

**URBAN DESIGN REVIEW BOARD
REGULAR MEETING
APRIL 6, 2010**

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A. CALL TO ORDER

The regular meeting of the Urban Design Review Board (Board) was called to order by Ms. Linda Kay Okamoto, Chair, at approximately 10:00 a.m., Tuesday, April 6, 2010, in the Planning Department Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Island of Maui.

Ms. Linda Kay Okamoto: It is now 10 o'clock, and I'm going to just turn it over to Clayton.

Mr. Clayton Yoshida: Good morning Madame Chair, members of the Urban Design Review Board. Clayton Yoshida, Planning Program Administrator with the Current Planning Division of the Planning Department. Welcome to our – as we start our new commission year, we'd like to welcome our new members, Linda Berry who moved up from an alternate member to a regular member. We have Jane Marshall. We have Bryan Maxwell who's a landscape architect who has – who is ill and will not be here today, but he moved up from an alternate member to a regular member. And we have Mike Silva, a civil engineer. And back again, as an alternate member, we welcome Marie Kimmey, an architect.

I'd like to introduce the members of the Planning Department here today. We have our Planning Director Jeff Hunt. We have Leilani Ramoran-Quemado, secretary to this board, along with the Lana`i Planning Commission and the Maui Redevelopment Agency. Doing the presentations for the orientation workshop, we have Allan DeLima. He's our administrative officer. We also have our small town planner, Erin Wade. We have – well, we will have our staff from the Zoning Administration and Enforcement Division, Trisha Kapuaala and Carolyn Cortez to talk about signs, sign variances and flood hazard districts.

With that perhaps we could go around the table as we're starting a new year – and we have Linda Berry who's an architect, regular member who was alternate member – go around the table and you can give a one minute sound bite of who you are, your background and so forth before we have the elections of officers. So let's start with Linda Berry.

B. INTRODUCTION OF NEW MEMBERS - LINDA BERRY, JANE MARSHALL, BRYAN MAXWELL, MICHAEL SILVA, MARIE KIMMEY (alternate)

Ms. Linda Berry: Good morning. I live in Kihei. I work for Riecke Sunnland Konno Architects. My last big project was the Whole Foods in Kahului, and all the new furniture

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in the Maui Mall.

Mr. John Patrick Ryan: John Patrick Ryan. I'm a private energy consultant, and I've been with the board for about a year. I live in Wailuku.

Ms. Jane Marshall: I'm Jane Marshall. I was born and raised here on Maui, and I spent my adult life in New York City and San Francisco, and I just moved back to Maui a year ago. And my husband and I have an architecture and interior design firm called Marshall Design Studio, and we own an old home in Wailuku.

Mr. Gary Brauner: My name is Gary Brauner. I live in Wailuku about 500 yards below here. And I've been doing what you folks have told me the last 50 years as an electrician and an electrical inspector, and now I'm retired.

Ms. Linda Kay Okamoto: I'm Kay Okamoto. I'm from the island of Lana'i, and I am a realtor, former school teacher, lived on Lana'i for almost forever.

Ms. Marie Kimmey: I'm Marie Kimmey. I'm an architect here on Maui with Kimmey Unabia Architects. It's a small firm. We do mostly remodels, and our last big project was for the Maui Economic Development Board. We did some interior there, a building that RSK had designed a couple year previous. I live in Kihei. That's about it.

Ms. Susan Liscombe: I am Sue Liscombe. I've been living on Maui for about 10 years. I'm retired. I live in Maalaea, and have been on the board, I think, this is my third year.

Mr. Michael Silva: My name is Mike Silva. I work with Ronald Fukumoto Engineering. I'm a licensed civil engineer, land surveyor. I have a credential from the LEED Green Associate as of last year. I think it kind of makes me sounds like a leprechaun or something. And I live in Kula.

Mr. Yoshida: And I neglected to introduce from the Corporation Counsel's Office your Deputy Corporation Counsel Michael Hopper – not to be confused with Michael Hooper, basketball coach – who is a goalie for the inline hockey team, keeping you out of trouble.

Okay, with that, I think we'll move to elections of officers for the April 2010 to March 2011 year. So, the floor is open for Chair, nominations for Chairperson.

C. ELECTION OF OFFICERS FOR 2010-2011 YEAR - CHAIR and VICE-CHAIR

Ms. Liscombe: I would like to nominate Kay.

Mr. Yoshida: Kay Okamoto.

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Mr. Brauner: Second.

Mr. Yoshida: Any other nominations? Okay, we need a vote of at least five people, you know, for a quorum. So five affirmative votes. So, all those in favor of Kay Okamoto as Chair, raise your right hand. Okay, unanimous. Congratulations Kay. You may proceed.

**It was moved by Ms. Susan Liscombe, seconded by Mr. Gary Brauner,
then unanimously**

VOTED: Ms. Linda Kay Okamoto as Chair.

Ms. Okamoto: Thank you. Election for Vice-Chair. Do I have a nomination for the Vice-Chair?

Mr. Ryan: I'd like to nominate Sue Liscombe for Vice-Chair.

Ms. Liscombe: If someone else would take that, I would like to decline. I would like to nominate Gary.

Mr. Brauner: I also decline.

Ms. Okamoto: Okay, do we have a volunteer?

Mr. Brauner: I'm going to be gone quite a few months this year.

Ms. Berry: Marie, are you willing to do it?

Ms. Kimmey: You know, I'm an alternate, so I don't know if I can do it.

Ms. Berry: Okay.

Mr. Brauner: I'd like to nominate John Ryan.

Mr. Ryan: I would love to take the position, but unfortunately, I only have another two months before I'm going to be stepping down and relocating, so I apologize.

Ms. Liscombe: Linda?

Ms. Berry: I guess by default, yes.

Ms. Okamoto: Linda, Linda Berry has been nominated? Do I hear a second?

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Mr. Ryan: I'll second.

Ms. Okamoto: And seconded. Are there any further nominations? If not, may I have a show of hands, all in favor of Linda Berry? Opposed? Thank you Linda. Well, I think it's rather fitting we have two Linda's up here.

It was moved by Ms. Susan Liscombe, seconded by Mr. John Patrick Ryan, then unanimously

VOTED: Ms. Linda Berry as Vice-Chair.

D. ADMINISTRATIVE APPROVAL OF THE MARCH 2, 2010 MEETING MINUTES

Ms. Okamoto: Clayton, would you like to go –. No, we'll do the administrative approval of the minutes, the March minutes. Those who were at the last meeting, were there any corrections on the March minutes? If not, they will be approved administratively. Thank you. And moving on, Clayton, would you like to go ahead with the workshop?

The March 2, 2010 Urban Design Review Board meeting minutes were approved administratively.

E. ORIENTATION WORKSHOP

- 1. County Policy Against Discrimination (Allan Delima)**
- 2. Roles and Responsibilities - Chapter 2.26 Maui County Code (Clayton Yoshida)**
- 3. Meeting Schedule (Clayton Yoshida)**
- 4. Sunshine Law (Corp. Counsel)**
- 5. Ethics (Corp. Counsel)**
- 6. Rough Proportionality (Corp. Counsel)**
- 7. SMA Design Review (Clayton Yoshida)**
- 8. Country Town Design Guidelines (Erin Wade)**
- 9. Signs and Sign Variances (Trisha Kapuaala)**
- 10. Flood Hazard Districts (Carolyn Cortez)**

Mr. Yoshida: Yes, and I think we had one individual who signed up to testify, Steve Sutrov. I don't know what item he wants to testify. Do you want to testify now or you want to testify later?

Ms. Okamoto: We have one public testimony.

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Mr. Steve Sutrov: Thank you very much. My name is Steve Sutrov. I thought this might be an appropriate time for me to offer a few comments. I'd like to speak on agenda item (E), or your orientation. It's on a three minutes. That's what I'm allowed to speak and it's not a lot of time. And people from the public sometimes travel great distances just for a couple of thoughts. What I ask is everyone pay attention when someone does – not necessarily me – but when anybody gives you public testimony please pay attention. Ask questions if there's anything that can be expanded on. Ask them after their testimony, you know, if there's anything else that's important to you to add to it just to give them a little more time. I think State law or County law states three minutes minimum, so it can go on a little bit longer, so I appreciate that you think about that.

Ask the person testifying whether they have a vested interest in the project because a lot of times, like a couple of weeks ago, there was three people testifying for the project. One was the wife, one was the brother, and one was the lawyer, and everybody else was a neighboring property owner, 16 of them, and they stated that they were, but the other people, you know, they said, we're brother and a wife, but the lawyer didn't say anything.

The Planning process expects you to be investigators here, as you're all professionals in your fields, and you have to get a clear picture of the facts. Be careful, many planners, County I would say, some, and I would say most private planners, will only give you information on what they think is necessary to see. If they show you renderings, have them include neighboring properties, not only from on site. Have them show the structures close to the boundary lines and the setbacks. Have them show elevations of this, and renderings, so you know exactly how it fits in to the community. What kind of impacts might have to be mitigated. A couple of weeks ago, this wasn't done with the Kula Lodge project.

Same with aerial photos. Make sure they're current. Make sure they're not four-years old. A subdivision had gone in within the last four years, trees have been cut down, property lines were exposed, other homes have been build in four years time. And so aerial photos showed during that hearing, it was not current, and it should have been. Also pictures of properties were only select photos. Better than anything else, it's within your purview to ask for a site inspection when necessarily. If you're dealing with a project that is possibly controversial and there's 60 plus people within 500 feet that say they don't want something like Kula Lodge project, it's within your purview to go there and visit and see what's happening.

Ms. Ramoran-Quemado: Three minutes.

Mr. Sutrov: May I go on a little bit? Thank you. The Kula Community Association did this. They had a meeting with the developer – the site inspection. They went over and visited the properties with the neighbors. They got numerous phone calls and e-mails from people concerned about their projects. They spent two or three months on a position statement

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with conditions and suggestions, and this was done and it was not reviewed. It was not even brought up in the Planning Department's report to the Planning Commission. Here you're talking about organization, 700 people plus, that is very active in the community.

And so your meeting on September 1st, this body did a great job in asking questions. One question was can we have the Kula Community Association review this and can they come back to us? The Planner from the County said no it's not within your purview for it to come back here. It's the Planning Commission's purview at the commission meeting to discuss community concerns. These concerns that Kula Community Association had were concerns with designs, a lot of them were. There was something that it was your body that should have discussed those things. And then because when the Planning Commission looks at your approval on a project, they have to assume you're the professionals, you've looked at the design in its entirety and you approve of what's going to happen and all the possible design things are hopefully going to be mitigated. So it was a mistake. It was wrong and I'm here to maybe vent a little bit – I hope not – but that it could be improved upon. And this body is the beginning point. Most of the time it's with SMA probably that you're going to be dealing with. The Project District Developments like Kula Lodge. There's going to be another one down the road with the Silversword, and it's important to know that this body has a very important function and take in all the public testimony you can. Contact community associations that want to be involved. Don't exclude them like the County did in this case. Thank you very much!

Ms. Okamoto: Thank you. Do we have any questions? Thank you very much.

Mr. Sutrov: Thank you.

Mr. Yoshida: If there isn't anybody else who wants to testify at this time, we'll be having some opening comments from the Planning Director, Jeff Hunt.

