not limited just to these issues. You can look at the guidelines and see if, you know, other aspects of the project complies. So it's basically open ended. You're just required, you know, by the rules to make your recommendation to the Department, and the Department happened to have given you some materials before hand to aid you in your recommendation. They could've done nothing. So it's a bit confusing. You're basically – they gave you a recommendation on what you would recommend to them, so that's how it can be a bit confusing there. But basically Planning Department makes their final decision on whether or not the project complies with your advice. That's what ends up happening.

Mr. Torgerson: And it should be noted too that the applicant has provided you with some information as to why they believe it does comply.

Mr. Riecke-Gonzales: Okay. Before we move on, do any board members have questions of the Planning Department or our Corporation Counsel advisor? We'll start with you Susan.

Ms. Susan Liscombe: Yes. If we are to decide here on whether we think it follows the guidelines, do we not have to see the guidelines first?

Mr. Riecke-Gonzales: I believe, yeah, that would –

Ms. Liscombe: I mean, he pulled little pieces of it, but I'm talking about the whole

guidelines. And as I've been reminded in the past, our purview is aesthetics.

Mr. Riecke-Gonzales: Well, yeah, this is a little different because the aesthetics is for like the SMA. We did receive the guidelines, you know, when you became a board member.

Ms. Liscombe: Okay.

Mr. Torgerson: I have a copy here, if you'd like.

Mr. Hopper: You should all have the guidelines and have reviewed this project as whether or not it's in compliance with the guidelines. That's the task.

Mr. Riecke-Gonzales: That's certainly something that, you know, we could ask for if, as a board member, you feel you need more time to do it. Unfortunately for us, you know, like I've sat on this board almost five years as of next month, and there's only been a very few instances, and usually specific cases where we've reviewed on the Country Town Business. So it's not like something we do, you know, several times every year and that we have all of this in our head, and it's a large guideline. Now, we can try and go through it point by point today. It's probably going to take us some time to do that. Any other questions Susan?

Ms. Liscombe: No.

Mr. Riecke-Gonzales: Okay. Darryl?

Mr. Darryl Canady: Mr. Chair, I am somewhat vastly confused, to be specific. Our scope here is the overall general plan as presented to us on this project, and it needs to fit into two areas, SMA and the Country Guidelines. I think we need to know how flexible these Country Guidelines are and how specific the applicant needs to, if you will, go by the book. Coming from Moloka'i I see the possibility of this getting all garbled up in the very, very or wanting to be designed as very, very strict guidelines that haven't in the past, and as it looks now, aren't going to in the future, go in favor of Moloka'i and the lifestyle that is there.

Mr. Riecke-Gonzales: You know, I think, Darryl, that's –

Mr. Canady: I'm (phonetics) with this.

Mr. Riecke-Gonzales: Well, I think, you know, the way I understand it is that is actually why the Planning Director is having this brought before us. He wants to hear some of our view points. And I think yours is extremely important on that being the board member from Moloka'i.

Mr. Canady: I hope so.

Mr. Riecke-Gonzales: Because, you know, several times when this was presented to us, you know, they mentioned, the strict interpretation. So we have at our discretion to also read through this and say well we don't think that either the strict interpretation is a correct one, or that you should follow the strict interpretation and maybe give our reasons. We're not making the decision here.

Mr. Canady: I understand that.

Mr. Riecke-Gonzales: We're giving advice to the Planning Director and he's going to make that decision, so this should be where if you have strong view points about some of these items or the design, that you, you know, put that on the record.

Mr. Canady: Thank you Mr. Chair. Believe me, I will.

Mr. Riecke-Gonzales: Alright. Good.

Ms. Linda Kay Okamoto: I have one question. For the Planning Department – reality it goes back to the Moloka'i Planning Commission. Is that not correct?

Mr. Torgerson: That's correct.

Ms. Okamoto: And so they, where like a variance procedure can be very lengthy, the Moloka'i Planning Commission can so overrule the Planning Department or they can change what they chose.

