

**CULTURAL RESOURCES COMMISSION  
REGULAR MEETING  
OCTOBER 7, 2004**

**A. CALL TO ORDER**

The regular meeting of the Cultural Resources Commission (Commission) was called to order by Chair Lori Sablas at 9:00 a.m., Thursday, October 7, 2004, Planning Conference Room, Kalana Pakui Building, 1<sup>st</sup> Floor, 250 South High Street, Wailuku, Maui, Hawai'i.

A quorum of the Commission was present. (See Record of Attendance.)

Ms. Lori Sablas: Aloha kakahiaka kakou. Good morning everyone and thank you for being here at our Cultural Resources Commission meeting and the meeting is called to order.

Before we start though, from our last meeting till now, we had lost one of our former Cultural Resources Commissioners, and her name is Dee Fredericksen, and she had served very faithfully on this Commission, so I'd like us all, you know, to take a moment of silence and remember her for all the good that she's done for our Maui nui that she loved, and her son, Erik, also served on this Commission, and I think Maui is very fortunate to have had people like Dee to have served. So please join me in a moment of silence in thoughts for her. Thank you.

We have this morning, for the first time, a new Corp. Counsel, and like tradition, that I know anyway, you need to introduce yourself, you know, so that we know who your genealogy is, how many generations you go back, and, you know, right, Keeaumoku? And so -- and then we'll, of course, do the same for you -- no, I'm just kidding.

Mr. James Giroux: Thank you. James Giroux. I'm a Corporation Counsel. I'm assigned to this council. I grew up on Maui. We started out in Lahaina. My parents are actually from California but they sailed to the Marquesas and came here on a boat, and we grew up in Lahaina, Lahaina Harbor. We went then to Huelo, I grew up out there in the sticks; no water, no electricity, no roads; then went to Maui High; then went to University Hawaii at Manoa, and then got my law degree in California, California Western in San Diego, and I'm glad to be back.

Ms. Sablas: Good mana`o sharing. Thank you. Boy, you're local boy. Okay, so I'd like to open the meeting, please. Reminder, cell phones are all off. Okay. I'd like to remind -- open the meeting with any public testimony, people who are here, on any of the agenda items we have listed for today's meeting. If you need to leave for any reason, now is your opportunity to speak on items on the agenda. Okay, you're here for the long run. Oh, you want to speak? On an item on this agenda?

Unidentified Speaker: Well, actually, my address will cover the entire agenda.

Ms. Sablas: So this is, I remind you, if you come up and speak now, you have your three minutes, and then pau, so it's up to you. If you'd like to do your three minutes now or would you like to wait later?

Unidentified Speaker: I'll wait later.

Ms. Sablas: Okay. Thank you. Okay, let's -- Commissioners review the minutes of September 2. I notice we don't have August and we have September, Suzie? Did we have August or did I miss it? Okay, we had August, okay. Just my poina, I'm sorry. Okay, so any comments, changes to the meeting of September?

Ms. Barbara Long: Just a question, Madam Chair. The vote that we took or the two decisions that we made on food booths under the Banyan Tree, how is that communicated to the Parks Department and whatever?

Ms. Sablas: Is that...(inaudible)...

Ms. Dawn Duensing: I'd like to ask Corp. Counsel, is this the appropriate time to address that or should I address that in my Director's Report?

Ms. Sablas: Director's Report perhaps?

Ms. Long: That's fine.

Mr. Giroux: Yeah, that would probably be the best time.

Ms. Duensing: And for Corp. Counsel's information, this is referring to the Banyan Tree issue and you and I have been working on that already.

Mr. Giroux: Yeah, I think right now we're just talking about the draft minutes.

Ms. Long: With me, if I don't bring it up right away, it goes right out of my mind, so mark it down. Thank you.

Ms. Duensing: I'll address it as part of the Director's Report.

Ms. Long: Okay.

Ms. Sablas: Any other changes, additions? If not, do I have a motion to approve our minutes?

Mr. Keeaumoku Kapu: So moved.

Mr. Samuel Kalalau: Second.

There being no further discussion, the motion was put to vote.

**It has been moved by Mr. Kapu, seconded by Mr. Kalalau, then unanimously**

**VOTED: to approve the minutes of the September 2, 2004 meeting.**

Ms. Sablas: Motion carried, thank you. Okay, let's move on to Item C.1. Historic District Applications, Mr. Mike Munekiyo.

## **C. PERMIT REVIEW**

### **1. HISTORIC DISTRICT APPLICATIONS**

- a. MR. MIKE MUNEKIYO requesting Historic District Approval for storefront alterations for Island Restaurant Ventures, at 900 Front Street, Lahaina, TMK 4-5-002:009. Commissioners will review the proposed alterations and staff recommendations. The CRC will approve or deny this application. Public testimony will be accepted. (D. Duensing)**

Ms. Sablas: So do we have a staff report?

Ms. Duensing: Thank you, Madam Chair. I have prepared a staff report for commissioners, it should have been included with your agenda for this morning, and I would briefly like to go over the description of this request and I think, at that time, just give a very brief history and then we'll let the applicant, being represented by Michael Munekiyo, make his presentation to you and then I can address your -- any other concerns later.

This application is for a Historic District Approval of renovations to the exterior of a building that is part of the Lahaina Center at 900 Front Street. The architectural design of the project mimics the balustrades at the Pioneer Inn. The applicant proposes to build this balustrade to create a seating area for open-air dining at the Lahaina Center.

The reason why this is being brought before you is that it does not -- this is an unusual request, it doesn't quite fit within the Architectural Style Book that we have for Lahaina at this time, and, originally, the applicant had requested to move the existing exterior wall back some distance to accommodate the creation of open-air outdoor seating for a restaurant.

And in analyzing this, the department felt that it is not a good idea to move exterior walls like this, it would break up the continuity of the structure; there are also concerns with what is existing there now because that was none permitted, that wall, kind of barrier wall between the sidewalk and the building shouldn't be there, and we also had concerns as to what the original intent was for the shopping center, and all of that has been presented in the analysis. So the applicant, as is his right, would like to present alternative plans and have the Commission's consideration of those plans.

Mr. Mike Munekiyo: Good morning, Madam Chair and members of the Commission. My name is Mike Munekiyo, I'm here on behalf of Island Restaurant Ventures, and we appreciate the opportunity of presenting what we believe to be sensitive adjustments to the design of a particular building at 900 Front Street. If I could, Madam Chair, just present some photos so that it would give the Commission some context as to what is being proposed.

The portion of the building which -- for which we are seeking this Historic District Approval is this area right here. The restaurant area was, some of you may recall, was formally occupied by Sam Choy's, and what Dawn referred to as that rail is this area here, that's that solid white rail here. Between this rail here and the wall, existing wall right now, is about eight feet, and what the applicant would like to do is to relocate this wall back about 14 feet with the same design, with the same windows, same materials and so forth, except that it would now be 14 feet further towards the building so that what happens, effectively, is there would be created about 672 square feet of outdoor dining area. And, if you can see, it might not be all that visible here, but this would be a rendering of what existing conditions look like, again, the solid rail here, the windows, the wall, existing wall here, about eight feet back from this rail and, again, kinda reflecting the existing conditions. This is just another view along Front Street looking towards the south. And here's a close-up view of what the restaurant frontage would look like, again, the existing rail, the existing wall, eight feet back, and then, of course, the proposal would be to relocate this same wall back another 14 feet to create a outdoor seating area.

What I'd like to do is ask Mr. Ron Munoz, who is a principal in Island Restaurant Ventures, the applicant, to kind of give the commissioners some further background as to why it is that they're -- they would like to do this and why -- how it fits with some of the other restaurant establishments in Lahaina Town, so if I may, Madam Chair, introduce Mr. Ron Munoz.