Mr. Jeffrey Hunt: Good morning. I'm not here to vent. I'm here to thank you guys because I want to thank you for all the hard work you do, for volunteering your time. I know you're all busy with your own careers, your family, surfing, whatever you do for fun. I want to impress upon you how important it is that you bring your expertise to the community, and the planners do rely on it, the Planning Commissions rely on it, and the Council even relies on it. It's not unusual for us to say, well, the UDRB reviewed this project and here's what their comments were. And as a result, the citizens in the community, rely on your expertise.

I don't attend a lot of meetings, the UDRB meetings, but Clayton and I do talk, and we discuss the issues, so the department is involved and we're aware. Whether it's cellular antennas or churches. Anything from the mundane to the spiritual. I've got about 20-years of professional planning as a community planner, and I've worked with a lot of different

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boards. And my experience is that the best relationship between a board and staff is one of a mutual respect of what each brings to the table. And the department is certainly intent on bringing all the information to you that is necessary regardless of the allegations that you heard earlier this morning. Sometimes there's information that people may want more information on or something like that. But in terms of hiding information or purposely not bringing information to the table, I'm here to counteract that allegation that you heard earlier. And we will be working with you too to show you that that is our process. You know, some people have a particular burr under their saddle or something and they want to paint the whole department because of that one burr. So I hope you keep that in mind.

Your expertise that you folks will bring to the table is in regards to design matters, not in regards to uses, and you should keep that in mind. We have Planning Commissions that deal with use. We have Councils that deal with legislation and laws. But your expertise is based on design. And design can be subjective. It's not mathematical. It's mostly you know. There's aesthetics involved. But we would remind you to rely on the codes and the rules and the design guidelines that have been adopted by our community in making your determinations. Again, most of those rules and codes do offer some flexibility and interpretation. As a professional planner and the director of the department, I'm fine with you guys using that flexibility. Philosophically I don't believe in a rigid adherence to a code, or a rule, or a guideline, unless the specific language says that it is that it has to be a shell or whatever. But if there's flexibility in the guidelines, I'm fine with you guys using that in your interpretation of those guidelines.

The department is talking about expanding the purview of this board, of this body, so that perhaps there's additional applications that can come before you. I mean, most of them right now are SMA and the business country towns, as I understand it. And so we believe there's an opportunity to perhaps to have some additional review come before this body. We believe there's a need and even a desire in our community to have additional design review and that would be one way to achieve it.

So again the staff thanks you for your time, for your efforts, and we look forward to working with you together and shaping community and managing the growth and the design of our community. And with that, I'll turn it back over to Clayton, unless you had questions of me or anything.

Ms. Okamoto: Any questions? I have one quick question.

Mr. Hunt: Yes?

Ms. Okamoto: We found some issues with the Country Town Guidelines because quite a few of them are fairly – they've been there for a while. Is there any talk by the department to have those, Moloka'i Planning Commission, Lana'i Planning Commission, go back

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through their guidelines to make any changes?

Mr. Hunt: We would certainly be open to that. Yeah. I would ask that you work with Clayton and the planners, and we can schedule agenda items and work sessions and take a look at those design guidelines. I'm certainly open to that.

Ms. Okamoto: Thank you.

Mr. Hunt: Thank you.

Ms. Okamoto: Any questions? Thank you.

Mr. Yoshida: Thank you Jeff. We'll proceed with our orientation workshop and our County policy against discrimination conducted by Allan DeLima, our administrative officer.

Mr. Allan DeLima: Good morning. My name is Allan DeLima. I'm the administrative officer for the Planning Department. I spent a lot of years in emergency management prior to this, giving presentations on tsunamis and hurricanes which made it really easy to keep your attention. Sexual harassment is not quite the most exciting subject, so I'll try to make up in brevity what I can't really give you in content.

This is the most exciting slide in the whole presentation. This is basically what the County of Maui's sexual harassment policy looks like. And you should all have a copy of it in your packet. And if you don't, please see Leilani and I will ensure that you do get a copy of it.

The definition of sexual harassment. Sexual harassment means unwelcome sexual advances, request for sexual favors, and other verbal or physical conduct or visual display of a sexual nature directed by an officer or an employee to another officer, employee or a private individual.

All personnel must refrain from the following conduct: making unwelcome sexual advances or requests for sexual favors; making remarks of a sexual nature using gender based or sexually abusive language and sexual innuendo, visually; displaying materials of a sexual nature, physical contact of a sexual nature; and the usual catch all phrase, any other similar actions.

Now you should be aware that the County of Maui has a zero tolerance policy against sexual harassment, and will not condone or tolerate sexual harassment in the work place. This policy is applicable to board and commission members, as well as County officers and employees.

Now the process for filing a complaint is relatively simple. An individual who feels

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subjected to sexual harassment should immediately make a complaint to his or her supervisor. Now in the case of board or commission members who feel subjective to sexual harassment, they should make their complaint to his or her chairperson. Now if the case is where the chairperson is the alleged offender, the report should be made to the County's Equal Employment Officer, the EEO, which in this case is the Director of Personnel Services. But you do have some other complaint options. You may take your complaint to the Planning Director, to the Deputy Planning Director, and the case where it's not your board or commission's Chairperson you may, of course, take it to him or her.

The Director of Personnel Services who serves as the County's Equal Employment Officer, the Hawaii Civil Rights Commission, or the Federal Equal Employment Opportunity Commission. And as a courtesy, you are encouraged to let us keep our own house clean and let us try to take care of it internally first. We would certainly appreciate that.

Now a complain may be informal, which means, it can be verbal or written, and an unsigned allegation. Or it can be a formal, written and signed allegation. The investigation process – the investigation will be conducted in an unbiased, fair and discrete manner. There will be all the appropriate safeguards to maintain confidentiality, and protection from embarrassment that the law allows.

An individual who is found after an investigation to be an offender shall receive the appropriate warning or discipline. Any disciplinary action prior to implementation will be reviewed by the Director of Personnel Services and approved by the County's EEO's officer. There should be no retaliation or discrimination against the individual who has made a complaint, conducted an investigation or acted as a witness. Retaliatory conduct is illegal and constitute a separate violation. This is where my Portuguese nature comes in very handy, I talk very fast. But if you have any questions, I'd be happy to address them at this time. If not, thank you very much for your attention.

Ms. Okamoto: Thank you.

Mr. Silva: I have one question. I didn't see that in the sheet, in the handout. I don't know if you have that.

Mr. DeLima: If any of you do come up short on it, just Leilani know and I'll make sure she gets a copy to pass onto you. Thank you again.

Mr. Yoshida: Thank you Allan. I'd like to go over some of your roles and responsibilities as reflected in Chapter 2.26 of the Maui County Code. The purpose is to insure that the architecture qualities prevalent in our community are preserved. It's deemed essential that new construction, reconstruction and renovation within a community enhance and compliment the existing building environment. It's the intent of Chapter 2.26 to, one,

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protect and preserve the architecture character of a community; two, to encourage the identification, preservation and enhancement of the architecture character of a community; and three, to encourage the formulation of county wide comprehensive design policies, guidelines, programs and plans.

This board is unique in that it consists of nine regular members, and four alternate members. No other board that I know of has alternate members, but that's because sometimes the professionals on the board are the consultants for the application that is before the commission. So to ensure we have the best chance of having nine members here, we have alternate members. So the composition, you're required to have two registered architects, one registered landscape architect, two registered civil engineers, and four persons with interest or experience in, you know, either urban planning, fine arts, or (phonetics) conservation of historic preservation. One member is a resident of Moloka'i, that's Darryl Canady currently. One member is a resident of Lana'i, your Chair, Kay Okamoto. And we have four, or we're suppose to have four alternate members, we only have two right now. And the alternate members shall be two registered architects, one registered landscape architect, and one registered civil engineer. You're all appointed for five-year terms unless you're filling out a term of someone who resigned.

As far as your powers and duties, they are enumerated in Section 2.26.040. Basically, the board is to advise the appropriate Planning Commission on matters within the jurisdiction of the Planning Commission, and carry out duties as may be delegated by the appropriate Planning Commission. This is for matters such as design guidelines, country town design guidelines for the various rural communities in Maui County. We have them for Lana'i, Moloka'i, Paia-Haiku, Makawao-Pukalani-Kula, and Hana. You also suppose to review and advise the Planning Department on design related matters involving projects within the County – a lot of times the public buildings, Police Station, Fire Station. Perhaps, you know, you could comment on the design, the architecture, the landscape architecture, lighting and so forth, to make it a better project. There's the Special Management Area review, which we'll get to a little bit later, and you will be dealing with one of those – other communications for the Queen Kaahumanu Center bus transfer station special management area use permit. And there's also adopting rules of practice and procedure which you've done. And basically you should familiarize yourself with the rules of practice and procedure because that's how you operate.

As far as meetings, we'll have meetings, regularly scheduled meetings once a month, on the first Tuesday of the month, at 10 o'clock. We use to meet on the first and third Tuesdays of the month, but due to the, I guess, the nationwide economic downturn of the last year, in January we decided to go with one meeting a month. And we moved the time from nine to ten o'clock so we have people coming in from Lana'i and Moloka'i and they will be able to be here by nine o'clock. I'm sorry, to be here by ten o'clock. We start at ten o'clock instead of nine o'clock.

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So normally we go for maybe up until about noon. There have been occasions where we have a fairly large project or controversial project where we kind of go on to the lunch hour, maybe one, one-thirty. But normally we're finish by noon. And with that, I think the only time we don't meet on the first Tuesday is in November because the first Tuesday is a General Election date, so we're going to meet the day before or the day after. If you're unable to make a meeting, please let Leilani know as soon as you know because we do have people traveling from Lana`i and Moloka`i. And if we don't have a quorum, we can't have a meeting, so please let Leilani know. Any questions as to the basic roles and responsibilities, and your meeting schedule? We'll get into Special Management Area review a little later. If there aren't any, I'll ask the Deputy Corporation Counsel Mike Hopper to talk a bit about the sunshine law, ethics and rough proportionality, and sort of other matters.

Mr. Michael Hopper: Good morning members of the Urban Design Review Board. My name is Michael Hopper. I'm a County attorney. I'm assigned to the Urban Design Review Board, here to give you legal advice during your meetings. Clayton went over what some of your responsibilities that are under the County Code. So I'm here to talk about a few things that really all boards and commissions are subject to. The first, you may have heard of it, is the sunshine law. It's the State's open meetings law, and it basically requires that all meetings that you have – and you are subject to the sunshine law even though you're principally an advisory board – you're required to follow the State's sunshine law. And one thing I've given you here is a booklet. It's called *Open Meetings, A Guide To The Sunshine Law*. It's a very good plain English guide to what the sunshine law is. It's a State law, and this answers a lot commonly asked questions. And it's very handy in case you're wondering something. It's actually pretty surprising how many questions I get asked that are in here, so it's actually a very helpful guide and I would recommend that you take the time to read it.

Now some of the details that I want to go over with you, one, basically the sunshine law requires that all deliberation and decision making regarding board business must occur in public and it must be at a properly noticed meeting, unless an exception applies. Your meetings must all have an agenda, and you have today's meeting agenda here with you. You should all have been given that, along with the packet with some information for the meeting. You must have an agenda that specifies the business for that meeting and the business of your meeting is limited to those topics. So there is a way to amend the agenda, but it requires a two-thirds vote and cannot be done if it would affect a large number of people or be of interest to a large number of people. So the agenda is actually pretty strict as far as what you can rely on. The point of that is for an open meeting is that this agenda is posted, it's available to the public, and so the public can decide whether or not to show up to your meeting or not, depending on what's on the agenda. So you can't go outside of what's on the agenda. Now the agenda must be posted six days prior to the meeting. So this would have been posted before hand and things can't pop up on the

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agenda after that. Maybe you can clarify something and you can take things off, but new things can't be on the agenda unless it's re-posted six-days prior. Again, there are a few exceptions, but in general that's rule.