Mr. Torgerson: Yes. The SMA clearly goes to the Planning Commission. If the Director rules that the design as presented isn't consistent with the Country Town Design Guidelines, the applicant has the option of appealing that, and it would go to the Moloka'i Planning Commission likely at the same time as the SMA. At that point, they have a different bar to look at. As Counsel mentioned, it's not the strict interpretation, but rather is it – I forget the exact language – but something like is it appropriate for the district or something like that, and it's a lesser guideline, a lesser bar to reach.

Ms. Okamoto: Thank you.

Mr. Riecke-Gonzales: Gary?

Mr. Gary Brauner: I wish I was a representative like the House because I'd love to table this. I have a real conflict. I believe in rules. I believe if you make a rule, you don't break it, you change it if you don't agree. And on the other side I find this particular design very

aesthetically pleasing. So as my function here, mostly, I think is, is aesthetics and I am inclined to go along with the less strict observance which, of course, goes against my nature. That's where I stand at the moment.

Mr. Riecke-Gonzales: Okay. Alright, I think that wraps up at least for now questions for the Planning Department. So we'll now turn it over to the applicant for their presentation.

Mr. Chris Hart: Mr. Chairman, members of the Urban Design Review Board. My name is Chris Hart, Chris Hart & Partners, and our firm was retained by the Diocese of Honolulu to actually prepare the Special Management Area Permit application. And I am here today with the project architect, Frank Skowronski, of Territorial Architects, and also Jason Medema from my office who has been the project planner on this particular project.

Now, I'd like to begin by saying that first of all the project is a church. It is a civic building that is being proposed in Kaunakakai. There are several civic buildings in Kaunakakai. There's a post office. There's a library. There's Mitchell Pauole Center. Those buildings do not resemble the friendly market in Kaunakakai. They are different, each of them, architecturally. They're different. They're set back in the street. They have different functions in the community. They are the civic buildings in the community. And this is actually a civic building within the community.

The Country Town Business District Guidelines – I'm reading from the guidelines on page A1, paragraph number two – the intent and purpose of the BCT district is to establish development standards for commercial projects or developments in rural communities, preserve and maintain their unique urban design character, and promote the Country Town atmosphere which, you know, is very nebulous. Right, and the idea is that the scale and the character of the building fits into the context of Ala Malama Street and Kaunakakai. Okay? Of the various rural business communities in Maui County – now there are several rural community on Moloka'i – Hoolehua is one. Kualapuu is one – where there is BCT. And so the guidelines that were prepared we're done with the idea that this is not a historic district. It is basically – these are guidelines that were established to maintain the character of Maui's rural communities, the atmosphere of the rural communities, and we call them country towns. And we believe that Maui County is really a community of country towns, small towns.

Now we presented a letter to you today and I'm going to share the presentation with Mr. Skowronski. But the letter is dated today, February 2nd, and essentially on January the 5th, we did present on behalf of the applicant and the Moloka'i Catholic Community, the above referenced project to the Maui Urban Design Review Board. Now in conjunction with the Special Management Area Use Permit application and Country Town Design Review, the proposed development was presented. The Urban Design Review Board voted unanimously to recommend approval of the SMA permit for the project based on – there

were four qualifying recommendations. And we appreciate that. And we took those recommendations to heart, and we proceeded to basically analyze the recommendations and then we proceeded to have a meeting with the Planning Department. In the context of our meeting, though, that we had on January 5th, there was second portion of this application that the Urban Design Review Board voted to defer action on, and that was the requirement in the context of current administrative practice that the Director also has to weigh in and essentially approve the project as being consistent with the Country Town Business District Design Guidelines. And, you know, we feel that that's kind of a duplication of effort in the context of the Urban Design – or of the Special Management Area Permit process. I can certainly see in communities like Lana`i City, or in a place like Makawao where you don't have to go through a Special Management Area Permit process. I certainly understand it there. But in this case because we come to the Urban Design Review Board in the context of the Special Management Area Permit, I seriously doubt that we need to have two approvals. One by the Urban Design Review Board and one by the Planning Director. Okay, that's my opinion.