Mr. Ron Munoz: Good morning, commissioners. Thank you for letting us appear before you this morning. Being with the tradition that you started with your Corporation Counsel, I'd like to introduce myself and tell you a little bit about my family. We're -- I was born and raised in a plantation town on Oahu called Wahiawa and we're -- I went to the university -- graduated from Leilehua High School, went to the University of Hawaii, and spent most of

my life, until 1986, living on Oahu. When I left the university, I got into real estate, although I was headed to law. I found out that I could make a lot of money sooner and, fortunately, didn't follow through as our Corporation Counsel did. In 1986, I moved to Maui at the behest of Colin Cameron. I was their developer out at Kapalua from 1986 to 1990 during which we did the transition from condominium living to the residential concepts that you see out there now. I did Pineapple Hill, Kapalua Place, and I left just when the Plantation came on the market because my son was born and I decided that 17 hours a day, 7 days a week was not a way to be father, so I left the company and went out on my own. And I've had the good fortune of spending a lot of time with our kupuna on the island. In fact, I want to tell you that this morning we had planned to have Kualani Edna Farden Becker here to testify on our behalf, and she's 85 and wasn't able to travel this morning, and she does send her regards and says that if anyone on the Commission would like to speak to her, she would be more than pleased to voice her opinion to you on this matter. But, that aside, I can tell you that in planning this project, we looked at this space two years ago and we signed the lease with Weinberg Foundation for it. And, before signing the lease, we did a lot of due diligence in Lahaina. We tried to understand why this space has been the home for six restaurants and why each of the restaurants has failed. It hasn't been financial reasons because the two first tenants in this space were part of a multi-national corporation known as General Foods. They had Red Lobster and Chili's in that space. There's also been a local, a very large local business of some celebrity that was there, which Mike mentioned, and that was Sam Choy's. And, since then, there have been three mom and pop sort of stopgap businesses that had been there, most of them Italian, and all of them, unfortunately, were not able to get the people to come to their restaurant.

We believe, in looking at it, that the reason why they're not coming to the restaurant is something that Edna told me about. Her family moved here in 1898, when Liliuokalani had just been overthrown, and her father was one of the parties who helped to build the Pioneer Inn. She wasn't born until 1918 and so everything she knows, from 1902 to 1918, unfortunately, in those days Lahaina didn't change much in 20 years, was passed on by oral tradition, so much of what she passed on to me was passed on to her.

She said that one of the things that makes a successful island style dining area is a lanai. That in the old days you had a house, and the house is where you slept, and she said a lot of people ate outside under the tree. Well, a covered area was created to -- on most of these homes; it didn't have railings; it didn't have sides; it was just kind of a roof with a couple of posts holding it up, and that became the place where people used to eat outside instead of eating under the tree, and then the western influences started coming in. You started seeing side walls, and then you needed privacy so you started to see railings, and that's kinda how the lanai, in tutu's story, evolved.

Well, what we noticed in walking around Lahaina is that many of the businesses in Lahaina that are -- been able to survive the ups and downs of the west side all provide one thing in

common, and that's outdoor dining. This is a shot of Ruth's Chris Restaurant. Now Ruth's Chris Restaurant is, you may or may not know, is a white linen, upholstered booth, dressy, air conditioned restaurant that serves very expensive meat and very expensive wine. But even they have learned that many of their clients require outdoor dining services and so they have provided an outdoor dining area that doesn't resemble at all what they have on the inside of their restaurant. This particular restaurant is on the other end of our building, it's on the Wailuku side of our building, we're on the Kapalua side of our building. As you go further down the street, there's another eatery that has been around for quite a long time and it too offers outdoor dining and no air conditioning, which it's actually pretty famous for, it's also famous for waiters sitting at your table, which is a reason I don't go there as I often as I could, but it does have an appeal to the local and to the malihini markets, people love to sit on the sidewalk and enjoy the Lahaina weather. I mean Lahaina is one of the few places in the world where you can eat outside and -- just about everyday of the week. If you go further into Lahaina, well actually, across the street, and this is in the same shopping center, again, that we are in, this is a much younger crowd that attends Hard Rock Café, not as wealthy a crowd, perhaps, as goes to Ruth's Chris or to Longhi's but, nonetheless, this restaurant too has found that there's a need for outdoor dining; in fact, they've provided it, and, if you'll notice, they have a little rock wall around it and some bamboo torches and quite a few elements that aren't architecturally congruent to the shopping center that we're in. Further yet from us, and off Front Street actually, is a eatery that's been around for quite a long time, and this is Lahaina Coolers, and if you notice the front railing area here, there used to be a railing across that completely and to the left of that, you'll notice that there are some very large planters, and more than half of their restaurant area is located outside of the restaurant and it was created in a courtyard area, which I understand was not originally intended for restaurant use, but became more and more used, and larger and larger in area, as the demand for the area developed. But all of this comes back to what tutu told me, she said, "If you go to Lahaina, the one vestige of the original commercialism that was brought to Lahaina still exist, and it's this eatery that has been in this location for 103 years now." It has been there because it has an ocean view, it has outdoor seating, and it appeals to locals and visitors alike. And it's with that concept that we've moved to where we are now.

You can see here a drawing that we submitted with our original submittal. Since meeting with Dawn Duensing, and we dearly, by the way, appreciated her input because it was with her input that we saw how we could take what we started with and make it even more what the historic Lahaina was about and that's the simple modification of that front railing, front planters by the way, these are originally planters and they were installed at the behest of the liquor commission by a prior tenant in late 2001, we modified that by taking the -- Dawn's suggestion that perhaps we should look at a railing instead of a planter, and so what we did is we decided we were going to emulate exactly the railing that you see at the Pioneer Inn and bring the Pioneer Inn to the opposite end of Lahaina. This is the very end of the commercial spaces in Lahaina. In fact, another thing I learned from tutu about this

area is that where our restaurant is now used to the home of the doctor that manned the hospital that is where Hard Rock Café is now, there used to be a hospital there, and between the two was the morgue, so maybe that's why the center's kinda dead in the middle, but that was tutu's story, but it's -- it has been in commercial use all the way back, as far as she can remember, and what we're trying to do is sort of bring it back to that point.

The outdoor dining is traditional. Lanai is something that was developed in Hawaii. The word "lanai" is used universally, international; in fact, it's global. I'm in the real estate business and I'm surprised to see lots of times, in foreign countries, people referring to a veranda as a lanai, but lanai is what illustrates what island living is all about. It's outdoor dining. It's not air conditioning. It's not sitting behind European style mullion windows. It's sitting looking at the ocean enjoying your outdoor. We plan to have lunch and dinner in this facility, and, to me, if I had a place to go and have lunch in Lahaina and I could sit outside and look at the ocean, if you look at Kimo's, if you look at the fish company, if you look at Lahaina Yacht Club, all of those restaurants are right on the water and right outside and very successful. Businesses across the street, people with a lot of money, again, going back to Planet Hollywood, have gone out of business because they're inside, they're air conditioning, and they have really nothing to do with what our island is about, so our proposal is to modify this building.

And there was mention about this shopping center's architectural appearance. If we can go back to a earlier slide, we believe that the reason why the railing was put in in front of the building originally, this railing here, if you take a look down this building, if you'll notice here, there's a false gable here, and that bottom part of the building is completely uniformed; however, on the upper floor, there are these bay windows and -- in a dormer sort of layout and so there's a break in the building here, and so if you look at the building before this railing was in, before this planter was in, what happened was the building looked completed uniform on the ground floor but there was a break at the top, and so actually, if you look at it, that was architecturally improper, and so what happened is that whoever was a tenant before us saw that there was a break in the building here and that what needed to be done was to create a break in the bottom as well and that's the -- that's what we believe happened in that situation. So if you look at our concept and you look at the building as a whole, actually there is an accent to it. Instead of looking like a row of tenement houses or row houses as you have on the East Coast, this becomes a building that breaks into two sections; it breaks right there where you see the post ending. Now the solid white at the bottom, we agree, is not very attractive, but it has been there since late 2001 and I cannot find any record of anyone complaining about it anywhere, and we were apprized, when we submitted, that there was -- it was in violation of the code, although it was a planter, and it's been our effort now to sort of try to remedied this situation to build and create our lanai dining and meet the codes of the historic district and the desires of the Commission. So I guess that's my story and I'll be happy to answer any questions that you might have about what we -- what other plans we have.

Ms. Sablas: Is there any public testimony on this particular item? Okay, commissioners? Yes?

Ms. Lisa Rotunno-Hazuka: Have you -- you know you showed Longhi's where they tend to bring the outdoors in just by opening up the windows and have you thought about that instead of doing the open-air dining?

Mr. Munoz: Yes. In this particular case, it'd be difficult to do because if you look at the kinds of windows they are, the space that the window would take to swing open would take a considerable amount of floor space there, and so what we felt is that there's two reasons not to do the swinging window: one being that it is an operational issue and a space taking issue in the front, and, two, that the direct interaction with the sea across the street is what we're trying to achieve. We believe that the activity that can be seen from people sitting on what comes out to a lanai, is more conducive of -- conducive to inducing more business than putting windows that swing open. We believe that the box appearance of this building is what has doomed the six other businesses that have preceded us in this space to the failure that they experienced, and all we're trying to do is put into a viable operation while providing the experience that many people come to this island for; it's to be able to eat outdoors because the places that they come from you cannot, and if you look at it, as I said, the restaurants that are most successful in Lahaina are the restaurants that provide its clientele an outdoor dining experience.