Members of the public must be allowed to testified on each agenda item, not on anything, but it has to be on a specific agenda item. The Chairperson can decide the time limits for testimony. It does not have to be three minutes. It can be less than three minutes, it can be more than three minutes, and there can be no limit. The important thing is that everyone is given the same amount to testify. And the absolute smallest amount of time I've ever seen is I think City and County of Honolulu has a one minute time limit. Generally, County boards and commissions have three minutes, and I have seen when there's not a whole lot of people at the meetings and an unlimited testimony, but, you know, that's set by the Chairperson. Basically the law says reasonable limits can be set. And this is very important.

There is a limit to which you can discuss if it's about board business. And again board business is basically defined by the things that you have purview over. Things you advise the Planning Department on. You know, projects that, you know, are before you. So you look at this and you see this Department of Transportation item. What's your limit of discussion on that? And I'm talking about discussions outside of the meetings as well as at the meetings. At the meetings, it's not really much of a limit because you're here in public. Basically the rule is that two board members may discuss board business with each other outside of a properly noticed meeting. But, you may not make a commitment to vote a certain way on the item. That's two members. More than two members cannot discuss any board business outside of a meeting. So if two of you get together, you can generally discuss an item on the agenda but you can't make a commitment to vote in that meeting. What you cannot do is have more than two members and the kind of serial communications where maybe two of you get together and you discuss, and go to another person and say, hey such and such, we just discussed that here. That's not permitted. So that's actually a very important rule.

Again, there are some exceptions. You can create investigative groups that are assigned to investigate a certain thing and those are very specific rules as far as how you do that. Also, you can – some exceptions are what's called an executive session. As your attorney, there are certain conversations that we can have as a board with me that are basically subject to attorney-client privilege like you would with your own private attorney. You have to have a two-thirds vote of the members present in order to do that, and then we can have discussions off the record regarding legal advice and certain other situations. But again that's an exception to the general rule, which is that your meetings have to be open to the public and you can't discuss board business outside of those meetings generally. Now you can discuss board business with me. This deals with you dealing with other members. You can discuss board business with me potentially outside of a meeting, and you can maybe

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discuss with Planning Department, you know, if you see an application coming up and if you wanted to say I need such and such materials, or I don't have these available to me, then you can talk with them. But it really deals with you discussing and making decisions in public and that's what the State law is about generally.

Your rules require that you have – this is the sunshine law and State Administrative Procedures Act – require that all of the decisions that you make have to be – a quorum must be present and you must have a majority of a quorum voting to take any action. A quorum for you, you have nine members of this board, and you're required to have a majority of members present which is five in order to conduct the meeting. You also need at least five votes to take any action at all of the board. So that means even if you have five members here, that's enough for a quorum, but you still need all five members to vote a certain way in order to take action. If you have nine members here, you still only need five to take action, so four could vote against the action, five could vote for. So these are things that we'll deal as they come. But the sunshine law is pretty strict as far as what you can do without a quorum which is basically nothing. You can't even take public testimony without quorum, so it's very important that we have at least five members in order to conduct board business which again includes any advisory function you have with the Planning Department here. And your Chairperson under your rules and under the Robert's Rules of Order which you generally follow, it is cited in your rules that you follow the most recent version of Robert's Rules of Order. It's the authority on the rules. The Chairperson gets to decide how you go about getting through your agenda items, and when it's time to vote, when it's time for public testimony, and things like that. And that's within the purview of the Chair whose main objective is to, you know, conduct a meeting in an orderly fashion. So, you know, the Chairperson has a very important function, and the Vice-Chair will fill that function if the Chair is not present. So before I go onto to ethics, are there any questions on the sunshine law? Again, this booklet will answer a lot of questions that you might have. Yes?

Ms. Marshall: So if there are just five people here, members and alternates, you can have a meeting. But if there are less than that, you might as well just go home basically?

Mr. Hopper: Yeah, you need to have five members, and we frequently cancel – not here – I don't want to say frequently, but we cancel meetings if we know there can't be more than four members. We've had that situation occasionally. It's obviously not good, but yeah, you really can't do anything without five members.

Ms. Okamoto: Just to remind everybody, be sure you talk into the microphone because it's recorded for the minutes.

Mr. Hopper: Yeah, that's another thing under the sunshine law. You have to produce minutes of all meetings too, so that's important. And you can either just produce minutes

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by, you know, writing what happened at the meeting. You can do that by topic, but I think the easier way is we have it transcribe. Leilani will transcribe the meeting for us, and so that's why it's important to talk into the microphone. Otherwise, she has to kind of go and remember what happened at the meeting. And so it's just easier.

Ms. Marshall: So we're being recorded right now?

Mr. Hopper: Yes.

Ms. Marshall: Oh.

Mr. Hoper: Yes, because it's an open meeting, again, the, you know, everything, like that's open to the public.

Ms. Marshall: Okay.

Mr. Hopper: Executive session transcripts are not open to the public, although they're still recorded in case there's a lawsuit or something. I've never gone to executive session with this board in the four years I've been here, so it's not very often here. Planning Commission sometimes, though.

Mr. Ryan: Michael, in regards to discussion of certain communications after we've come to a decision with quorum, do the same sunshine laws apply if we've already made the decision on a particular project?

Mr. Hopper: Well, what I would say, and I've talked with the Office of Information Practices which is the State agency that administers the sunshine law is that in that situation they may not consider that item board business anymore. You guys could get together at a bar or whatever and discuss, you know, sports or whatever you want as long as it's not County board business. And you know, I would say that if something is already passed then, you know, technically it's not board business if it's not on your agenda or likely to come on your agenda again. So I would say that's not your board business anymore. However, I'd say be very careful because you never know when something might come back to you. The Planning Commission might decide we need more clarification from the Urban Design Review Board, or here's another question I have. So I'd be careful about that. I'd also be careful about making sort of public statements about a project or something before it comes to you because the risk would be you make a public statement before it comes to you, and then that person could say, hey I haven't had a chance for a fair hearing, so you aren't allowed to vote on this because you were biased ahead of time or something like that. It's not that we don't want you to be publically involved, it's a concern for you being able to function. Because if you can't vote, then that's problem. But generally if something is not on your agenda, it's not board business by a strict sense. But I'd advise if something is

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likely to come before, you don't want to be in a position of saying, hey I discussed with so-and-so this before it came before us, or it came back to us and we all decided, wow, we made a bad decision or we should have done this or something like that. So I wouldn't recommend it, although if I had to defend that type of action, I think I would say, it's something that's not board business anymore if it's done.

Mr. Ryan: Thank you.

Ms. Okamoto: Any other questions for Michael?

Mr. Hopper: Ethics. I gave you nice handout with – about – it's entitled *New Board and Commission Member Orientation*. It goes over sort of Robert's Rules of Order. It goes over the sunshine law which is kind of a supplement to this Open's Meeting. And it also goes over ethics, so I would definitely read about the code of ethics. We know you don't work for the County, but you are subject to the code of ethics because you're sitting on this board. And basically the code of ethics requires basically that you not have financial interest, direct or indirect, that would, you know, prevent you from making an objective decision on the project. You actually have a special rule for the Urban Design Review Board because a lot of you may, at some point, worked for a consulting firm that would, you know, because professionals are required you obviously, most of you would have sort of day jobs. And what the ethics, the specific ethics rule for you as a commission basically requires that if you're working for a firm or a project that comes before the commission, you not only cannot sit as a member of the Urban Design Review Board for that item, but you also have limited participation with your firm in advocating before the commission. You're not allowed to advocate for the project as a member, you know, when you're with your employer. You can answer questions. For example, if you're, I don't know, the landscape architect and someone on the board has a question about, that the landscape architect would need to address, you can sit with your client and tell the board, you know, the answer to the question.

But the rule – and it's in your Rules of Practice and Procedure – it's cited as 12-101-17, entitled Disclosure of a Conflict. It deals with conflicts of interests. In section (B) actually goes over. It talks about if a member of the board's firm or employer represents a client who requires board review, it goes over what you can and can't do, so that's very important. And you know, keep in mind, even if you work on a different aspect of the project or something, you would need to recuse yourself here because I think that would be considered a financial interest. If your project gets further on, whether or not, you know, you can't be voting on that, and you really shouldn't be advocating for that here. I mean, it is kind of a tough rule because, you know, at the same time the commission, or the board, not only wants but is required to have professional members. And so that can, you know, be problematic.

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Also as far as receiving gifts and things like that. The basic rule is that, you know, try to use your judgement. Obviously if the gifts seems like it's intended to influence your vote or something, don't take the gift. There's been a traditional of accepting, you know, to what someone would be a token of aloha, or gift of aloha, and if someone brings donuts to a meeting or something or things like that, that's generally not a problem to have a donut. But if someone, you know – we've had situations where people offer a free night in the person's project or something like that to all members of the commission or board or whatever. I would advise against taking things like that and use your judgement. There's not really a day minimalist exceptions, so even if it's a small thing. I really believe that the intention is to, you know, get your vote. I'd air on the side of caution because you don't want to be in a position trying to explain why you were given this special treatment or something like that. So again it's very difficult to, you know, pigeon hole this into one generic case. So if you've got a situation where you think you have a conflict of interest, you can come to me and talk about it. If we're not sure, then we can ask for an opinion from the Board of Ethics which has to render an opinion within a certain period of time as to any potential conflict. And then you can decide if you need to recuse yourself from voting because of the conflict, or if you obviously disclosing the conflict is the safest way. Just so everybody knows I have this relationship, I don't think it's a conflict, but I'm going to vote anyway. I'm going to vote in this situation, and just to let you all know. That's probably better than keeping things secret.

And a conflict of interest is the only way you cannot vote on something. There's no right to abstain from voting. So a silence when the votes come around is considered an affirmative vote. That's something in your rules as well. So you can vote against a project, you can vote for it, and if you're silent, then that counts as an affirmative vote for it. The problem of allowing abstentions is that, again, you need the action of five members to accomplish anything, so you don't want a situation where the project just sits and nothing happens. So that's kind of why that rule is in place there. So do we have any questions on the ethics portion?

Mr. Silva: I have a couple questions actually. You said if you abstain, it goes to affirmative vote?

Mr. Hopper: There's no right to abstain. So if you're silent, or don't say anything. And that's right in your board rules. I can probably find that for you. Yeah, that's correct.

Mr. Silva: I see. Okay. No problem. And then second question, actually, I am involved in this project that's coming before us today. And I was planning on doing some of the technical presentation. Is that allowed? You know, I didn't go through all this yet, and you said I can answer questions technically, but –

Mr. Hopper: Well, you can answer questions. And here's what the rule says, and I can just

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read it, “whenever a member or alternate member of the board or the member or alternate member’s firm or employer represents a client who requires board review of an application, the member or alternate member shall not participate in the client’s presentation to the board. The member or alternate member may answer technical questions posed by other members of the board, but the member or alternate member shall not advocate on behalf of the member or alternate member’s client.”

Mr. Silva: Okay.