And so the recommendation was that we work together with the Planning Department to essentially address the four recommendations and to come up with a proposal to the Urban Design Review Board that would essentially meet those recommendations. Now, I'm going, in a moment, let Frank go through how we have made changes to the project to respect and to comply with the recommendations. But I want to basically set you, your mind, clarify in your mind, that essentially we're asking today that based upon the changes that have been made to the project, it's our opinion that in complying with the recommendations of the Urban Design Review Board on the SMA Permit application, the design of the project is also consistent with the intent of the Country Town Business District zoning and the Moloka`i Country Town Design Guidelines. In other words, by complying with the recommendations that you made on the Special Management Area Permit, we're asking that you also would determine that we are in compliance with the Country Town Design Guidelines. And since we're presenting the proposed project to you this morning, we respectfully request an Urban Design Review Board recommendation to the Planning Director that the project design as currently purposed meets the intent of the Country Town Business District zoning and the Moloka`i Design Guidelines. And of course, as was indicated to you, the project has to go next to the Moloka`i Planning Commission for a public hearing on the Special Management Area Permit, and the recommendation of the Urban Design Review Board, together with the recommendation as it's laid out, of the Director, in the context of the Country Town Business District Design Guidelines will be presented at that time.

Now it's also important to realize that, you know, this process has been going on for a long time with the Moloka`i community and the Catholic community in Moloka`i, and also the Diocesan Building Committee. It's not something that's just been hurriedly presented and put together and presented to you. And there has been a significant public meeting that

was held in the Mitchell Pauole Center last year. And the project is very positively being received in the community, not only because of the fact that it's more than important for the Moloka'i community to honor Saint Damien, but also the church itself has been deteriorated – Saint Sophia's – for many years.

And one of the other things that I just wanted to note that I forgot to note in the context of it being a civic building that historically Saint Sophia's has been set back from the street. So in the context of the street seen along Ala Malama Street there's going to be no substantial change in the character. Okay, with that, I would really like to ask Frank Skowronski to step forward and to present to you how we have listened to and modified the project based on the recommendations that were presented. Thank you.

Mr. Frank Skowronski: Good morning members of the Urban Design Review Board. My name is Frank Skowronski with Territorial Architects, and we're the architects for the proposed project in front of you. In relation to the four conditions that were recommended by the board in its previous meeting for compliance to the SMA, we have made significant changes – we have made some changes to the design in regards to those conditions. There were four. The main – one of them was to add a more human scale to the bell tower. The idea there was to actually – there was always a situation. There was always a recommendation that we were going to put stain glass or some sort of non-concrete backing material on the bell towers. It was a function of cost at stage one. So the idea was to take the 10-foot grid line that the shaded, the sloped portion of the roof, and the narthex and to establish that line and keep a piece of stained glass that would face the street. And also allow some ventilation because that aerial window would actually be operable or actually open. And that stained glass impact would hopefully cut back the apparent height of the tower, particularly cooperating with the tower being at a, quote, oblique, unquote, angle to the street. That would occur on the face of the building. . . .(Inaudible. Did not speak into the microphone.) . . . of these two, so we still have ventilation on the sides and the opening. But it would go – we're hoping that it would go a long way to mitigate this effective frontage so that there would be a stained glass that would come in this portion and line up with the narthex eaves.

The second recommendation was to soften the affect of the front elevation of the multi-purpose room that faced and fronted on the sidewalk of Ala Malama. And we think that we've achieved that by redesigning the front inset with proportional windows that went according to the guidelines, and a softening of the effect by using a horizontal siding and different window arrangement. And then a canopy that would reflect the 4 and 12 pitch suggested in the guidelines and be consistent with what's happening along the street.

The third issue was to provide a shade tree and a pedestrian bench in the front of the landscaped area that would soften the effect of this structure along the street, and provide some seating area on the Pascua Store side.