Ms. Sablas: Ron, how many seats are proposing seating for the outside with your extension?

Mr. Munoz: I think that our drawing shows it. I believe that we have just about 50 seats, or actually I got 32, yeah, just about 50 seats outside, so about a little more than half actually of the total seating of the restaurant.

Ms. Sablas: About half of them will be outside?

Mr. Munoz: About half of it.

Ms. Sablas: Yeah, so you're reducing the inside seating to increase the outside, which kinda make sense.

Mr. Munoz: Yes.

Ms. Sablas: Yeah, a point that comes to my mind about what you're doing there and just to keep in mind because, annually, Lahaina has parades --

Mr. Munoz: Yes.

Ms. Sablas: And that's a real popular sitting area for the local people to sit right in front of that area to watch parades. Just be sensitive on it in the future because it's such a community event and I think you're gonna -- the way you're planning it, it's going to be at floor level and so, you know, I would not like to be -- to see in the future that when locals, you know, the residents who are visiting and you say, oh, we gotta clear the view for because --

Mr. Munoz: Well actually --

Ms. Sablas: It's something out there but I've -- we've encountered that with Planet Hollywood, that's a distinct memory in mind, when they had the guards out there, and we had a community parade, and they, you know, were very rude to everybody who was standing in front and said you gotta move and gotta clear the -- it's not a good type of atmosphere and I just needed to have you appreciate that Lahaina has its annual very important parades in town that means a lot to the old timers, and maybe it's nothing, but, you know, just have that in mind that when the time comes, you know, the -- I hope you guys don't say go away, we have to have views for our clients.

Mr. Munoz: Well, actually, Madam Chair, the parade generally starts on the corner of Papalaua and it heads towards the Banyan Tree direction, and we are almost 200 meters or 200 yards to the right of that, but I will tell you --

Ms. Sablas: No, Kamehameha Annual Parade starts --

Mr. Munoz: Oh, the Kamehameha Parade. I'm sorry. I was talking about -- I was thinking about the other parade.

Ms. Sablas: I know of every parade in Lahaina.

Mr. Munoz: I will tell you -- I will tell you that we have no intention --

Ms. Sablas: Okay.

Mr. Munoz: Of chasing anybody away from anything. In fact, my wife was telling me the other night that they had those three cruise ships in the harbor and everybody was packed standing on the railing between Cheeseburger in Paradise and the art store on the other side of the breakwater, I mean the seawall there, and she said it was wall to wall people and couldn't believe it. They were just standing there watching the sun go down. So she said, "You know, maybe all those people will go and stand by our restaurant and come and sit down and have a cocktail and watch." You know, we're local people, we're born here, and we have only aloha for people and that's part of our concept, that's what we believe, is that opening our restaurant to the outside is bringing aloha to the inside and that if you

bring the aloha to the building, then the business will follow it there. We believe that this facade, as you see it now, it's not aloha, it is some over utilized missionary concept, frankly, that was brought to Hawaii. It's not ugly. It's not -- I mean it's prevalent on the East Coast, Boston, where it came from, but it's not Hawaii. It needs -- it needs to be an island restaurant, I mean that's the name of our restaurant ventures, it's island --

Ms. Sablas: Is that what it's going to be called? Island Ventures?

Mr. Munoz: Island Restaurant Ventures. Yeah, we haven't decided on a final name for it but that's the name of our company that's starting it and that's what we're trying to do, we're trying to create a island restaurant venture and we believe that taking this space and giving it a lanai is the way to make that an island restaurant.

Ms. Sablas: Okay, I have one more other question. You know when you had shown the rendering, we saw only the addition from your end.

Mr. Munoz: Yes.

Ms. Sablas: Do you have a rendering that would -- how would that addition -- how does it relate to the entire building so that from --

Mr. Munoz: Okay, I don't -- I -- this is it so if -- you need to imagine this wall moving back 14 feet and this turning into a railing.

Ms. Sablas: But it'll still -- it's still in the perimeters, in other words.

Mr. Munoz: Yes, the length of the wall will not change.

Ms. Sablas: Yeah, okay.

Mr. Munoz: All we'll change is that this will become a railing.

Ms. Sablas: Okay.

Mr. Munoz: And, right now, there's some gas lines that were put in and some bright lights that was put in by the previous tenant and Ms. Duensing expressed her concern about those items and it's our plan to remove those items. You know, to us, the other thing that I'm against, which when I was at Kapalua we never allowed but in the new administration they do, is lighting that affects the view of the sky. You know, I believe that, I mean I was born and raised in Wahiawa and, believe me, I could see every star on every night and when I moved to Maui, that was the thing that appealed to me is that it's amazing that you can do it. Well, since 1986, so much up-lighting has been created on the west side that

probably two or three billion of our stars on West Maui have disappeared. So, to me, the bad thing about being across from the ocean in a restaurant is that at night the ocean disappears, but if you put more and more bright and brighter and brighter lights into your restaurant, then any chance of seeing the -- even the moon reflecting across the ocean disappear, so we are more than pleased to remove the plains and bright lights that are currently on the outside of that building too.

Ms. Long: Ron, I appreciate your trying to work with the department to -- to meet the requirements of the historic district but I do want to say that when Lahaina Center was built, I thought it was specifically ugly and I still do. It's a sudo replication of historic architecture, supposedly, without any, I don't know, it just -- it totally lacks authenticity and if there is some way that, not only your restaurant, but the whole facade there could be improved so that it would look a little more authentic. Have some trees. Put in greenery that softens the look of it, and I know you don't have any control over that. I'm totally in sympathy with you and I'd love to say, "go for it," but if we do that, it does set a precedent, it could open up a can of worms where there are authentic buildings, and I've seen that happen before and I do not want to do that. So I'm just wondering if you could work further with the department to come up with some compromise that makes everybody happy.

Mr. Munoz: Well, first of all, on your comment as far as this being an eyesore, we agree with you, and it's -- it's in an effort to make this a more historic looking building that we have proposed what we're proposing. I come from a life where we were against Ala Moana Shopping Center being built in 1963, but it got built anyway. We were against 42-story buildings being built in Honolulu, and now there are hundreds of them. The one thing I have learned from that is that you cannot stop development but what you can do is create sensitive development. And the way to create sensitive development is to take errors that have been done in the past and try and fix them, and that's what we're trying to do here, and so if we set a precedent by moving a wall on a acutely improper building, as you courteously referred to it, then I think that that's a good thing. We're not trying to do like what happened where the Hard Rock Café is -- I mean where Planet Hollywood was. I was very disheartened. In fact I told Dawn, when we first met, that, to me, preserving history is important and when whoever it was allowed the stairwells that were in front of that building to be removed, they took a big part of history away, and why? The wonderful thing that you have on Maui is that people have a lot of oral tradition and one of the best things that I ever done was to meet tutu, Edna Farden, and the reason why is because every time I sit and talk to her she reminds me and tells me of the past. My children know more about Lahaina's history than any book will ever tell you because it's firsthand. Those stairs were there to keep the dust and the dirt out of the general merchandising store. The roads, Lahaina, Front Street was a dirt road so when it rained, the mud would be tracked with all the workers going into the building. So those stairs were there for a historic reason and, yet, the County, in its wisdom or maybe it lacked of it, caused those stairs to be removed and now what you see there is a terrible thing. The signs in hoku, the poster shop, all of

things, I think, are inappropriately spaced, but we're talking about a dining area, we're not talking about a commercial store, a retail outlet, we're not talking about a nightclub; we're talking about a place for people to go and sit and talk story while paying us to eat and drink. And so what we're trying to do is to revitalize this part of Lahaina. This shopping center is dying. It has been dying for many years and for many of the reasons that you mentioned, Commissioner Long. But if we don't do something to reverse that trend, then this is going to become an eyesore, this entire center will become an eyesore because as it starts to flounder, even though the Weinberg Foundation is known for its seven billion dollar wealth and no debt, at some point in time, they'll look at it as a white elephant and cut it loose and who knows who they'll turn it over to and what they'll do with it.

So, you know, I think that local businesses, like us, need to be given a chance to try and do our part to bring back what was historic about Lahaina and still achieve some kind of economic viability in Lahaina, and, again, you know, our case is a very hardship case. We're at the very end of the commercial space on Front Street. So, as it is, we already have very little traffic at that end. Unfortunately, it's the only restaurant space of any size available in Lahaina and that's what appealed to us, that's what attracted us to this space. So given the space, given the architecture, given the things that have happened to this space in the past, we feel that this is a -- the only viable situation.