Mr. Hopper: So it does say you may not participate in the presentation to the board.

Mr. Silva: And what section was that? I couldn’t find it when you referenced it.

Mr. Hopper: Yeah, it’s 12-101-17, subsection (B). And I think that is a rule based on a specific Board of Ethics opinion.

Mr. Silva: Okay.

Mr. Hopper: You know, sometimes that board makes decisions, and it might even vary from County to County, but that’s what I think our particular board decided and that’s why we have that rule. So, I think, unfortunately, you wouldn’t really be able to give the presentation, and you would have to recuse yourself from voting on the project, I think, as well. I mean, again, it’s a strict rule, and in some ways it’s unfortunate because we want people, you know, but, I think the Board of Ethics sees that. There’s also a County rule saying that if someone works for the County and they cease their employment with the County they have to wait one year before appearing to a board or commission for compensation. And it’s kind of like – it’s probably similar to, you know, congressional restrictions on lobbying, you know, time limits and things like that. So that’s the rule, you know, unfortunately.

Ms. Okamoto: Any other questions?

Mr. Hopper: Okay, and the last thing I’ll get into is rough proportionality. You might be wondering what the heck is that. The issue is that occasionally, in fact, most times, you will be recommending conditions to the Maui Planning Commission on an SMA permit, or recommending, you know, you generally make recommendations to other boards and commissions, so you don’t make the final decision, but you make the recommendation. And in the course of making a recommendation, it’s very common that you recommend that certain conditions be placed on the project which is that if this is approved, we want, you know, the landscaping to have such and such type trees, or we want, you know, we want this to be built in a certain way. And it’s not as common with you as it is with the Planning Commission. But sometimes these conditions can be controversial and burdensome on

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the applicant. That's not to say that any of these conditions that you recommend that you can't do that, but the idea behind rough proportionality, or what they call a rationale nexus is sort of a planning term, is that if you're conditioning a project, the condition needs to have a nexus what they call with the project. In other words, your conditions are generally to mitigate the impact that project might have and you want to lessen that impact.

So your conditions needs to have to deal with some sort of impact. You know, so if there's – the example that comes into mind with SMA permits is that, you know, if you could not, for example, if a project comes forward and you think, oh, this project is going to have a visual impact so we want you to donate \$100,000 to a school. That wouldn't really have any rational nexus and it has nothing to do with the impact that project would have. In addition to that, even if you do have a nexus, as far as, you know, what the impact is and what you want to mitigate. It's got to be proportional to that impact. So if a person is building, you know, one house or something, you generally could not make them, you know, pay for the re-paving of an entire street that goes all the way, you know, all the way down for blocks and blocks or something like that. It's got to be proportional, you know, to the impact that that house would have. That's why we have things like impact fees. There's parking impact fees. A lot of jurisdictions have traffic impact fees. And when you're making recommendations on conditions, you want to make to sure that those conditions are, you know, basically roughly proportional to the impact that the project is having in the area. And it also needs to basically deal with matters within your purview.

The Special Management Area, SMA, that the Planning Commissions deal with, for example, deals with coastal zone management. And there's a list of impacts in that SMA law that says here are the goals and objections of the SMA. Here is what the impacts we want to lessen and generally they give you a pretty good guide. You, as far as design, you've got a check list of standard concerns which is not part of your rules. That's sort of a guideline. But your rules go over section 2.26. It goes over your purview. You also sometimes have to deal with Country Town Design Guidelines, and so you can review those to see, you know, if the project is in compliance with those. These issues will come up as we go along, as with each project. But if I, you know, if you're looking at a condition, and just to keep in mind that some things that I might want to discuss or bring up in that, make sure this condition is, you know, proportional to the impact it's having. And there's U.S. Supreme Court cases on those issues that deal with the rational nexus standard and all of the things I've just told you. There's a case law on that deals with the types of conditions you can have on projects and things like that. And I can help guide you through that as we go along. So, I don't know if there's any questions on that. But that's sort of the end of my presentation at this point.

Ms. Okamoto: Any other questions for Michael? Thank you Michael. Clayton?

Mr. Yoshida: Yes, and as Mike had mentioned there is a special zone called the Special

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Management Area which is adjacent to the shoreline. It has to be at least 300 feet land ward from the shoreline. In Maui County they pretty much taken the major coastal highway and everything ocean side of that is in the special management area. So in Kihei, it's everything makai of Piilani Highway. In Lahaina, it's everything makai of Honoapiilani Highway. So if they're what we call a development, you know, they place solid materials or there is excavation and so forth, maybe subject to a special management area permit. If the valuation of the project is over \$125,000, it maybe subject to a special management area use permit, which requires a public hearing with the Planning Commission. And this board is often asked to comment on SMA projects where there is vertical construction. I mean, sometimes people just say I take this 10-acre piece of land and I'm just going to do subdivision improvements. I'm going to put in utilities and roads and sort forth. And then I'm going to subdivide it and sell individual lots. And then the individual lot owners will come in for their own building plans and so forth, and their own SMA assessment. Sometimes the developer says well we're going to sell model homes. So they may come in with some sort of model type homes and the commission will be – the board will be asked to comment on those projects. The board is looking at design. And I guess another criteria in the SMA – well, one of the criteria in the SMA is views to and along the shoreline. So from the coastal highway, views towards the ocean and so forth.

So I passed out this list of checklist of standard conditions dated November 2, 1999. This was developed by the Urban Design Review Board when Calvin Higuchi, an architect, with Hiyakumoto and Higuchi Architects, was the Chair, about some of the items that the board might be concerned about, as well as a minimal submittal for Urban Design Review.

We had a case where there was a fellow, an architect, who flew in from Bellevue, Washington for this multi-family project in Kihei, and he was only prepared to talked about color schemes.

Ms. Okamoto: What?

Mr. Yoshida: Color schemes. I mean, basically the purview of the board is, you know, a lot of the design issues, as far as the architecture, and the color schemes and the landscaping, and the lighting and the signage, and you know everything that goes into the visual appearance of the development. But he was only – he flew in from Bellevue, and he was only prepared to talk about color schemes. So automatically the board was going to defer which they did. But to kind of give, this goes out with the SMA application packet, so the applicant and their consultant should know what are some of the minimum items that the board wants to see in the presentation, in the information before it can make a recommendation. And the board will, you know, have their discussions and they'll come up with their comments which will be forwarded to the respective planning commission which is the SMA authority for their island. Whether it be the Maui, Lana`i or Moloka`i Planning Commission for SMA review. We'll write a letter from the Board Chair to the

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Planning Commission Chair and the commission. The planning commission could opt to include a lot of your comments as conditions of the Special Management Area permit. So in those cases, again, you're advisory to the Planning Commission. Are there any questions essentially on Special Management Area?

Ms. Marshall: It's basically 300 feet in from the shore, and it's anything over \$125,000, and anything that can affect views. Those are the three basic issues.

Mr. Yoshida: Well, if it's not deemed to be –. There are like some exclusions that is not a development, like say a single family house that's not part of a larger development. So if I was living in Wailea Golf Villas – let's say I bought a lot in Wailea Golf Villas, I could come in for an SMA. It's in the SMA. I would come in for an SMA assessment with the Planning Department. If they determined that it would not have a significant adverse environmentally ecologically effect, they could give me an SMA exemption. So I wouldn't have to go through the SMA process.

Mr. Hopper: And keep in mind the SMA is designated by maps. Actually we have maps that show what the SMA is, so it varies a lot. It's not like a set thing everywhere. And, you know, Moloka'i and Lana'i have SMA's and their own Planning Commissions to deal with them. And Maui has SMA maps, so you would go to the Planning Department and say, am I in the SMA, do I need an SMA permit? They have maps on file that show you what's in the SMA and what isn't. So it's not a given set everywhere. There's actually maps that have been adopted usually a pretty long time ago. Kihei, I think, does go all the way up to the main highway there because that at one time, I think, the view plain you could actually see the ocean, you know, from there. So there's a lot in Kihei, for example, that has to go, and it goes all the way up to Piilani Highway. So that's one example. But, yeah, it will vary depending on where maps have been adopted.

Ms. Marshall: I was watching something about the Grand Wailea project, and they said the SMA boundary was 150 feet, so I guess –

Mr. Hopper: Well, there's the SMA, and then there's also the Shoreline Setback, which is a different issue. That's, you know, I think is 150. I don't deal with those as much. The SMA are going to be particular maps. Shoreline setback is calculated a different way, and that's very strict.

Ms. Marshall: Okay.

Mr. Hopper: If you wanted to do something in the shoreline setback, generally you need to do an environmental assessment and things like that. Whereas, if you're just in the SMA, you do need an SMA permit, but you generally wouldn't need an environmental assessment depending on, there's other triggers. But, yeah, in the shoreline setback area,

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which is very close into the shoreline, it's very different from SMA. Which could be all the way up to the highway from Kihei, which is really not right next to the shorelines. Shoreline setback is going to generally be right where the water is so –

Mr. Yoshida: I would say sometimes the, say in West Maui, in the Ukumehame/Olowalu area, the highway is very close to the shoreline. So the SMA line extends above the highway in those areas. And say, you know, sometimes like in Lahaina town, you know, Lahaina Cannery Mall is in the SMA. So if somebody comes in for redevelopment of Lahaina Cannery Mall, it would come before this board. But across the street, on the mauka side, it's not in the SMA, so it will not come before board. You know, that's just where the line is, it's the highway. If there aren't any other questions, we have our small town planner, Erin Wade, to talk about Country Town Design Guidelines.

Ms. Erin Wade: Good morning. Thank you for having me here today. Basically, I'm going to talk to you about two issues, or two elements in the Country Town Business Zoning District. So Chapter 19.15 is the Country Town Business Zoning District. And within that zoning district it identifies an intention to provide design guidelines for various communities that have that zoning designation. There are several, so I'm going to go through that with you briefly.

Basically, the purpose and intent of this chapter is to establish development standards for businesses in rural communities, to preserve and maintain the unique urban design character and country town atmosphere, and to generally incorporate the communities of Makawao town, Paia town, Hana town, Lana'i City and Kaunakakai. There are other areas that have since been designated with country town business district since the adoption of this ordinance. The Kula Malu Development upcountry has Country Town Business (CTB) designation. There are other small projects that are either in the process of trying to be rezoned to CTB, or just our individual parcels. All those, then, would be eligible for design review.

Basically in terms of the regulatory structure, there's a whole number of things we look at in the Planning Department for consistency purposes. The first three here, and I've illustrated this in sort of a reversed pyramid because this the level specificity. The very general is the Countywide Policy Plan and the policies within it. And the Maui Island Plan, which is currently being reviewed. Community plans. And each level the policy statements gets a little more specific. Then zoning. That's actually our legal criteria. This is the legal tool that we have in terms of land use regulations, and the Country Town Business Ordinance is part of that. The design guidelines are enabled within the zoning ordinance of Country Town Business, and they're part of the rules and regulations of the Planning Commissions.

What it identifies within the Country Town Business Ordinance is that all – and then it goes

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on and on about remodeling, constructions, all types of different work – structures shall be done in a similar and compatible architectural design character with that of surrounding commercial buildings. And as I said, it's part of the rules and regulations of the Planning Commissions, which is why your work here is a recommendation to the Planning Commissions.