And then the fourth issue was to eliminate the compact stalls in the rear parking which we've done. And to clearly define where the ADA parking stall is, and the ADA ramp, and to get that consistent with the ADA dimensions and guidelines, which we have. The dotted circle of the, quote, turn around, unquote, is the demarcation of a turning radius for a hearse or a limousine, and not for a normal automobile. So the intention again, in order to keep the pedestrian scale along Ala Malama and not have the funerals or the weddings impact street scape and traffic along Ala Malama, the idea was to bring and show that this parking lot is consistent and can handle a wedding or a funeral within the bounds of the rear of the structure. If in fact that means we have to cone off and set back a couple of parking stalls, we're still meeting, in excess. You know we have something like 150 to 160% of the required parking stalls provided. So losing another couple there with coning off and allowing for special events to occur in the rear as opposed to occurring on Ala Malama Street is what that turn around is about. There's nothing in the guidelines that says we have to have a turn around. The turn around is a bonus. And so, even though, a normal automobile can turn within 40 to 42 feet in here, we're just providing that there's plenty of room for a car to come in, back out, and leave under the guidelines as they are. The turning radius is a bonus. We're not envisioning that being used on a day to day basis. It's just an effort to show that special events that occur, not very often, would in fact, be allowed to occur the vehicular provision, or vehicular support for these special events. The intention is that they occur in the rear of the structure and not on Ala Malama Street. But all the other parking requirements, and all the other dimensions, you know, we're providing nine foot wide stalls, instead of eight foot six stalls, so we realized that the elderly are probably going to be using this, in the back, and so our stalls are oversized, and there's plenty of conformance with the requirements.

Now those four issues that were conditions for the SMA approval, we feel as though we've met with these design changes. But we also feel as though they go even further in providing us conformance with a reasonable interpretation of the design guidelines.

Mr. Riecke-Gonzales: Does that conclude your presentation?

Mr. Hart: It does. I just wanted to say, though, that as Mikal indicated to you, that we did meet with the Department, and essentially the response, at times, was positive. But there are details in the context of his interpretation that, you know, as we've indicated to you that we're still not meeting. But, we're again, looking at it from the point of view of the intention of the Country Town Business District Guidelines to essentially maintain the atmosphere of each country town. And we want to reiterate the fact that this a civic building. It's not the friendly market or another retail site in Kaunakakai. And therefore, in the context in what's done, we have met the intent, and actually, the requirements of the Country Town Business District Guidelines. Thank you.

Mr. Riecke-Gonzales: Thank you. Alright, I will now do questions from board members.

And please to try to remember to do mostly questions. We can do comments and discussions later. So we'll start with you Gary.

Mr. Brauner: No questions.

Ms. Okamoto: My only question is do you have any photos or drawings of those other public buildings that you were mentioning, like the post office, just to share with us.

Mr. Skowronski: We do have those in the power point. And if you need to see those, we could set up the power point that will show you. But I believe, I believe the print out of the power point might have of the library and the post office. And also in regards to that, I would also like to offer that last year recently you approved the expansion of the credit union which is two parcels over from this project. And that credit union design does not interpret with the strict interpretation of the guidelines. It's set back from the sidewalk with planting and benches. So we don't have – I have drawings of that floor plan of the credit union if you need to look at that, but I believe that there's photographs in the print out of the – that shows the post office – are there?

Ms. Okamoto: No. Not that we could find, but I just wondered if you had them.

Mr. Riecke-Gonzales: It shows –

Mr. Skowronski: We do have that. We can present it if necessary.

Mr. Riecke-Gonzales: Yeah, you have a photo that shows Pascua Store and Stanley's Coffee Shop.

Mr. Skowronski: And again, I have drawings that show the credit union also.

Ms. Okamoto: Thank you.

Mr. Riecke-Gonzales: Darryl, any questions?

Mr. Canady: No questions.

Ms. Liscombe: No.

Mr. Riecke-Gonzales: Alright. I have a couple of questions and it refers to – Chris Hart, you had stated that there's a provision in the Country Town Business Code that mentions commercial structures. Have you discussed that provision with the Planning Department, and what was their response to your interpretation that the Country Town Business Guidelines are really written for and should be applied mostly to commercial structures?

Mr. Hart: Mr. Chairman, I have discussed that. You know, my feeling is that the Country Town Business District Design Guidelines focus specifically on retail and commercial structures, and you know that was the intent. The uses that are identified in the Country Town Business District Design Guidelines also discuss that civic buildings, religious buildings, you know, public/quasi-public buildings are allowed in the Country Town, and their sites could be zoned Country Town Business District. But there's no real statement, or let's say, a table, you know, in the Country Town Business District Design Guidelines that says something about these are the criteria for civic buildings, for instance. There's nothing that says that. But there is a statement that talks about – let's see – it's says, in the guidelines, it says the BCT District is to establish development standards for commercial projects or developments in rural communities. And I believe that that "or developments in rural communities" refers to other kinds of uses that are allowed in the Country Town Business District. And like I said though the Country Town Business District Design Guidelines for Kaunakakai is basically deficient by not identifying some criteria to basically judge compatibility of a civic building. But I firmly believe that they should not be judged based on the same standards that, let's say, the Friendly Market. I used that because that's probably the largest, you know, western front building on Ala Malama Street.