Now you mentioned vegetation. We are more than willing to put in vegetation all the way along the front. In fact, our original concept was to continue the planters that were there. But, in this configuration, what we would do is we would fill the area with palms. It wouldn't be low palms, we'd still want to enhance the views out of the restaurant, but we would use, for example, manila palms or foxtail palms that have a nice long stem and the top because what we want to do is we want to soften this upper area in the restaurant and, again, you know, provide a tropical island like setting so that when those ships land in Lahaina, those people have some place to go. When I go to lunch with my friends, we have someplace to go where we can sit and look at the ocean, and sit outdoors in a none air conditioned situation.

So I don't mean to sound so passionate about it, but it's been something that we've been working on for two years now and I've been raring to get in front of you since early summer and because of a number of things, holidays or Pioneer Mill or whatever it was that came up on your agenda, this is our first chance to get to you. We've been paying rent for a year now on this space, it's \$8,000 a month, that's reduced because the developer, I mean the owner at least has some consideration for our pilikia in our processes but, you know, it's -- we are trying very hard to create something that's island.

We have another restaurant that we're opening on another part of the island that has no ocean view that's in a different place altogether with which has nothing to do with this type of a concept, so it's not that we're some kind of island company that only wants to do

everything that looks like Hawaii, but when it's appropriate and when it's possible, then we want to do what the right thing is and we believe that this is a much better thing than that, you know, and it may not be perfect and that shopping center should never have been built. I agree with you completely. Why would you ever build a shopping center with parking spaces 400 yards from the nearest restaurant. It's doom to failure. So the only thing we can do is try to do the best with the space that we have and that's what we're trying to do it and we need your help to do it.

Ms. Sablas: I have a question, another question, Ron. You know, Lahaina is very hot and with the sun coming down --

Mr. Munoz: Yes.

Ms. Sablas: You know, have you considered that when it, you know, if the sun, at certain part, where it would be shining direct into the restaurant, are you going to be tempted to put some dropping or shade or --

Mr. Munoz: Well, currently, there are awnings all along the front of this building and I'll tell you that, for our perspective, that actually, no, we -- our restaurant will open for dinner at 5:00 so it's going to be about a hour, hour and a half that people are going to have to sit in the sun. I mean, to us, it's part of the experience. I mean if you want to get a table and you're sitting across the ocean and you want to have cocktail where you're watching the sun go down, and you don't want to stand in line at Kimo's, and you don't want to stand in line at the fish house, and you don't want to Bubba Gumps cause, you know, shrimp is not your thing, then you're going to have to come and see us, and we're more, actually, what we believe is that the luncheon and the sunset and post sunset periods are going to be very busy, so there may be an inconvenient moment when the sun shines in, but we have no intention of putting -- in fact, we would be more than please to comply with the requirement not to put an awning in on the restaurant because we have, I can tell sincerely, that we have no intention of putting any kind of awning on this building, that there is already an overhang, which is the beginning of a lanai, and what we're going to do is simple extend the lanai further into the building. Instead of doing what most local families are forced to do because of economics forced upon them in this very expensive residential market, we're not going to enclose a lanai; we're going to extend and open a lanai, and I think that that's a positive thing.

Ms. Sablas: I can see why you could be a lawyer though. You make good points. You have questions?

Ms. Long: Just one question. How deep is the outdoor space under that? Is that a trellis or is that a solid roof and how deep?

Mr. Munoz: This is a solid toe-tongue roof. I mean it's a corrugated aluminum --

Ms. Duensing: It's a canopy, Barbara.

Ms. Long: It's a canopy. But I'm not clear whether it's open or whether there's an actual --

Mr. Munoz: Oh, no, no, no. There's actually a ceiling.

Ms. Long: Okay.

Mr. Munoz: This is a roof on the outside and then there's a ceiling on the inside.

Ms. Long: Okay. Can you see the corrugated from underneath?

Mr. Munoz: Only from the outside portion of the restaurant. Once you get inside, then the ceiling actually goes up a bit and you can't see the ceiling.

Ms. Long: I'm just talking about the exterior portion of the restaurant.

Mr. Munoz: Yes, you see the aluminum all the way across.

Ms. Long: Okay, and you can see it from the bottom?

Mr. Munoz: Yes.

Ms. Long: Okay. And how deep is that railing from the facade of the building? What's the dimension?

Mr. Munoz: I believe that's -- pardon me? It's eight feet from the front of the building.

Ms. Long: Only eight feet?

Mr. Munoz: To here.

Ms. Rotunno-Hazuka: When they push it back, it'll be 14.

Ms. Long: Right, I understand that. I understand that so --

Mr. Munoz: But we're going to add another 14 feet inside to get to that.

Ms. Long: So -- and your -- the public sidewalk begins on the outside of the posts? On the outside --

Mr. Munoz: Yes.

Ms. Long: Where that railing is now?

Mr. Munoz: Yes.

Ms. Long: So that everything underneath there belongs to Lahaina Center?

Mr. Munoz: Belongs to Lahaina Center, yes.

Ms. Long: Okay, thank you.

Mr. Kapu: My only question based upon you mention about mom and pop stores, based upon the local community being economically sound operating in an area like this, my question to you is restaurant ventures is that -- what is that? Is that like a whole bunch of mom and pops put together to create a restaurant venture?

Mr. Munoz: No, no, there's just three of us. There's two of my friends from the Mainland and myself. Yeah, I approached them on doing restaurants and they're investors, basically, in my business.

Mr. Kapu: The only reason why I ask that is because you mention about being mom and pop so you have other restaurants?

Mr. Munoz: We just started another restaurant that we're building in Honokowai. It's the old Pacific Café Restaurant. That one is a completely different field than this. That one is a upper-end fine dining restaurant. It's all indoors. We're across from the sewer plant. We're on the left-hand of the highway and we see the back of the Embassy Suites and we will soon see the back of some other timeshare project to our left, so it's nothing like this. It's all indoors and in that particular one we even deleted the windows on it because it's not nice to come to Hawaii to look at highway and sewer treatment plant so --

Mr. Kapu: What about the other islands, you have restaurants on the other islands?

Mr. Munoz: That's it. This is -- I'm -- when my -- my son goes to Lahainaluna right now, he's a sophomore. When he was a Sacred Hearts, in 6<sup>th</sup> grade, my wife said, "Let's move back to Oahu so our boy can go to Punahou," and I said, "No way," that we're going to give them the island lifestyle, they're going to grow up here, they might not have a prep-school background, but at least they're going to have country living like I used to have when I was at Wahiawa.

Mr. Kapu: Thank you.

Mr. Solomon Kaopuiki: Have you ever considered rain and Kona winds?

Mr. Munoz: Yes, actually, you know, that's why there's still an indoor portion of the restaurant and with the 22 feet setback on that, the only thing we would lose is probably the first row of seating if they Kona was really wailing. But if it does, if the Kona does come, then people are going to go into the restaurant but, as you know, that doesn't happen as often as it could and they promised us this winter it's going to be kinda dry, so we're hoping not see too much Kona.

Ms. Long: They promised.

Mr. Munoz: They promised on the t.v. the other day, you know, and whatever they say on t.v. is true.

Mr. Lon Whelchel: Did you have building lines along the existing columns?

Mr. Munoz: Yes, all of the -- if you look at the colonnade that runs down, it starts all the way, actually, it starts down in the corner, right here where Ruth's Chris is, and it runs in a straight line all the way to the end of the building here.

Mr. Whelchel: And they face those existing columns?

Mr. Munoz: Yes.

Mr. Whelchel: Then you're putting columns out into the walkway which --

Mr. Munoz: No, we're not -- we're not adding any columns. We're using the existing columns. We're simply moving our wall back. This is where the wall is now.

Mr. Whelchel: That's the building wall right there ...(inaudible)...

Mr. Munoz: That's the existing wall, yes, and we're moving our wall back.

Mr. Whelchel: Your columns that are holding up your little facade, your little canopy --

Mr. Munoz: They're there now.

Mr. Whelchel: They're in the walkway?

Mr. Munoz: They're there now.

Mr. Whelchel: On your planter?

Mr. Munoz: Oh, these here?

Mr. Whelchel: Yes.

Mr. Munoz: Yes, these are here now too.

Mr. Whelchel: Those are illegal?

Mr. Munoz: The posts are not. Those are the posts that were originally put in to support this entire --

Ms. Long: That's Lahaina Center property.

Mr. Munoz: Yeah. This belongs to the shopping center and their posts sit there and I'm sure that if you review their plans, that those are where they were permitted to be.