The typical elements in the design guidelines – and that's what I have here. This is a stack of all the design guidelines from the communities. Do they have copies of all of these Leilani? Okay. Very good. And I know that those of you who are members of the board, and who have been for a while will just asked questions from members of the community, well, how do I know, you know, what I'm suppose to do? When you're in the grocery lines, they start asking you these questions as they do with staff. You can always refer people to the Maui County website, and unfortunately we don't have access right now to the internet, but if they go to the Planning Department's website, there is a link to historic and country towns, and all of the design guidelines are available to see and review online. Okay.

But there's three basic elements in all of the design guidelines. One, is architectural design guidelines, and it includes a number of elements. These are all things that generally you would review in any project that comes before you in terms of architecture. But in the CTB, it actually delineates specific conditions that they would like to see met in those areas. Same thing with site design guidelines. In addition to whatever the setback have been identified in the zoning, there might be additional setbacks. For instance, if there's a step back at a second level to preserve view corridors on a certain street, this would be an addition to the existing zoning to preserve the character of a community. And then finally, in Makawao, Pukalani and Kula, there's also a street and utility design guidelines. There's reference to that in some of the other ones, but I will tell you that the structure of the design guideline documents is all very different. So, as a small town planner, it's kind of a challenge to keep up with all of the different variations of the design guidelines, and you'll find that too, I'm sure. So each time a project comes before me, I end up reading the document almost in full just to make sure I've gotten everything. And you're going to be put in that position too. That's why you make the big bucks.

So the process for a Country Town Business review – basically the Planning Department receives an application and we review it for completeness. At the point when we've determined it's complete, and sometimes prior to that depending on our discussions with the applicant, we'll forward the application to the Wailuku Main Street Association/Tri-Isle Resource Center. They have a structure and design committee that also provides a review for us. That has been of a great assistance to us in a number of ways because they can have informal conversations with the applicant. You folks are miked. It is on the record. It is public information the things that are discussed here. Sometimes, applicants would like a confidential conversation in advance of coming to the public, and the Main Street

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Association does provide that service. And often they will provide you with a recommendation on the building as well. And then depending on the age of the structure, sometimes the review will also go to the State Historic Preservation Office for review. Usually then a determination of eligibility is made. So if the structure is 50-years or older, they will determine if the building is eligible for register on the State Historic Register. If it is, they may have some conditions that they would like us, or for you to recommend be applied. If it's not, generally they don't get involved and just say the building has already been modified to an extent that it's no longer eligible for listing and it wouldn't have conditions. Once the determination has been made whether the application is consistent with the design guidelines, one of two things can be done. Either the department can approve the application administratively which more times than not is the case. You folks have a very good record of being consistent with the design guidelines and therefore most applicants just comply. Most applications that come in for an awning replacement or a window revision and things like that just comply with the design guidelines. We can approve it administratively. If anything at all seem sort of doesn't match or if the project is large enough that it's going to be a significant change to the community's appearance, even if it is compliant with the design guidelines, we will likely bring that application to you.

The other thing to keep in mind with the small towns is they all have sort of an unquantifiable element to them, and I feel really lucky to be in the position I'm in because I think the small towns on Maui are very special and really do provide an important function within the County. But I can't always rely. A lot of times I just have a gut feeling. Like this, it might be compliant on the face value with the design guidelines, but I would like for the Urban Design Review Board to take a look at it because something just doesn't feel quite right. And often times because I'm not trained as an architect or landscape architect, I just need your assistance to identify for me what is that thing that's a little bit off. And thank you very much in advance. I know you're going to help me out quite a bit on this. And some of those things in the past have been maybe cultural history or art component of the location. There's something special about the site in those things that needs to be preserved or carried forward. Maybe there's a sensory experience that's specific to the site. Whether it be the way that the light comes in in the community, the smell of the town, you know, there's all kinds of climate conditions that can play into site specific things that aren't necessary quantifiable on the design guidelines but do create an impact. So those might be some of the things that would come forward.

The other thing – so basically when – if a project comes to you it is in the Country Town Business District, there's three elements that I will be asking of you. And that would be what is it that's not quite right about the aesthetic of the project? Can you please identify for me what the issue is? Secondly, why is it inappropriate? It's very important for us to document in terms of the rational proportionality, you know, the rational nexus. What is inappropriate about it and then what would you recommend in terms of how those impacts be mitigated?

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And then just in closing, you know, the fact that the board does have a strong history of supporting, the existing design guidelines makes our job a whole lot easier because applicants usually come in compliance so we greatly appreciate that. We also appreciate your professionalism and ability to help us identify those, you know, where a little tweaking needs to be done. So thank you in advance, and if you have any questions, I'd be happy to answer them.

Ms. Okamoto: Any questions? Thank you Erin. Michael?

Mr. Hopper: I just wanted to bring up – we have had these reviews in the past. Keep in mind that you've got the design guidelines in your folder and if you're a member for a while and you don't have them or something, make sure you have them because if you see it on your agenda that there's a review of the design guidelines coming up, you'll need to have reviewed those design guidelines before that meeting. Because you're not going to be able to go through a 100-plus pages of design guidelines at the meeting itself. And usually you'll be asked to make a recommendation to the Planning Department who makes the final decision. They're going to ask for your advice. And so, you're going to need to have read through that, you know, before the meeting. So just keep that in mind if you don't have them or can't locate them, we can certainly get them to you. It looks like your folder has all of them, but they're kind of big and you're not going to be able to just come to the meeting and make that determination. Once you see that on the agenda, you will need to read those before you come to your meeting, and that's pretty important I think.

Mr. Yoshida: Okay, and for the most part the comments of the board are advisory, but there is one instance where you make the final decision. That's on sign variances. So we have Trisha Kapuaala from the zoning division to talk about signs and sign variances.

Ms. Trisha Kapuaala: Thank you Clayton. Again, I'm Trisha Kapuaala from the Zoning Administration and Enforcement Division, and I'll be presenting on signs and variances. So today we'll be going over sign and variances governed by Maui County Code Chapter 16.13. We'll be going over the purpose and intent; definitions; rules and regulations; sign permit procedures; variances and appeals; and finally enforcement.

Now the purpose and intent, which is section 16.13.010, that the people of Maui County have a primary interest in controlling the erection, location and maintenance of sign in a manner designed to protect the public health, safety and morals, to promote the public welfare while providing the method of effective advertising. That there is a marked increase in the number of size and signs – size of signs advertising businesses and activities. That the increase number and size of such signs, coupled with the increased use of motor vehicles make it imperative that the public streets and highways be kept free from signs which distracts motorist's attention from driving and which detract the signs promoting traffic safety. That the indiscriminate erection, location, illumination, coloring and sizes of

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signs constitutes the significant contributing factor in increasing the number of traffic accidents and on public streets and highways. That the construction, erection and maintenance of large signs suspended from, or placed from the top of buildings, walls or other structures constitute a direct danger to pedestrian traffic below especially during periods of winds of high velocity are prevalent. That the size and location of such sign, may, if uncontrolled, constitute an obstacle to effective fire fighting techniques. That the people of the Maui County have a primary interest in preserving the quality of life in the County by retaining the natural beauty of the landscape, view and attractive surroundings of the County. That such unique aesthetics qualities of the County also constitute an attraction for visitors and that are a major source of income and revenue of the people of the County is derived from the visitor industry. That the indiscriminate erection and maintenance of large signs seriously detract from the enjoyment and pleasure of natural scenic beauty of the County which in turn has a detrimental effect on the visitor industry and thereby the economic well-being of the County. That is necessary for the promotion and preservation of the public health, safety, and welfare of the people of the County that the erection, construction, location and maintenance of signs be regulated and controlled. So this is the purpose and intent that Council used to adopt the sign code. Are there any questions so far?

So basically to protect public safety and welfare, and also to preserve the beauty of Maui. This is why we have sign code there. This is why we have no billboards. We have no flashing lights. No Vegas attraction. We try to protect the safety of the people as well as preserve the beauty.

So, now, the definitions. There are two primary definitions. A sign which means a device, fixture, placard, structure or direct application on real property, either outside a building or inside within three feet of a window or door, which is visible from a public right-of-way, adjacent to property that uses any color, form, graphic, illumination, symbol or a commercial message to advertise, announce the purpose of, identify the purpose of a person or entity or to communicate commercial information of any kind to the public. So –. Provided that it shall not include these things: window displays, score boards, gravestones, plaques, government signs such as people running office, bumper stickers, signs worn by an individual. So, in other words, t-shirts or people that hold signs on the side of the highway. Also signs which are located on cars.

And the second definition which is imperative – a commercial message means any wording, logo or other representation, directly or indirectly, names or advertises of business, non-governmental or non-profit organization, product, services or other commercial activity.

So now the rules and regulations, and then finally the sign permit procedure. So from section 16.13.040 to 16.13.150 the sign code regulates the size, amount and location of

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building identification signs, business identification signs, ground signs, promotional signs which are banners, and other signs such as subdivision signs located at the entrances of subdivisions, project signs when you have new construction, directional signs which are typically like in the driveway or drive-thru's at fast food restaurant, and wind signs.

Let me go back. In general, a building is allowed one identification sign. Each business is allowed one identification sign. You are allowed one more if you have an additional adjacent street. So a corner building could allow two signs. You're allowed one ground sign per street frontage, per complex, or per property. One additional ground sign if you have an additional adjacent street. Promotional signs, they're regulated per business. You're allowed six promotional signs, or six banners per year, 14-days at a time, and everything requires permit, unless it's 12-square feet and under. Any questions so far? Yes?

Mr. Ryan: I was just wondering about window painting which is very prevalent on the island here and if that needs to be permitted?

Ms. Kapuaala: We would enforce on window painting if it advertises any commercial information. So any logos, any purpose of attracting for some commercial intent. If it's a holiday one, we would let that go. Yeah. Thank you though, and we actually haven't been called to enforce on that. But I've seen some places that we need to. So the sign permit procedure. There's a sign permit located online that the applicant can download and you can also pick up applications from our department. Applicants are required to provide their info, the property info, the sign info, such as sizes, dimension, color, material, let us know if it complies with the design guidelines, ownership documents and authorization if they're not the owner. The State requires that license contractors be the fabricator and erector of these signs. We require site plans, sign plans, photographs and a \$55 filing fee. And section 16.13.160 also provides a time line for the department to respond so the government requires so many days to let applicants know what is needed or if it's approved or denied.

So variances and appeals. This is your adjudicatory function. Section 16.13.170 says the board may grant a variance if it finds one of the following. A variance may be granted for a structure or activity which is undertaken by a public agency or a public utility regulated under HRS Chapter 269, or a private facility or improvement which is undertaken by a private entity and is clearly in the public interest provided that the proposal is a practical alternative which best conforms to the purposes of this chapter. Secondly, so they can meet either or, one or two. Or a variance may be granted for a sign if the following criteria are met. (A) unique circumstances or special conditions which exists, which are peculiar to the land, structure or activity involved. (B), the proposal is the most practical alternative. And (C) the granting of the variance would not be contrary to the purposes of this code. So in this case, they must meet all three, (A), (B) and (C). They must identify a unique condition which doesn't exist for surrounding businesses, or surrounding properties. What

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about me is so unique that I should be granted relief whereas everyone else must comply. And a lot of people wish they could meet this criteria. Especially now in this economic time, people are trying to be more creative with their signs, yeah, more creative with their advertising. That it's most practical, the variance should be the last case scenario. It shouldn't be the alternative. That's how I get my sign. It's the last case. I've tried everything else, and it wouldn't be contrary to the code. So the purpose and intent that we went over earlier. Are there any questions?