Mr. Riecke-Gonzales: Mikal, could you also maybe respond?

Mr. Torgerson: Mr. Hart only quoted the first part of that paragraph. It goes on to say, all buildings and structures shall be erected, constructed and renovated, enlarged or converted in a similar, compatible architectural design character with that of the surrounding commercial buildings. And then in the enabling Legislation the rules relating to the Country Town Design Guidelines for the Moloka'i Planning Commission, it specifically says these rules shall be applicable to all buildings, structures, signs, landscaping, lighting – they even go down to paved areas and it's quite specific that they apply to all structures.

Mr. Riecke-Gonzales: How would you interpret the phrase similar?

Mr. Torgerson: Well, that's a broad phrase, and it's open to interpretation. And intelligent people can disagree and I think that's what we have in this case. I think the bigger question though is whether or not the guidelines themselves need to be applied or just sort of the intent. That's the argument that's being made. And if I could correct a couple of other things that were said. It was said that there is no requirement for a turn around. Table 1 (1.3) refers to Chapter 19 of the Maui Code, and it says that compliance is necessary. And it says where eight or more spaces are provided on a parcel, a suitable turn area shall be provided.

Mr. Riecke-Gonzales: It's my understanding that in the past, an L-shape, T-shape turn around would satisfy that provision.

Mr. Torgerson: Just making the point, that's where I was coming from.

Mr. Riecke-Gonzales: I have one other question of you, Mikal, actually. On one of your comments, you said that the standards stalls do not have 18-foot depth. Is that 18-foot paved or is it 18-feet including a landscape buffer?

Mr. Torgerson: Well, you can obviously hang out over into the landscaping. It went through Chapter 19 of the Code specifically looking for language that allowed that overhang, and didn't find anything. I've worked in municipalities that do specifically allow it and others that don't.

Mr. Riecke-Gonzales: Just my personal two cents that's my pet peeve for the first 20-years of my career practicing here it was allowed. For the last five-years, the Planning Department suddenly decided it wasn't allowed, and I don't think that's correct.

Mr. Torgerson: Okay.

Mr. Riecke-Gonzales: Just my pet peeve, but anyway.

Mr. Torgerson: Yeah, I didn't find any language that allowed it.

Mr. Riecke-Gonzales: Another pet peeve – you know, language that allows it should actually be language that disallows it. But anyway –

Mr. Torgerson: I appreciate your concern. I'm just here to apply the rules as they're written.

Mr. Riecke-Gonzales: Alright, I think we're going to on to public testimony. So we'll open it up now to public testimony. Is there anyone here from the public that wishes to testify on this matter? Seeing nobody coming forward, we'll go ahead and close public testimony. We'll now have board discussion and we'll start at the other end.

Ms. Liscombe: Well, I'm just wondering do you need to kind of go through these items if we're suppose to talk about whether we agree with the Planning –

Mr. Riecke-Gonzales: I think if we feel a need to go through them, we certainly could do that. I can kind of voice my gut feeling right now is I think both Chris Hart and Mikal kind of stated that they see one of the cruxes to this, and maybe we should handle this first is as a civic building, does this structure have more leeway with the guidelines versus a non-civic building? My viewpoint is, from an architect's standpoint, it would have to. It's very difficult to have a church actually follow the strict interpretation of the guidelines which wouldn't allow a large public space between the building and the street. You know, it's a functional mis-connect there. And I can think of other buildings that would be like that too.

You know, there's a library up in Makawao. It doesn't work well when you don't have a big public space. And most of the Country Town Design issues that I've ever heard about, they actually want to encourage that. They don't want to encourage a big parking lot between the street and the building, but they do want to encourage, you know, people mingling spaces. And that certainly lends itself to commercial, I mean, non-commercial buildings like the landmark public buildings that are in the Country Town. So that would be the first thing is, you know, to me, the key issue here is, is there more leeway for a public building versus a commercial building?