Mr. Whelchel: You propose to put new columns to hold up your little canopy forward, right?

Mr. Munoz: No, we're not putting -- we're not putting up any post; we're taking away a wall; that's all we're doing.

Ms. Duensing: Lon, can I answer your question?

Mr. Whelchel: Yes.

Ms. Duensing: I think I might be able to explain it. Traditionally, canopies have been supported from the top here in Hawaii with iron rods or chains or something else.

Mr. Whelchel: That's legal; it overhangs.

Ms. Duensing: Right. And the way this was built is that those canopies have the appearance of being supported by the posts all along the front of the shopping center, so the posts are pre-existing. What is illegal is the dividing barrier, the planter, and also on the top there on the right you'll see a little -- what do you call that?

Mr. Whelchel: Victorian --

Ms. Duensing: Victorian kinda fake element there and that's what was not permitted was to put the dividing planter wall along the front, but the posts are part of the original building design. Does that answer your question?

Mr. Whelchel: No.

Ms. Duensing: Oh, alright then.

Mr. Whelchel: White columns will be in here?

Mr. Munoz: No, the white columns ...

Ms. Rotunno-Hazuka: Those are there.

Mr. Munoz: These are the while columns. These are the building structures.

Ms. Rotunno-Hazuka: Those are interior ...(inaudible)...

Mr. Munoz: Those are steel posts that hold up the building inside.

Mr. Whelchel: Is this the building line?

Mr. Munoz: This is the front of the awning line, yes, or, I mean, excuse me --

Mr. Whelchel: Right now it's straight?

Mr. Munoz: Yeah, it is -- it is straight. What's confusing is that this is the wall that exist currently; these are the posts that run all the way down the front of the building --

Ms. Rotunno-Hazuka: They didn't show them going all the way, that's why it's --

Mr. Munoz: Yeah.

Mr. Whelchel: ...(inaudible)... show them all.

Mr. Munoz: Yeah, we're just showing -- we're -- that was our portion of the plan, I guess our architect kinda stopped there, but those posts were there before, we're not adding any posts. What we're asking is to take away a wall; that's what we're asking to do. We're asking to extend open space outside.

Mr. Kalalau: By moving the wall in?

Mr. Munoz: By moving the wall in.

Mr. Kalalau: One question is who's occupying the top? What is the top portion of that building?

Mr. Munoz: Above us is Warren and Annabell's Magic Show but their space kinda stops halfway over our kitchen, and then the rest of that is just vacant. I think that used to be part of Blue Tropics before, but I don't think anybody has used it, and the landlord asked us if we were interested in it for offices and we told them at the rate of rent we're paying, we'll talk about that in a couple years.

Ms. Rotunno-Hazuka: Do we have any other restaurants on Front Street that have open air?

Ms. Duensing: That's kind of a contentious issue right now. For instance, I think you showed Longhi's with their wide open thing and there are so many violations on that building that are not being addressed and that he will not cooperate with correcting and that is one of the reasons why we don't support this type of outdoor dining. If it's off of Front Street, it's a different matter, but because Front Street is a main artery in the historic district, if you look in the analysis, we're very concerned with the way things are going whether it be, you know, the ladies carrying their flower baskets and leis harassing diners or I've brought another picture to show of a current problem with what happened to a restaurant that was allowed to kind of bring the outdoors in and --

Ms. Rotunno-Hazuka: The cantina one?

Ms. Duensing: Yeah, and that has now turned into open solicitation; actually, I can just pass this picture around, and this is the type of thing we're worried about going on in the future.

Ms. Rotunno-Hazuka: Would it -- would it still not be a compromise to move this here and just open up this area? Would that still be considered --

Ms. Duensing: Well, what the Planning Department's recommendation is is to allow the windows to be opened up in some fashion and not to move the wall. The Planning Department does not support removing the wall and putting it in another location and we do not support bringing the restaurant out to underneath the canopy because that's not why the canopy was built.

Ms. Rotunno-Hazuka: Okay.

Ms. Duensing: And when we, you know, when the chair would like to go through the staff analysis, we can talk about that a little bit more.

Mr. Munoz: May I ask -- you say the -- is it the Planning Department or the Building Department is --

Ms. Duensing: The Planning Department.

Mr. Munoz: Is against the wall being moved?

Ms. Duensing: Yes, which is where we started --

Mr. Munoz: Where -- what's the reason for that though?

Ms. Duensing: Just because, as I explained when we had our initial consultation between you and Mr. Munekiyo and me is that what we're trying to achieve is more of a uniform appearance for a building that was constructed this way and, I agree with Commissioner Long, there are definite problems here, but if you look in other buildings in this central historic district where these types of changes have been allowed to happen over time, the amount of integrity and the lack of consistency has just become a real problem and we're trying to maintain the uniform look of the facade. For instance, if you go down to the old Furtado Buildings, they've used things like paint and window additions and everything that breaks up the building so much it's become a hodge-podge and we don't want one thing to happen in this store front location then Ruth's Chris Steakhouse decides, well, I'll only move my wall back four feet or I'll move it out three feet and then, you see what I mean? You just wind up with the whole building that is a hodge-podge, I guess, is the best way to describe it.

Mr. Munekiyo: Madam Chair? I think I understand what the staff is conveying in terms of possible future problems but I also wanna ask the Commission to consider that there are couple things that we are required to obtain: No. 1 is a Historic District Approval from this Commission; we also will need a Special Management Area Minor Permit; and I think what we'll be willing to live with is a condition, you know, we or Ron is, I think, a very responsible business man, locally, he is willing to abide by the representations that he's made, which is a generally standard condition that any work done be in substantial compliance with the SMA or, in this case, the Historic District Approval, and whether other businesses choose to do something similar, it would be their responsibility to come back before this board to go through the same process. Now what Ron has done is really tried to do this correctly from a processing standpoint and although there might be other issues with other businesses in that area, it would appear to be unfair to place that kind of limitation on Ron just because there may be other businesses who may not have gone through the process correctly. What he is trying to do is go through the process correctly and, hopefully, set a standard for others to do the same and that's all I just wanted to point out.

Ms. Sablas: Yes, Commissioner Long?

Ms. Long: Okay, I see an opportunity here to improve the appearance of something that, to me, is so cracker box that it does not enhance the historic aspect of the national

landmark or the historic district and, while I'm not sure how that would work, I'd like to suggest that if we do come to some conclusion, if we do agree that the wall can be moved back, that a condition be included that if this property no longer is utilized as a restaurant, that the wall shall be replaced to the position where it is today so that that would, hopefully, do away with that problem. I will remind you that when the buildings on Front Street were built, a lot of them had one by twelve plank bi-fold doors that virtually opened the whole front of the building to the public so that there was that aspect of openness. I do not agree, and I'd like a legal opinion here, that restaurant use constitutes solicitation. I think that when you have somebody leaning out the window selling timeshare or selling activities that is quite different from people seated in a restaurant ordering from a menu who have gone in there voluntarily to eat. And I think that with the proper planting, and it should be along that whole grass strip, and there should be palm trees and they should be Samoan palms that are dwarf enough so that people can, hopefully --

Ms. Duensing: ...(inaudible)... outside of the parameters ...(inaudible)...

Ms. Long: I understand that but that ain't going to happen but, hopefully, we can convince -  
- well there's supposed to be street plantings.

Ms. Duensing: But that is -- look at historic photos of Lahaina; that is not the way it was.

Ms. Long: Neither are 80 percent of the buildings on Front Street. The tree that's in front of the Poi Factory, you can argue that wasn't there in the beginning; it's there now. There's gotta be a compromise between absolute authenticity, we still haven't decided what period Lahaina's going to be authentic to, and making it a viable economic destination, and I agree that center has been a visual disaster and anything I would love to see the color of the whole front of that thing change to maybe a gray so that it would break up the monotony of that whole thing and do something that makes it look like a totally different building, if that's possible, I don't know if it is. I really do think that with good architectural input, with respect for the historic district but with the hope that we can help this thing succeed, with more discussion, I would love to defer any decision on this thing and let you guys keep working it out.

Ms. Duensing: May I say something in response to Mr. Munekiyo's last comments on -- we are not penalizing anybody who is trying to get a Historic District Application and an SMA Permit appropriately; that is not the idea. And Mrs. Long mentioned the Poi Factory and, in my professional opinion, by allowing that wall to go out and if Mr. Munoz building or restaurant venture doesn't succeed, this is a big if, you know, we don't want to see that happen, but creating 672 square feet of open space there has another potential to become the flea market kind of activities that's going on in the poi market and how are we going to get somebody to move that wall back. It can be a condition but actually enforcing that is

going to be the problem and that's what the whole problem in the historic district is is enforcement and, as far as this goes, that's what happens when a restaurant leaves.