Finally enforcement. Now, the decision that you make on variances, that can be appeals to Second Circuit Court. However, decisions on – for enforcement. I'm sorry, let me go back. Title 16, Chapter 16.13 says that we go to the rules for administrative procedure for civil fines for violations of Chapter 16.13 of the Maui County Code. And this says that the Planning Department can impose initial and daily civil fines of \$500 each if there's a violation of the sign code. And applicant, the violators, they can appeal within 10 working days to the Board of Variances and Appeals. So in this case it wouldn't come to you, but there is enforcement of the sign code. And in any case that you need us to help you enforce, please do let us know. You can always let Clayton know. There's a way to go online. You know, you of all the citizen would know what the code requires, what we're trying to do as far as beautification and design reviews here in Maui County. So, that's it. Any questions? Thank you.

Ms. Okamoto: Thank you Trisha.

Mr. Yoshida: An important component of project location is flood hazard districts and compliance. And here to talk about that is Planner Carolyn Cortez from our Zoning Administration and Enforcement Division.

Ms. Carolyn Cortez: Good morning everyone. I'm the last one so I'll try to make it brief. Okay my session will cover the flood hazard ordinance, flood maps and standards and the community rating system. Okay this picture was taken after a hurricane in Louisiana in 1995. It is a coastal property subject to coastal flooding with high velocities. Okay, these are historical FEMA Flood Insurance Rate Maps, or FIRMs. It was first effective in 1981 when the County of Maui joined the National Flood Insurance Program, and these are paper based maps. Okay, and then as part of FEMA's map modernization project, they are moving towards having all their flood maps digitalized, and this is a national project. And what happened was in September 25th of last year, Maui County received their Digital Flood Insurance Rate Maps, or DFIRMs, and they were adopted by ordinance on September 25, 2009. Now the purpose of the National Flood Insurance Program is the protection of life and property and the reduction in public cost for flood control rescue and relief efforts. In 1992, Hurricane Iniki caused 2.8 billion dollars in damage and affected 90% of the structures on the island. In 2005, Hurricane Katrina caused 100 billion dollars in losses.

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Okay, this is a typical flood insurance rate map. Actually, it's digital now. Anybody can inquire what their flood zone is online. The a-zones which is red – excuse me, the v-zones which are in red along the coast are coastal flooding with velocity because we have that wave action. And then the light blue are the a-zones, and they are riverine and coastal runoffs. Okay, the dark blue that runs right here, this is a flood way. And this here is an x-zone protected by a levy. Okay, now this is a flood way, and you see these squiggly lines here with numbers, these are the base flood elevations. This is the elevation to which the water is going to rise during the 100-year flood, as FEMA has found by engineering studies.

Okay, now this is a typical flood way section. This is how FEMA defines the flood way. As you can see this is the entire – this right here is the entire channel and what they do is they squish the – they squish it, the stream channel, until this, there's a surcharge of one-foot. It cannot exceed one foot. And when that happens, this is the flood way that is defined here. And this is the flood fringe where encroachment can happen without raising the flood height one foot, more than one foot. Okay, and this is a close up of the food way which was defined and we saw in the previous slide. Right here is the flood way and this area is the flood fringe here.

Okay, now many times with the development there are effects to the flood plain. It fills – it constructs houses, it provides new road. These types of improvements can raise the BFE's or Base Flood Elevations and it can lower them. Depending on the grading and improvements, areas are leveled out creating uniform and hard surfaces which effects the storm flow characteristics and the base flood elevations. The code requires, Maui County Code requires any changes in the base flood elevations to go through a CLOMR, or a Conditional Letter of Map Revision process. This area, Kalanihakoi Gulch channelized the flooding which cause higher BFE's in the channel, but contained the flooding within the channel, thereby reducing flooding in the outline areas. So what you see here is, this is the letter of map revision and they did an engineering study which it shrank the flood plain right here, the special flood hazard area. You see this, this is skinnier than this area here. However, in here, I don't know if you can see it, but the base floods were raised. So these are – it heightened the flood waters with the channel, but it shrank the channel, so that these outlined areas now became areas of minimal flooding. And in development, the Code, the Maui County Code 19.62 requires that development of a certain size, go through this CLOMR process, this conditional letter of map revision, which is reviewed by FEMA.

Okay, these are the standards for design and construction within the a-zones. You need to elevate structures to one foot above the base flood elevation, design structures to withstand flood forces, protect utilities, and there's a no rise in the base flood elevation. Okay now, what this means for design is that any development within the A, AH, and AE flood zones with no designated flood way, they can have no rise in the base flood. So essentially how they do that is there's post and pier construction to mitigate the rise in flood waters, and also the expansion of wetlands to increase flood storage because they can

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have no rise in the flood plain. They have to do something to mitigate when they construct and put houses in there. If you can imagine a bathtub, and the bathtub is at a certain level, and when you put things in the bathtub, the water level rises. So if you think of the bathtub as a flood plain, when you put development in the flood plain, County Code says that you cannot have a rise in the flood waters, and there's various ways that they do that. But from a design standpoint, a lot of post and pier construction, rather than fill, would have less effect on the flood plain.

Okay, v-zones are coastal flooding with velocity. Typically, they are created by tsunamis and hurricanes. In some instances, it could be caused by a storm system in combination with unusually high tides. As you can see in the photo on the right, this picture of South Kihei Road across from Suda Store is being inundated by ocean waves. Please note the blue skies. This event was caused by a storm system that was 100 miles away coupled with an unusually high tide. So coastal flooding is not necessarily the result or is not an event that happens with a storm that's happening or a tsunami that's happening or a hurricane that's happening at the time, or in the islands.

Okay, coast flooding requires a higher standard than riverine flooding for construction. These include elevating structures to one foot above the BFE where the lowest horizontal member is one foot above the BFE. Design structures to withstand flood forces from storm and wave surges and protect utilities from damage.

Okay, this is the building section. This illustrates the differences between v-zone construction and a-zone construction. As you can see what we require in v-zone is that the base flood elevation is at or above the lowest horizontal member of the structure. So, that's in v-zone. In the a-zone, it can be top of floor. And of course, if you lived in an a-zone, I don't know if you would like to be flooded to the top of your floor. But what happens is this – we had an ordinance change in September 25, 2009, where we required an additional one-foot above the BFE, and that's called freeboard which is a factor of safety. So now construction within the v-zone is required to go one foot above the BFE to the lowest horizontal structural member and one foot above the BFE, or the top of floor in the a-zone.

Okay, and these are the permits that are required – flood permits that are required for construction in the a-zone. You're required the application for special flood hazard area, an elevation certificate and a flood hazard area certification. If you're in the v-zone, you're required all three of these plus the coastal high hazard area certification. And this one is a certification or reasonably safe from flooding or fill, and this is the no rise analysis as I talked about previously that needs to be submitted to FEMA.

Okay, and the last thing we have is the Community Rating System (CRS.) The County of Maui is the only County in the State of Hawaii participating in FEMA's Community Rating System. The Community Rating System is a voluntary program which when a County

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adopts higher building and development standards, insured owners receive a discount on their flood insurance premiums. We're a class-eight community currently which receives a 10% discount, and we are working on becoming a class-six community which corresponds to a 20% discount. We have five million in flood insurance premiums that are paid to the NFIP. So we calculate \$500,000 is savings for Maui County only because we participate in the CRS program. And that's my presentation. Any questions?

Ms. Okamoto: Any questions? Thank you.

Ms. Cortez: Thank you.

Ms. Okamoto: Clayton?

Mr. Yoshida: Thank you Madame Chair and board members. I don't know if you want to take a short recess while we set up for the communication item.

Ms. Okamoto: Yes, I think we will. To the new board members, normally, we, you know, are a little quicker than this, but this is the initial. And I don't think last year we had the orientation, so for many of us, it's probably the first orientation. Thank you very much Clayton. We will take a brief recess until 11:45 a.m., and then we will come back for our final order of business.

(The Urban Design Review Board recessed at approximately 11:40 a.m., and reconvened at approximately 11:47 a.m.)

F. COMMUNICATIONS

- 1. MR. DON MEDEIROS, Director, COUNTY DEPARTMENT OF TRANSPORTATION requesting a Special Management Area Use Permit for the proposed Queen Kaahumanu Center Bus Transfer Center Improvements project at 275 West Kaahumanu Avenue, TMK: 3-7-002: 020 (por.), Kahului, Island of Maui. (SM1 2009/0015) (Gina Flammer)**

Proposed improvements include the installation of fifteen (15) new bus shelters with seating and lighting, a surveillance system, trash and recycle bins, bike racks, curbs, sidewalks, asphalt work, concrete bollards, re-striping/markings, landscaping, as well as provision of a larger ramp to accommodate bus patrons.

The Board may act to make recommendations on the various project design aspects within their purview.

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Ms. Okamoto: For this portion of the meeting, and I'll go over for new members and remind some of us, we typically have the proposal given by whatever planners and persons who are with the applicant, and save our questions until all have gone through their part of the proposal. Then we ask question and then have our comments as the last portion of this part. Moving onto communications, Mr. Don Medeiros, Director of County Department of Transportation, requesting a Special Management Area Use Permit for the proposed Queen Kaahumanu Center bus transfer center improvements project at 275 West Kaahumanu Avenue, TMK: 3-7-002:020, Kahului, Island of Maui. Gina?

Mr. Silva: Can I first say that the company that I work for is involved in this project, so I need to recuse myself.

Ms. Okamoto: Of course Michael, I believe you do. Yes.

Mr. Silva: Thank you.

Ms. Okamoto: Michael isn't here to answer that question, so yes, I believe you do and you can sit in the audience for this part. Thank you.

Ms. Gina Flammer: Okay, good morning – we've got 10 minutes left – Chair Okamoto and board members. My name is Gina Flammer. I work for the Planning Department in the Current Division, and I am the planner that is assigned to process this application. This application is before you today because it's in the special management area.

So the specific improvements which project manager Erin Mukai will go through in just a moment in much greater detail, but basically it's the installation of 15 new bus shelters with seating and lighting at the Queen Kaahumanu Bus Transfer Station which as many of you know, it's on the back side of the mall where the second Macy's is. It's where all the buses come through. There's also – they're also going to be proposing some landscaping, some trash and recycling bins, bike racks. There will be a provision of larger ramp, a larger ramp to accommodate bus patrons who need a ramp to enter the bus. There will be some curb improvements, sidewalk improvements, asphalt work, concrete bollards and the project will also require some re-stripping and marking of the pavement. The SMA Permit review is scheduled – planning to go before the Maui Planning Commission for May 11th. So what I'm going to do is I'm going to turn it over to the project manager, Erin. She's going to give you a presentation. You can ask her questions. And then at the end, it will be my job to take your comments. And then I'll use those comments as I review the project and I also pass that along to the Maui Planning Commission. So with that, I'll turn it over to Erin who's going to introduce the project team.

Ms. Erin Mukai: Good morning Chair, Vice-Chair, and members of the Maui Urban Design

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Review Board. My name is Erin Mukai, and I'm with Munekiyo & Hiraga. And I'm here today on behalf of the County of Maui Department of Transportation to present to you their proposed plans to improve their existing bus stop at the Queen Kaahumanu Center.