Ms. Liscombe: My opinion is yes, I think there should be. And where this particular building does not follow to the letter of these guidelines, I think they're improvements. You know, overall, I think it's a good structure. I don't think you want a church right up to the street. I think it actually provides a good break. They've eliminated the driveway which is a good thing. They've moved the parking and the access to the rear. So where it may not follow the letter of these guidelines, I do think it follows the spirit and maybe the guidelines should be revisited that it does not differentiate between commercial and civic.

Mr. Riecke-Gonzales: Darryl, discussion? Comments?

Mr. Canady: I couldn't have said it any better than she did. We have a situation on Moloka'i that I said it before, we have been stymieing for the last 30-years that I've lived there and been there with strict interpretation of supposed guidelines. And here is a beautiful chance for us to add to our lovely community of Kaunakakai something that meets the definite spirit and the intent that the rules and regulations should encourage. Thank you.

Mr. Riecke-Gonzales: Linda?

Ms. Okamoto: Well, first I just have a correction to the letter from, I guess it is, Chris Hart. Last minutes, the last minutes showed that the vote was not a unanimous vote for the SMA, but it was approved, so I think it's just the unanimous part is struck.

Mr. Hart: Okay, thank you.

Ms. Okamoto: Coming from a small community, I personally feel this is up to the Moloka'i community. It really isn't – I don't think it should be up to the Planning Director. I mean, I think the overall plan and so forth coming to our committee is fine, but I think in the long run, it's up to their community to decide, does this follow the spirit of the community guidelines. We have had much the same issues on Lana'i. And when you write the guidelines, there's always exceptions. They're guidelines. It doesn't say they are laws, and it doesn't say they are rules. I agree with the Planning Department that there are a quite a few places that they don't comply. But as guidelines, I feel like it is up to the Moloka'i

community, through the Planning Commission, to have the final say on this. And as such, I find it very difficult to say to the Planning Director, yes, we think they are all perfect or no we don't. I'm not sure how we're going to word a motion, but I do feel that it really is up to the local community to say if they feel it that it works for them.

Mr. Riecke-Gonzales: Gary?

Mr. Brauner: I was recently in New York and I have to tell you within the city, they have all these apartment buildings and all of sudden you have a magnificent church. A church modeled after the mid ages, European churches. And I come here, I live here, and I look around and we build these silly salt cape cod houses that don't fit the landscape at all. And then along comes a design that really is striking, that works because it doesn't look like everybody's else. And my inclination is to go with the design, and if the County at all possibly can just accept changes, maybe only specifically for this one building, but I think there has to be that kind of latitude. We have to look at the aesthetics as well. And I'm not a religious person.

Mr. Riecke-Gonzales: Okay. Here's my two cents, and maybe a little bit of trying to sum up what I've heard from the board members. There seems to be a strong feeling that because this is a church, a civic building, that there is a compelling reason that what the applicant put forward that this is a special case that we should be recommending to the Director that we do think that in this case there is public input because it's already in the SMA zone, and that the public can come to the Moloka'i Planning Commission hearing during the SMA process and voice their own personal view points on this, that the spirit has been met here for this building meeting the Country Town Business Guidelines. And at least from my view point, I think what this board said at its last meeting where we had four points of – you know, the human scale, trying to relate at least those portions of the building that come right out to the street more to the adjacent buildings, you know, some of the concerns on the parking – that the applicant has shown a cooperative effort to meet those concerns. And so I would ask that maybe one of our board members here actually make a motion that we recommend to the Planning Director that it is our view point that this does kind of fall in the gray area where it's a civic building, but it has met the spirit of the Country Town Business Guidelines.

Mr. Canady: Mr. Chairman, I will make that motion, sir.

Mr. Brauner: I will second.

Mr. Riecke-Gonzales: Okay, we have a motion and a second. So I'll open it up to discussion from board members on the motion that's on the floor. Any discussion?

Ms. Liscombe: Good motion.

Mr. Riecke-Gonzales: Okay. That's good. Alright, we'll close discussion and we'll take a vote. All those in favor say aye.

Board Members: "Aye."

Mr. Riecke-Gonzales: Any opposed? Great, the motion carries. That was a lot less painless or a lot less painful than the previous one. Yes?