Ms. Long: It's just not fair to penalize an applicant because the County's delinquent in enforcement.

Ms. Duensing: But why move walls?

Ms. Long: Why move walls?

Mr. Munekiyo: If I might just maybe help to clarify the discussion, Madam Chair. If there is a condition placed on both the SMA and the Historic District Approval requiring the applicant to restore the wall to its current location, if, in the future, it is vacated and that is a condition of the approval, if that information can be, well, I suppose it'll be placed in the files of the department that any future applicant, if Ron or whoever, if that condition is still to be met, I would think that it'll be difficult for any subsequent user to get a building permit if that's kind of an outstanding violation.

Ms. Long: Well, they might sneak in without one.

Mr. Munoz: I would go further than that that --

Ms. Sablas: Could you speak in the mike, please.

Mr. Munoz: That we so believe that without taking that wall out, our business will fail, and as strongly as I believe that, I will commit to you, as a Commission now, that I'll do, from our corporate side, we will guarantee that we will put the wall back. If we go bankrupt, of course, we cannot, but I will even go further to go to the landlord, the trustees of the foundation of the Weinberg Foundation and get Alvin Awaye, who's the managing trustee, to commit to putting -- making sure that any future tenant puts the wall back. I believe that that's a fair compromise. If it's not a restaurant, then it shouldn't be on the sidewalk. But, you know, I was fortunate, my mother is a immigrant to Hawaii, she's a haole, she's from France. She came to America not speaking any English. I was fortunate because my mother was French to be able to go to Europe and I can tell you that every community along the ocean is just completely full, chock-full of sidewalk cafes, and you may want to call it solicitation and you may want to call it whatever you want, but it is what the people enjoy that are near the ocean and that's all we're trying to provide is a venue near the ocean where people can enjoy outdoor living. And, to me, as a business person, I can tell you that if you look at anything that I've ever been involved in here on Maui, from 1986 to present, we have always gone through the process the right way and we have never gone back on our word, and so I give you my word, as somebody from Hawaii and now somebody that's going to die on Maui one day, that this business will do everything

properly, everything that I commit to you in this room will be done. If I say it's going to happen, it will happen, and if, Heaven forbid, our idea of opening the restaurant still cause us to fail, I believe that I can convince our landlord to commit to the suggestion that should this space be used by any other operation other than a restaurant, that that front wall would be restored to its present location.

Ms. Sablas: Lisa?

Ms. Rotunno-Hazuka: Again, I'm trying to find a compromise here. Is it possible to redo this wall with some type of windows that open it up and allow for outdoor dining here? You still maintain the wall and the structure but the change the windows somehow so that it's very open.

Mr. Munoz: Okay, well actually we had looked at an alternative of doing that and, unfortunately, it took something very industrial to do it. There are a number of restaurants in Southern California that are locked up during the day for obvious security reasons by what amounts to a roll-up door and there have been a lot of creative things done with roll-up doors, for example mulligan windows like this can be done in a roll-up door format, and we would actually be pleased --

Ms. Rotunno-Hazuka: I mean something like this, I'm not talking, you know, just single-hung where it would be a large opening on the bottom and --

Mr. Munoz: Okay --

Ms. Rotunno-Hazuka: And you'd have a low wall, still maintain the structure.

Mr. Munoz: Well, but see now, if you're talking about changing architectural appearance, I think that that would be a detrimental change to that building that we're moving the window systems that you see back so that if you look at this as a one-dimensional, I guess it's a two-dimensional drawing on a flat piece of paper, it'll look exactly the same because you cannot, in looking at a two-dimensional drawing, you cannot see depth and so if you look at it from the street, it'll appear to be the same building because the windows that you see in the present locations that they are, will be relocated 14 feet further in so, actually, we don't change the architectural facade. The appearance of the facade remains the same. What we do, and, you know, it's funny, here I am before you asking to create more open space, something that the County ask for everywhere that it goes and, you know, I'm getting resistance to it for a few reasons, which I cannot fathom as the correct ones, but that's what we're asking to do is to create more open space, you know, less CFC's for the environment, you know, I mean no matter how you wanna look at it, it's bringing the outdoors in and bringing us to the outdoors and I think that that's, you know, I mean that's the direction Maui needs to go to. We shouldn't be building apartment structures like

they're building in Kahana right now. We shouldn't be building high-rises like you see in Kahana right now. We should be going back to the things that made Hawaii Hawaii and I believe, I don't care what kind of restaurant you put in this space, I don't believe that any restaurateur will tell you that outdoor space like this would be detrimental to them.

Ms. Sablas: Ron, I have a question. So off hours, how do you secure that open-air seating?

Mr. Munoz: There's a railing that goes around so that what happens is that everything that's valuable is taken into the restaurant. The chairs and the tables remain in place. There is a reception desk and we already designed a copper top that can lock onto it at night so our computer and our reservation system is guarded, our cash register is guarded at the front, not cash register, but charge card swipe.

Ms. Sablas: So it is going to remain pretty much open like Pioneer Inn type of thing all the chairs stay there --

Mr. Munoz: Yes, just like Pioneer Inn.

Ms. Sablas: And whatever needs to be secured is secured in that interior portion?

Mr. Munoz: Inside the interior portion, yes.

Ms. Sablas: I just want to comment. I appreciate the passion that you bring to Lahaina Town. I appreciate your commitment because that's what's lacking in Lahaina Town is people who are doing business who have a passion for the community and who wanna be able to do what's right and give back and be accountable but be present, you know, and I -- when we see people like you who come in with a passion, and I know restaurant business is a tough business to -- you either do it or you don't, and, you know, in my business we're always looking for open-air dining, and I understand where you're coming from, but I just want you to know that we, me, I appreciate the passion that you're bringing to Lahaina Town. I look at Jerry, as a good example, of BJ's, Jerry Kunitomo, what he's brought into Lahaina Town because he has that passion. A local boy come home and he's involved in the community and he gives back to the community and it makes Lahaina much better. I'm hoping, Ron, that you would be another Jerry kinda person, you know, to come in and no wala`au just from here but get involved. Your son is in Lahainaluna, I commend you for that because you're part of the community. I'm an advocate for people who are in the community to be part of the community and if you're going to make money, you give back, and, you know, so when I see people like you who come in before me, you touch me, I'm a local born person here, but you said some strong words here about your commitment and I know Auntie Emma, I mean Auntie Emma -- Auntie Edna too, so I know who you're talking about, and I know the ... (inaudible)... goes back and, by the way, it was

Dr. Shimokawa's house that the place was there so his daughter was my classmate. So if you bring that kinda spirit, you bring that kind of aloha spirit you're talking about, it's a major responsibility, but Lahaina needs that; Lahaina needs people who care; landlords or owners who, from the aina, who care, and we don't have enough ...(inaudible)... in Lahaina Town. So I'm speaking from my heart but I don't want you to go away feeling that we don't appreciate what you're doing cause that's not the case; that's why I serve on this Commission because I care about this area, and we would like to be in compliance cause I appreciate what Planning and their responsibility is, you know, because we want to keep Lahaina special, so I am encouraged that some of our commissioners are looking for the way of some compromise. I think Commissioner Long's suggestion of a condition that you and you're committed to make that go back should, you know, hopefully, you are successful but if that comes, then, you know, how do we enforce it is a big problem but I think we can work that through. I don't want that to be a stumbling block. I think we can work it out if we just put our coconuts, our head together so, anyway, I just wanted to say don't be discouraged by our questioning. It's our responsibility to bring out issues that we need to be -- need to be talked about. Yes, Keeaumoku?

Mr. Kapu: What's the possibility of maybe putting in some kind of pocket sliding doors using the original design?

Mr. Munoz: We looked at that too, but the problem becomes on the front that you still have the width of wall between the windows and the further in you go, it's like when you build a lanai, you know, the thing you try to -- the reason people use posts instead of pillars, unless you live in Kapalua then everybody gotta have a pillar, but if you're in the local part of Lahaina, if you're in the part of town that we all live in, you put a post there because you don't want something to block your view, inhibit your view of the ocean, and so that is an alternative that if we must consider, that we will consider, but I'll tell you that every bit of wall that we are unable to take away, I think, adds to the potential of our business failing and that's why I'm here.