So at this time, I'd like to take a few moments to introduce the project team who are here with us today. The applicant for this project is the Department of Transportation. Here today is Director Don Medeiros, Deputy Director Wayne Boteilho and Jim Oster. Also present is Mike Silva from Ronald Fukumoto Engineering, and Mike Munekiyo from Munekiyo & Hiraga.

Gina kind of went over a few of the improvements for this project. The DOT is proposing to improve their existing bus stop which is located at the rear of the shopping center. Currently the DOT operates it's Maui Bus there. Improvements include new bus shelters with seating, lighting, a surveillance system, trash and recycle bins, bike racks, other related improvements include the installation of the curbs, sidewalks, asphalt work, concrete bollards, re-stripping and marking, landscaping in the form of potted plants, and a larger ramp.

The project site is located within a relatively central portion of the mall. The mall itself is identified by TMK: 2-3-7-2:20, and it's outlined here in bold, and shaded in gray. The project site is bounded by Kaahumanu Avenue, Kane Street, and Wakea Avenue, and you can access the mall from all three roads. However, the Maui Bus accesses the site via two access points off of Wakea Avenue only, and those are located across from Kea Street and Onehee Avenue.

This is the site plan which Jim Oster from DOT will go over in a little bit more detail at a later point in the presentation. However, I do want to point out a few key landmarks which I'm not sure you're familiar with the project site, but this is the rear entrance to the mall. Macy's Mens is located here. The buses come in through this point here. This is the driveway. There's an existing four-story parking structure located in this vicinity here. At a given time, the maximum number of buses that can stop here are five, currently. After project completion that number will remain the same, so five buses maximum will be able to stop at the site. Presently, improvements at the site include only a limited bench seating and a few trash cans. So here are a few site photos. This photo was taken within the parking lot facing the bus stops here, with the Macy's Mens located in the background. When there's five busses at the site, the remaining two will be located here at the front and one at the rear.

This is another photo taken looking into the back entrance of the mall. In this photo it's another angle, but of particular importance you can make out the benches where the bus patrons seat. Currently there's no shelter so the patrons are exposed to the wind, the rain and the sun. This is another photo from a different angle – two benches here. With project

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completion, approximately three stalls, these three parking stalls will be deleted from the parking plan. And at this time I'd like to hand over the presentation to Jim Oster from DOT.

Mr. Jim Oster: Hello everyone, I'm Jim Oster from the County of Maui Department of Transportation. This plan site here shows what we have intended to do. Basically, the greener the shelters, and they'll be clustered in different groups. The shelters will have seating and also areas for wheelchair access. The number of seats we're planning right now is about 38, and six wheelchair spaces.

This is basically what the shelters will look like. They're simple in design. We met with the owners and reviewed what fit and would be appropriate for the property and what we had intended. Some of the shelters will have siding and some not. The shelters along the walls will not have any sides to them, but these shelters over here since they're more exposed to the weather, they will be three sided to encapsulate whoever is sitting there for a little bit more protection. This shelter basically shows us the perforated siding that would be on three of the sides. And this is the manufacturer's photo of one of their installations of the shelter that we propose putting in. This shows the screening, so it will be transparent to allow observation for security reasons and ventilated with the perforations so it's not a solid wall. The color scheme would be as shown. It would be a white top to match the shopping center's basic design, and then darkened color for the structure. This is basically chosen for graffiti mitigation. The lighter color, the graffiti shows more. And basically the shelter will be 30 feet long, they're 10-foot increments along the one wall, and then there will be a series of shelters. The smaller ones will be 20-feet which would be two base. This is basically a picture, a manufacturer's picture of the shelter with no walls on it basically. This has clear panels, but it basically shows what it would look like without walls.

The type of seating again would be this type. It would be mounted to the group via bolts, and it will have arm rests in between to mitigate the people laying and that type of thing. This will be the bike racks selection to incorporate bike riders that meet and utilize the bus system. These will be the recycling bins for trash and recyclables. This design was chosen simply because we use that at the parks so everything is uniform throughout the County. That's basically it.

Ms. Okamoto: Do you have anyone else testifying?

Mr. Oster: If there's any questions that anyone needs to be answered, we can do so.

Ms. Okamoto: We'll go around and if there's any questions for either of you is that okay?

Mr. Oster: Sure.

Ms. Okamoto: Linda, we'll start with you – questions?

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Ms. Berry: Yeah, I would like to know why the dark color was chosen for the benches? It seems like those are going to heat up, and be too hot to sit in when the afternoon sun hits them.

Mr. Oster: The material for the benches – it's a metal bench – we could chose a different color it that's an issue.

Ms. Berry: That's all for now. Thank you.

Mr. Ryan: The parking spaces that are going to be removed from the site, are those, are any of those handicap spaces or are they just basic parking spaces?

Mr. Silva: They are basic parking spaces.

Ms. Okamoto: Michael, can you give your name?

Mr. Silva: My name is Mike Silva. They are just basic parking spaces. The shopping center does have an excess of parking stalls currently, so with the reduction, because of the project, they would still have more than the minium required by the County.

Mr. Ryan: Thank you.

Mr. Silva: And can I go back to the seats real quick? I don't know if you saw in the picture that it is like a mesh sheet so it's not a solid metal surface, so there would be some air flow through the seats also to cool it off.

Ms. Okamoto: Thank you. Jane, any questions?

Ms. Marshall: I wanted to ask about the dark anodized finish on the aluminum. Just having work with that material before, it scratches very easily and the scratches are therefore very apparent because aluminum is light and the dark anodized is so dark. I understand your concerned about graffiti, but you have to wash it off anyway. And I was just wondering if you would consider an natural anodize aluminum? Anodized is anodized.

Mr. Oster: Actually the owner – since this is on private property, we have to kind of go along with what the owner would like, so the selection of a darker color with the light roof seems to fit the motif over there.

Ms. Marshall: I drove by there this morning and the dark anodize, like the lamp pole, are really the only precedent and dark anodized, and they're not even dark anymore. They're almost gray with the UV damage. You can see that they are pitted and it's very, very obvious because of the color contrast.

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Mr. Oster: Yeah, there's not really an easy choice to mitigate everything when it comes to a structure like that. The issue of graffiti, hopefully with security there, that will help minimize it. A different color choice could still be proposed at this time. Nothing has been ordered yet.

Ms. Marshall: My gut reaction is that natural anodize aluminum would last and look better longer. I'll just put that out there. And I was also wondering if you had considered a tempered glass shield instead of perforate aluminum? Just walking through there this morning the steel for aluminum raised standing seam paneling along that side of the building is really dinged very badly so we're going to end up with dinged and punched perforated aluminum in fill, you know, next to.

Mr. Oster: Well, the problem with enclosing it with a solid is the heat gain you'll get. It will be very hot and uncomfortable in there without any wind movements. So the issue of putting something metal in there with the perforation limits the amount of graffiti that can be put on there. A solid glass pane you can pretty much scribble anywhere you want on it. So it was a matter of ventilation and those kinds of things. So the metal is a lot more durable than the glass.

Ms. Marshall: What's the gauge of the metal? Because I just think that it's going to probably get –

Mr. Oster: Well the –

Ms. Marshall: – just like the siding is now.

Mr. Oster: The manufacturer – this is what they do for a living. So how they spec out their materials for longevity and stuff is what we'll go based on.

Ms. Marshall: That was another question. Do they have warranties?

Mr. Oster: Yeah, we've chosen this manufacturer. He gave us the highest. He gave us a four year warranty over everything compared to other vendors who only gave us a one-year warranty, so that helped make the decision. Since it's in an ocean environment so salt air and that kind of thing.

Ms. Marshall: Yeah. Because that is my concern – what it looks like four years from now.

Mr. Oster: Exactly. We'll do the best we can. I mean it's just the matter of the people who are using it.

Ms. Marshall: No, I know. We're not sending out children to school so they're not going to

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replace bus shelters.

Ms. Okamoto: Jane, any other questions? This is just questions. Any other questions?

Ms. Marshall: Smokers. There's cigarette butts all over the place. How are you going to deal with it? I know there's signs. And there's also a sign you can't really see that says smoking here. Is there some more obvious way you can outline that corner that currently is for smokers because you really don't see it, and people smoke everywhere?

Mr. Oster: Well the area that we're utilizing, we're not a tenant, so we don't own it. We're just utilizing it for what it's intended purpose was which is strictly to embark/disembark people at the entrance. So as far as the up keep and the people's behavior we have no control over. It's going to be up to the shopping center's –

Ms. Marshall: So you're not providing the signage per se?

Mr. Oster: The only signs we anticipate are bus schedule.

Ms. Marshall: Okay. Are you reusing the existing lighting that's there now?

Mr. Oster: We will be adding two. The shelters will be illuminated inside for security reasons. But other than that, nothing will be touched.

Ms. Marshall: What is the light sourcing? What is the lamp inside? What's the light source?

Mr. Oster: I believe it will be LED, small, a very efficient lighting.

Ms. Okamoto: Gary, any questions?

Mr. Brauner: Yeah, I'd like to see a lot more on the lighting and the surveillance system. I mean, there's nothing on the paper.

Mr. Oster: Basically there will be cameras located on that walkway underneath to give us a view in this direction and in that direction. I believe there are five cameras that will be in the general area so that we'll have coverage of all the activity. There will be a hard drive recorder that will record an event, all the events, and then if there's something that happens, we just go and download the event. So I don't know what else I could add.

Mr. Brauner: Is that 24-hour surveillance?

Mr. Oster: Yes.

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Mr. Brauner: Any monitoring after the malls close?

Mr. Oster: Yes, it will be a 24-hour system.

Mr. Brauner: But there will be somebody watching it all?

Mr. Oster: Oh, no. It's a stand alone unit. It's not monitored by a group of people looking at screens. We have existing security people there that represent the Maui department and the mall too.

Ms. Okamoto: Any other questions?

Mr. Oster: And also the buses, they have their own camera systems on board each one so when they're in operation or the motor is on, they're recording also. So if there's any event, it will be captured.

Mr. Brauner: How is the lighting sourced?

Mr. Oster: I'm sorry.

Mr. Brauner: Where does the energy for the lights come from?

Mr. Oster: We're tapping into the existing parking lot lighting surrogate so that when the parking lot lights come on, the bus shelter's lights come on too. So they're on that sequence of the timing cycle.

Mr. Brauner: Okay.

Ms. Okamoto: Susan?

Ms. Liscombe: No questions.

Ms. Okamoto: Marie?

Ms. Kimmey: No questions.

Ms. Okamoto: At this time is there – anybody have further questions before we move on to public testimony? At this time, we'll open it up for public testimony. Seeing none, we'll move on. Now we'll go through with comments that board members may want to make and it could include further questions for the planner or for members of their staff.

Mr. Hopper: Keep in mind you're making a recommendation here to the Planning

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Commission on the SMA Permit. So generally it would be in the form of – you would recommend, you know, if there are certain design changes you would want to see or different materials used or things like that you could say these are the comments we want forwarded on to the Planning Commission and they would generally consider those as conditions they would perhaps make. You would need five votes for any comments you send. What typically happens is that you would each state your comments, the planner can write them down, and you can kind of come to a consensus to see do we all agree on these comments or not, and then take a vote. If there's a situation where a certain number of people want the comment to read a certain way or if they want them to read another way or you want to defer or something like that, then you might have to have a vote on each individual comment. But typically if everyone is okay with the comments that are being made to the planner as she's writing them down, and she can read them back to you, then you can take a vote on that set of comments and that generally goes a little bit smoother.