It was moved by Mr. Darryl Canady, seconded by Mr. Gary Brauner, then unanimously

VOTED: to recommend approval, as discussed, the Country Town Business District request to the Planning Director.

Mr. Hopper: Just a comment for the record. So this is a recommendation made to the Planning Department. The Planning Department can decide to disregard it or to abide by it and will make the decision on whether or not the project complies with the design guidelines. That decision, as you know, can be appealed to the Moloka'i Planning Commission. An appeal would have to be filed within 10-days of the Director's decision. So that's where this is going at this point.

Mr. Canady: Mr. Chairman, should we have a hindsight implicated in our motion the nine items that were actually part of that.

Mr. Riecke-Gonzales: No, I don't think so. I like the way the motion was.

Mr. Canady: Fine. Thank you sir. I just wanted, for the record, to ask that question so it would be on the record. Thank you.

Mr. Riecke-Gonzales: No, I like the way we now passed it on back to the Planning Department and the Director.

Mr. Hart: Mr. Chair, this is an item of clarification. So in the context of our previous meeting, based on what we have done to essentially acknowledge the recommendations that were made, that those are satisfactory to you, the effort that was made is satisfactory. And that in the context of that, then you're recommending to the Planning Commission as far as the Special Management Area Permit is concerned, that you are recommending subject to these four recommendations that we approved. And then also recommending to the Planning Director that in this unique case as a civic building that it does comply with the Country Town Design Guidelines.

Mr. Riecke-Gonzales: From the discussion that I heard from the board members, I would say your statement is correct.

Mr. Hart: Thank you very much.

Mr. Riecke-Gonzales: Yes Michael.

Mr. Hopper: And the SMA recommendation, that was at the last meeting, so I think that doesn't change from this.

Mr. Hart: Yeah I know, but we just want to make sure that in the context of the four comments that were made, that the effort made on the part of the architect to comply was sufficient.

Mr. Hopper: Understood.

Mr. Riecke-Gonzales: I heard board members say they appreciated it.

Mr. Hart: Okay, thank you.

Mr. Canady: And Mr. Chair, my intent in the motion, that those items were approved and were part of the motion that we made. Thank you.

Mr. Riecke-Gonzales: Thank you. Alright, let's move on to the Director's Report, unless you need a break.

D. DIRECTOR'S REPORT

1. Status of Board Vacancies

Mr. Yoshida: You want to proceed with that, or do you want to take a short recess?

Mr. Riecke-Gonzales: My preference would be to proceed with it, unless we really need somebody –. No. Okay.

Mr. Yoshida: Thank you Mr. Chair. Regarding the status of board vacancies, at point, we don't know, unaware of, who the Mayor has nominated to the board, but we should know by the next meeting in March. I guess the Council has 60-days from that, from the time the Mayor submits to vote, the nomination up or down, or is automatically approved.

Our next meeting is March 2nd. Again, I relayed at our last meeting that we are relatively

slow in terms on number of SMA applications being submitted. In the event that we do cancel the meeting, then we would like to thank the Chair for his service on the record. If we do have a meeting, then we'll have a formal resolution and so forth. But if we don't have meeting, then we would like to thank the Chair and also member, board member Nakagawa, Eric, and Bryan Maxwell for their service over the past five years. That's all we have to report.

Mr. Riecke-Gonzales: Thank you. If there's no other business, we'll go ahead and close the meeting.

E. NEXT MEETING DATE: March 2, 2010

F. ADJOURNMENT

There being no further business brought forward to the Board, the UDRB meeting was adjourned at approximately 11:05 a.m..

Respectfully transmitted by,

LEILANI A. RAMORAN-QUEMADO
Secretary to Boards and Commissions I

RECORD OF ATTENDANCE:

PRESENT:

Anthony Riecke-Gonzales, Chair
Linda Kay Okamoto, Vice-Chair
Gary Brauner
Susan Liscombe
Darryl Canady

EXCUSED:

Eric Nakagawa
John Patrick Ryan

OTHERS:

Clayton Yoshida, Planning Program Administrator, Current Division
Mikal Torgerson, Staff Planner
Michael Hopper, Deputy, Corporation Counsel