And, Madam Chair, thank you very much for the honor that you just bestowed on me, but I think the one thing that you said that is very relevant, I think to all of us, is that everybody in this room only wants the best for Maui. All of us come from different perspectives. All of us see things in a different light. I've been here all my life and I intend to, like I said, I'm going to die here on Maui, this is going to be my home. My kids are going to come home to Maui. We're going through the SMA process right now. We bought a piece of land in Kahana, and it's right -- on Omaikai Place, right next to that flood zone over there. Well, we cut it up into three pieces and we've been going through the County process for three years to get the subdivision done. As a three-lot subdivision, we were exempt, but we're still supportive of our County. We understand that sometimes things go through processes and so on. You know, I've had to pay a mortgage on that, rent another house since my house sold three years ago, but it is the way to do things. It is the way to discuss it. It is

the way to be open-minded to other people's situations. I do not cherish being compared to a business like that black and white photo that you're being shown. Nothing in my history will indicate that we would even head in that direction. We have no desire, we have no desire of creating a situation that's gonna create solicitation ...(inaudible)... all we are desiring to do is to create a restaurant space that will succeed. The fact that I gave you earlier on our discussion is six other restaurants, with a lot more money than we had -- have, failed in the location and we try to understand, before we sign our final lease, why those restaurants failed and we are convinced, and my passion is so strong because we are convinced, that unless we can open that front wall up, we too will fail. Now, that's my risk, that's my problem. My partners and I will lose our money. But that space has been empty now for nearly three years, so there are a hundred employees that aren't working in Lahaina because that space has been empty. You know, we're asking for the chance to provide employment, to make some -- I'm not saying we're not trying to make money, believe me, I wouldn't be doing this if I didn't think there was money to be made here, but I believe that this is a empty space as bad as badly developed space. You know, look at what's happened to the big cities in America. People talk about design, people talk about what we're going to do and what we're not going to do, and what happens to it, it becomes empty, vacant, and an eyesore to the community. We're asking to modify the building to make it more island like and more viable for our business and --

Ms. Sablas: But, Ron, I know that when you sign the lease, you already knew about the challenge that you ...(inaudible)...

Mr. Munoz: Oh, yes. Oh, yes. Believe me, I'm not putting my desire to take the space --

Ms. Sablas: So that would be -- that's your leap of faith because it could be ...(inaudible)... that's your leap of faith and risk so --

Mr. Munoz: That is my leap of faith, yes.

Ms. Sablas: Are there any questions?

Ms. Duensing: May I make a -- I just want to make sure that Mr. Munoz knows that I am not suggesting, by any stretch of the imagination, that this is the way your building is going to look. But this is what happens after a guy who I did a very thorough research of the permits on this building and the predecessor occupant that had the lease had all of his permits and this is what we have now because nobody has permits and you all know that I was a commissioner and I used to say the same thing about enforcement, but it's like having your head in a vise because every time we tried to send out the enforcement guys, you know, they called the Mayor's office or they call a lawyer and the County winds up getting sued and it's a never ending problem, and I'm asking only to look into the future, not because of I think Mr. Munoz is going to do this because I don't believe he will, but Aloha

Cantina was very, you know, community minded and they did all their permits in the right way and as long as they were operating, everything was fine, but what happens when this restaurant moves or for some reason it's not there and you have 672 square feet of open space if we cannot move that wall back and we don't have the funds to or order anybody else to do it, it's either going to sit vacant or turn into a swap meet and that is the Planning Department's major concern.

Ms. Sablas: Any other commissioners who would like to have comments? I'd like to for those who haven't spoken to give you some opportunity.

Mr. Kalalau: Yes, Madam Chair, I'd like to comment on this. You know, I too feel strongly like Commissioner Long that I think her suggestions and ideas were -- I mean it's very important to this area and to this building. And I also believe that, one day soon, we're going to have to decide what era or time that we're going to set the precedents of Lahaina's cultural values. You know, I look at this building and -- and I see the plan that's proposed here today, you know, he's being real honest about if they gotta move it back, they're going to move the wall back. I believe what he's saying too, you know, people are trying to find different types of window systems too so that it can remain in the same place but then it wouldn't look, the building wouldn't look the same if, you know, at the way they have them now, if you just move that thing back, the whole building still going to look the same. I believe if we know what time that photo was taken of the day, you would see that the sun does not shine into that area right there. I don't think they'll have problems with the sun shining into there and plus a lot of people come to Hawaii and go to Lahaina for the sun anyways.

I, basically, support a lot of the ideas that Commissioner Long has. I have difficulties in trying to make a motion today and to vote on what we have been presented here by the County department, you know, they're asking us to deny -- deny the applicant and they're asking -- and then they're also saying that they support the compromise No. 6, I mean, basically, this is what we're talking about, the windows and the walls. If they're real committed about leaving it as it is but just moving that wall back with the same type of windows and, in the future, if it doesn't work, they're thinking of moving it back in the original place, I don't see, in the long term, why it should be an enforcement thing. I think it's a -- it's either we're going to have to make recommendations or conditions if we do approve the project that these types of things be addressed. Thank you.

Ms. Sablas: Thank you. Commissioner Perry?

Mr. Perry Artates: Yeah, I'll say something. What I see here is that it's a ghost town already but what he's trying to present is something that can bring the ghost town to some activity. Try put up the other photo, the one that has the design of -- okay. When I looked at that, I thought that was Pioneer Inn, yeah, Pioneer Mill -- Pioneer Inn. What I see is he's

trying to bring that activity on the opposite side of Front Street, I mean the same concept, the same design. And, yeah, you one local boy trying to make a go and if you didn't have a vision of what can happen in that area, who else would be on top of it? I mean who else would be able to present something that the other restaurants lost already, right? I mean there were how many restaurants there already, like you said?

Mr. Munoz: Six already.

Mr. Artates: Okay, so you're going to be number seven.

Mr. Munoz: Well, lucky seven.

Mr. Artates: Yeah, lucky seven, right. But at least I can see that you're trying to show a difference between that and bring that Pioneer Inn look on the opposite end of Front Street and that's just my opinion, I mean I like the idea.

Ms. Sablas: Thank you, commissioner. Now, Commissioner Long, I'm sorry, you wanted to say something.

Mr. Whelchel: Before Commissioner Long speaks.

Ms. Sablas: Oh, yes?

Mr. Whelchel: I'd like to say a few words.

Ms. Sablas: Sure.

Mr. Whelchel: I agree with what she says, it's ugly but it's a beautiful building, it would be in Boston, Boston Harbor. Boston is treacherous weather and it reflects treacherous design, you know, really harsh and we're in paradise where it's tropical, where you have openness, and if this building, if that wall had been built recessed initially and they wanted to bring it forward, they would have more resistance then it has now just to move it back. I would strongly recommend that we really consider moving that wall back because it will change that facade. If we leave it alone, you think it's going to get prettier? No. Do something, and I think moving that wall back can do it.

Ms. Sablas: Thank you. Commissioner Kapu, you have anything more to say?

Mr. Kapu: Yeah, sure. Well, all I can say is mahalo again, Commissioner Long, for your input. I really like it. The bottom line, it boils down to I see this place every time and when they have that, you know, Halloween coming up around the corner, that's the most deadest end of the street. So when you come in the next block past this building, the crowd is from

there all the way to the Banyan Tree and past. There's no crowd on this side. I like what he said about providing more jobs for the local community; that's good. You know, in the mornings, afternoons, evenings, nighttime, that place is barren. It's just -- so how are we going to support our local community at the same time, you know, I like his ideas, but some type of recommendation, like how Commissioner Long was suggesting based upon those doors or that wall as a compromise, that's the only way, we're trying to find some kind of way this thing can be possible. Mahalo.

Ms. Sablas: Mahalo.

Ms. Duensing: Can I make some input on maybe a possible compromise, and I think maybe Corp. Counsel can provide us some advice here as well? Commissioner Long earlier mentioned a bond for the wall. And, Lon, I would like your input on this, to me, putting the -- this little structure thing under the canopy is a very awkward architectural design. Do you have any comments on that as our local architectural specialist?

Mr. Whelchel: You're talking about the corrugated metal roof?

Ms. Duensing: Right.

Ms. Rotunno-Hazuka: No, what's below it. Oh.

Ms. Duensing: The canopy structure is meant to extend from a main facade of a building, and to create another structure under the canopy is awkward. What I'm wondering is if we can write these recommendations that the wall be moved and that the divider between the public sidewalk and the building go underneath the -- where the original -- what am I trying to say?