Ms. Okamoto: And so you will be, Gina, will be taking any comments? Susan, we'll start with you. Comments?

Ms. Liscombe: No comment.

Ms. Okamoto: Marie?

Ms. Kimmey: I have no comments.

Ms. Okamoto: Gary?

Mr. Brauner: Yeah, frankly I'd like to see something more in the order of glass rather than the aluminum mesh. The mesh doesn't protect you from weather and wind, and we have quite a bit of it lately. And the mesh, God help us if somebody does graffiti on it, they'd never be able to clean it through those holes. That's it.

Ms. Okamoto: Jane?

Ms. Marshall: I agree with Gary. Thank you.

Mr. Ryan: I actually have a question for the presenter before I make a comment, and that is we didn't discuss the type of plant that was going to be used in the planter, and I would like to hear that before I make any comments.

Mr. Oster: The plants and the landscaping, minimal as it is, is basically going to be maintained by the shopping center. And the types of plants will basically match whatever they have in the interior courtyard area to make it all congruent to their look will be. So at this point, I don't know what plants in particular. But they'll most likely be serviced and

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maintained by the same as they do with the interior plants to the mall.

Mr. Ryan: Thank you. I think my only comment is in regards to my fellow commissioners and the fact that, you know, I understand living in this area that graffiti is a huge issue, and I believe that, although, some glass type or tempered glass type enclosure would indeed provide better protection, that it would be subject to graffiti and it would need the higher level of maintenance. Whether or not that would be able to be cleaned easily and effectively that's not my matter of my expertise, but I think that as presented, the project definitely is made the best of trying to cover as many basis as possible. And by looking at this project, it's a vast improvement to the masses of people that are sitting on the sidewalks out there, and I look forward to seeing them having a place to sit. Thank you.

Ms. Okamoto: Linda?

Ms. Berry: I would like to recommend that a lighter color is chosen for the seat so it doesn't degrade over time as well as not heating up.

Mr. Oster: We're passing around the color options and choices, so please review that and let us know. We'll go ahead and after deliberation we'll present it to the owner and see what their deal is. Just remember, lighter colors, you know, they're easy to mark with a dark pen. And the darker colors also, remember, they're used throughout the nation and hot climates too, so it's not like they don't work. The glass thing, my only comment on that is that it will become very hot inside there. People will chose on a hot sunny day to move away from them. You've got to have wind flow through there. And in being in back of that area, the tall buildings itself kind of hinders any air movements. So whenever you can help yourself out, it's best to have ventilation.

Ms. Berry: So do think that what the shelters provide is mainly shelter from the sun then?

Mr. Oster: Well, people are there for a short time, getting in or off buses, so we're trying to do the best we can with what we have in the area. We can't put a big foot print because the utilities and what's underground there in the area. It doesn't allocate that. So we're basically providing as much shelter as we can.

Ms. Berry: I'm just wonder what those provide is really worth the cost. It seems like if it's just providing shelter from the sun at noon day.

Mr. Oster: Well, and some rain. You know, some rain protection. But people are going to seek the appropriate place to be given the weather conditions.

Ms. Flammer: . . . (Inaudible. Did not speak into a microphone.)

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Mr. Oster: Yeah, the metal railing on top there, that's kind of a dark anodized color. There's a few colors in the back. It's not all uniform, so it's kind of hard to check with. But as far as the owner and management, we'd have to go along with what they want since it is private property.

Ms. Berry: Okay, no further comments.

Ms. Okamoto: I have one comment and it has to do with the depth. Unless you're getting rain straight up and down, you're not going to have much protection. And so my comment also would be either that you need a more depth as far as the cover itself. We very seldom get rain that just comes directly down, and so it doesn't seem like you'll get a whole lot of protection from the rain. The sun, yes, you'll get some if it's noon.

Mr. Oster: Well, the buildings themselves, the walls, block driving rain from certain directions, so we can't cover everything. But for what we could do, putting a roof over where people are now which is basically out in the sun is pretty much what we can do.

Ms. Okamoto: How many actual seats are you adding to what's currently there?

Mr. Oster: I'm not sure of what the current seating count is because it's basically just a bunch of benches, miscellaneous styles that were put out there. We should, just from looking at the photographs, incorporate more seating area than what's shown now because we have these additional seating area now which is not being utilized. So we will be definitely adding more seats.

Ms. Okamoto: Thank you. Are there any other comments by members of the commission? If we could ask the planner to sort of summarize the comments that have come up and then we can discuss.

Ms. Flammer: . . . (Inaudible) . . .

Ms. Okamoto: Yes.

Ms. Flammer: I've got to be on the microphone.

Ms. Okamoto: Yes.

Ms. Flammer: I'm getting too comfortable. There were three comments so far. The first one was a recommendation of glass material for the structure – for the sides – is that all three sides? Okay. Second was lighter color for the material. And that brochure is going around is you can look at the choices the company offers. And the third was a concern about the depth of the overhead shelter.

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Ms. Okamoto: Okay, I don't know that we have any consensus, but discussion on that so to what we do want to recommend to the Planning Commission.

Ms. Liscombe: Comment on the glass versus the mesh. I think the sun is more of a problem here than rain. And since that is kind of on the north side of that building, the south side of that building it does get some protection. I think our bigger concern would be the sun.

Ms. Okamoto: So you're saying you would be more for the mesh?

Ms. Okamoto: Yeah.

Ms. Okamoto: Okay. Other comments? John?

Mr. Ryan: I'm going to say, I believe that solar gain is probably going to be a huge issue with those structures. And in my background I can pretty much say that, you know, it won't be just at noon. Looking at the sun angle from that site, you're probably going to get bright sun from approximately 10:30 - 11 o'clock, if not just part noon through the afternoon hours. And, you know, for the most part, looking at something that offers what limited bit of air flow there is going through there, and protection from the sun as well as the limited air flow, you know, the rain that does fall in that zone isn't going to be sideways like it would be if it were in the front of the building and not sheltered. So I think from a standpoint of trying to find a best case scenario for a solution that's a necessity in that area, that this probably is provided by a manufacturer who has a lot of history in this. And aesthetically I think it's an area that has limited, you know – it's a very industrial area, I think, is what I'm trying to say. And I think the design should be more for comfort of the rider and I believe that this project as presented shows that and addresses most of those issues.

Ms. Okamoto: Any other comments? Hearing the comments I would feel like that we don't have a consensus on mesh versus glass walls. Would I be correct? The one area was the color of the material. You did see, passed around, various colors. Is there a consensus that we feel like it should be a lighter color? Comments?

Ms. Berry: I think so, for both the structure and the seating.

Ms. Okamoto: Any other comments there? Do I have a consensus that we're asking them to go with a lighter color? Can you remind me what was the third?

Ms. Liscombe: It was your comment.

Ms. Okamoto: My own.

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Ms. Flammer: Since you have the choices in front you, anybody want to make any comments on that?

Ms. Berry: On the structure, I recommend that we go with the anodized, the lightest one at the top.

Ms. Flammer: Okay.

Ms. Berry: And on the seating, something that's light grey in a similar tone.

Ms. Flammer: Okay.

Ms. Okamoto: Do we have a consensus on that portion? Okay. And the third item is mine.

Ms. Flammer: The third one –. Yeah, it's the overhead.

Ms. Okamoto: And basically that's the standard that this manufacturer provides, I assume.

Mr. Oster: Well, the choice in white color is obviously for solar gain, the reflective, and it's also representative of the white roof at the shopping center itself.

Ms. Okamoto: No, I'm asking the depth of the –

Mr. Oster: Oh, well, we're limited to about five feet which we've chosen in this direction because there's some utilities and stuff here that we couldn't go out further. This corner post you have to allow walk way space so that's why there's no sides on the corners there. So the width of it was just basically what we could fit.

Ms. Okamoto: Okay, thank you. I'm willing to drop that concern then. Looking at what we have left and we have talked about the color and lightening the structure and the seating, and are we all agreed on that? Could I have a motion to make that recommendation then to the Planning Commission?

Mr. Ryan Make a motion to recommend the previous stated comment to the Planning Commission.

Ms. Berry: Second.

Ms. Okamoto: Would you be able to read back now what we have for you to pass onto the Planning Commission?

Ms. Flammer: That the Urban Design Review Board is recommending that the lightest color

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be used for the material for the bus shelters.

Mr. Hopper: And the seats. Were there specific colors that you had? I mean, if that's the situation, I'd recommend having that as the motion so that's specifically forwarded. If you want to get that specific, you can say to be light. I mean, whatever motion you'd like. It should just be specific.

Ms. Berry: How about clear ano-215.

Ms. Kimmey: Also Linda for the seating, you said something to match it. You've got the things.

Ms. Flammer: Light grey I think?

Ms. Berry: Yeah, and something to match that for the seating.

Ms. Flammer: Seating to match?

Ms. Berry: Yeah.

Ms. Flammer: Was there a name for that color, anodized two point?

Ms. Berry: Clear.

Ms. Flammer: It is clear?

Ms. Berry: Yeah.

Ms. Flammer: Okay.

Ms. Okamoto: Okay, now would you like to read that back again?

Ms. Flammer: Okay. Sure. The recommendation is for the materials to be used for the bus shelter to be the clear ano-215, and for the seating color to match that color.

Ms. Okamoto: Any questions? Any discussion on the motion? If not, all in favor of the motion raise your hand, right hand? Opposed? Motion has passed. Thank you.

Ms. Flammer: Great. Thank you.

**It was moved by Mr. John Patrick Ryan, seconded by Ms. Linda Berry,
then unanimously**

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VOTED: to recommend approval subject to one comment.

G. DIRECTOR'S REPORT

1. Status of Board Vacancies

Ms. Okamoto: Yes, I believe we ended up one recommendation, one comment. Moving on, Director's Report.

Mr. Yoshida: Yes, Madame Chair, members of the board, we currently do have two alternate member vacancies on the board. One is suppose to be a landscape architect, and one is suppose to be a civil engineer. So if you know of anybody who would like to serve, they should contact the Mayor's Office and submit a form. Our next meeting is scheduled for May 4th. We have, we are asking the board for comments on a proposed Mormon Church at the Maui Lani Project District. And that's the only item that we have. And that concludes the Director's Report.

H. NEXT MEETING DATE: May 4, 2010

I. ADJOURNMENT

Ms. Okamoto: Anything else?

Mr. Ryan: I make a motion to adjourn.

Ms. Okamoto: Okay. Do I hear a second to that motion?

Ms. Liscombe: Second.

Ms. Okamoto: Any objections? If not, meeting is adjourned.

There being no further business brought forward to the Board, the UDRB meeting was adjourned at approximately 12:27 p.m.

Respectfully transmitted by,

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

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RECORD OF ATTENDANCE:

PRESENT:

Linda Kay Okamoto, Chair
Gary Brauner
Susan Liscombe
John Patrick Ryan
Linda Berry, Vice-Chair
Jane Marshall
Michael Silva
Marie Kimmey (Alternate Member)

EXCUSED:

Darryl Canady
Bryan Maxwell

OTHERS:

Jeffrey Hunt, Planning Director
Clayton Yoshida, Planning Program Administrator, Current Division
Allan DeLima, Administrative Assistant
Erin Wade, Small Town Planner
Carolyn Cortez, Planner
Trisha Kapuaala, Planner
Gina Flammer, Planner
Michael Hopper, Deputy, Corporation Counsel