Ms. Rotunno-Hazuka: To the edge of the --

Ms. Duensing: Go to the edge of the building and the canopy rather than extending underneath the canopy, which is awkward, because the canopy is meant to extend over a sidewalk, not under -- over a structure. You defeat the purpose of what that canopy is there for and I, you know, I agree with what the commissioners are saying on what period of Lahaina's historic architectures we're looking at but you gotta remember that we do have an architectural style book and the basis of making Lahaina a National Historic Landmark District is the missionary period so, like it or not, you got New England style buildings; that's just the way the ordinance is written. Okay, so what I'm trying to do is suggest a compromise. You may have a little bit less square footage for your outside dining area, but it would be a better architectural design to have these structural divider at the edge of the canopy and the building where it belongs.

Ms. Rotunno-Hazuka: But how does it change your square footage though if we're not changing the railing? The railing is turning into something.

Ms. Duensing: Because the Liquor Department won't let you have any tables outside that barrier; that's the whole reason why they need this. You've gotta separate the diners, who may be consuming alcohol, from the passerby's on the sidewalk.

Ms. Rotunno-Hazuka: So, I don't get that.

Ms. Duensing: I don't either but that's what the Liquor Department says, right?

Mr. Munoz: ...(inaudible)... yes, it's a liquor law.

Ms. Rotunno-Hazuka: No, but what I'm saying is on this photo here, you're saying that --

Ms. Duensing: Lisa, can you use the microphone, please, so that Suzie has something to transcribe.

Ms. Rotunno-Hazuka: Are you saying that this here extends out because of the Liquor Commission and, therefore, gives them more square footage if this is not changing from that location? Is that what you're saying?

Ms. Duensing: What I'm saying is that the canopy is designed to --

Ms. Rotunno-Hazuka: This canopy?

Ms. Duensing: Extend -- exactly; that's the canopy, the corrugated iron.

Ms. Rotunno-Hazuka: Okay, so what's the purpose of this? That's what you're --

Ms. Duensing: Yeah.

Ms. Rotunno-Hazuka: Okay.

Ms. Duensing: I mean the canopy is designed to extend over the sidewalk from the front facade of the building --

Ms. Rotunno-Hazuka: Okay.

Ms. Duensing: So that you don't have an additional structure at the outside edge of the canopy; that's not what it's there for; that is an awkward design, it's not --

Mr. Whelchel: They can add a parapet on top to give it some mass. They have an opportunity to heavy up that fascia cause it's just a little skinny line, it's so weak, heavy it up here.

Ms. Duensing: But that's the way it is historically, Lon.

Mr. Whelchel: Well, this is not a historic building.

Ms. Duensing: It doesn't matter, you have design guidelines.

Mr. Munoz: May I -- may I say something? The argument that a canopy is designed to cover a walkway is a valid argument, but where we are, it's not a walkway, it's a restaurant, and we're utilizing the covered area that was a canopy for a sidewalk --

Ms. Sablas: Was that canopy part of your restaurant to begin with and --

Mr. Munoz: Yes, that has always been there, that roof has always been there, so we're at the end of Lahaina road. There is no commercial traffic beyond us. We are the last, I guess you can call us the last resort, you know. This is your last chance to eat on Front Street or you gotta go down to Safeway and eat at Compadres. But so the argument that it's not -- shouldn't be able to utilize because it's an awning or a canopy is invalid because it is the final business portion. We're not going to have traffic of people --

Ms. Sablas: That's part of your paid lease, in other words?

Mr. Munoz: Well, yeah. Yeah.

Ms. Long: You pay rent for that space?

Mr. Munoz: Actually, the space between the wall and the --

Ms. Long: Post.

Mr. Munoz: Post, I mean the wall and the post is not rent and we neither pay rent for the open space that they're giving us in the back, thank God. We have 900 more square feet in the back of the restaurant for ...(inaudible)...

Ms. Long: You got a nice landlord.

Mr. Munoz: Well, it's a tough space and, again, so I understand the canopy concerns but, again, this is not a connecting canopy to another area, this is the end of the line. But if you go a little further, as Commissioner Whelchel said, we added fascia at the top to give it

some substance and to try and, again, emulate the look at the Pioneer Inn but, again, you know, we're -- we stand ready to modify that design should it be the case. You know, I think there's a important point and I think that Ms. Duensing has a passion of her own but, as Commissioner Whelchel said, this building is not a historic building. I'm sorry that the only examples that you can bring up are people that have abused the process, but we are willing -- you mentioned a bond. I will tell you now that to replace that wall, I would be willing to put that bond up so that if our lease was terminated or if our restaurant went out of business and, again, provided that it's not going to be used as another restaurant, our bond would pay for the replacement of that wall. I so believe that removal of that wall will make our business successful so you don't have to contend with -- by the way, the party you would have had to be contending with today, had we not got our lease, is California Pizza Kitchen. They still want this space and if we're at a point where we got no place to go, that's a potential tenant, so we're not -- we're not California Pizza Kitchen, you know, we're not going to do a Mainland style restaurant here, it's going to be an island style -- and that's what we're asking to do.

Ms. Sablas: Can I ask though what kinda cuisine are you planning to serve?

Mr. Munoz: Well, right now, we're at the American/Italian cuisine. We tried to get something that's menu priced that we can get a lot of walk-in business for. We have, like I said, our Honokowai restaurant is a very high-end restaurant, we're trying to get a moderate --

Ms. Sablas: In the medium --

Mr. Munoz: A moderate line and, particular, a moderate line for lunch.

Ms. Sablas: In your honest opinion, is that the kind of restaurant you think local residents would want to come to in Lahaina Town?

Mr. Munoz: Well, actually, we've been talking to Bob --

Ms. Sablas: Of course he's going to say "yes," no, I'm just kidding.

Mr. Munoz: Yes, I am, but we've been talking to Bobby Santos at MCC --

Ms. Sablas: I know, Bobby, yes.

Mr. Munoz: And you can mention my name when you talk to Bobby, he'll tell you that we've been working with him on both our restaurant concepts and so what we're trying to do is do what they also have in their programs and that's why we felt that the Italian style of food added to an American menu will do well in that -- in this location, but it's going to

be a moderately priced -- what we're trying to do is provide a businessman's, local person's lunch area and then a moderately priced dinner house.

Ms. Sablas: Okay, thank you. I know Commissioner Long has been patiently waiting to --

Mr. Munoz: Biting her lip.

Ms. Sablas: Yes.

Ms. Long: Couple of things. Yeah, I did want to be on the bond, I'd also want to see a lease amendment in your base lease that provides for that, and also ask our counsel today what he would recommend. To me, looking in the new design guidelines, it's kind of like taking the second floor balcony with the railing and dropping it down to ground level is what it looks like. I'm wondering if there is a way that would differentiate that part of the building with a change in the canopy as well that could make it seem not maybe a different angle, maybe a little more hangover onto the regular sidewalk. I understand where you're coming from, Dawn, and you're absolutely right, the canopies are to shade the sidewalk. The problem here is that they're not shading the public sidewalk and --

Ms. Duensing: But you do have design guidelines, which are the authority for this Commission whether or not the building is historic or not. You want to look for a compromise? I am trying to work for you and make one for you by this suggestion.

Ms. Rotunno-Hazuka: And the compromise is to maintain the historic integrity of Lahaina, not -- and the structure even though it's not a historic structure cause if it was --

Ms. Duensing: Of Lahaina because it's part of the Lahaina Historic District and that's why we have design guidelines.

Ms. Rotunno-Hazuka: And if this was a historic structure, meaning over 50 years, we probably wouldn't even be having this discussion because we wouldn't want these changes to a historic structure?

Ms. Duensing: Right.

Ms. Long: Correct.

Ms. Sablas: I guess it would have helped, Ron, if we could see how that, your addition is going to impact the whole building which is what, in my mind, I try to vision because I'm looking here, then I'm looking there, and I have to kinda just make up that vision what would it look like.

Mr. Munoz: I'll be more than pleased to have our architect continue this rendering onto an entire length of the building. It would take them probably two or three days with their autocad and their picture -- photo -- photo --

Ms. Sablas: Well, anyway, it's going to be extra expense so I just -- I mean that's my opinion.

Mr. Munoz: I would be willing to do that.

Ms. Sablas: Lon, you as the architect, what do you think about that suggestion too? I mean I don't want to have him drive into loops just, you know, cause I just -- in my mind it would make it easier to be able to comprehend what the whole objective is.

Mr. Whelchel: It would be helpful if you can't envision what it's going to look like. I can see it but --

Ms. Sablas: You can see it because you're an architect, yeah? Okay.

Ms. Long: I can see it.

Ms. Sablas: You can see it too, Barb?

Ms. Long: I can see it.

Ms. Sablas: Okay, then don't worry. It was just a suggestion.

Mr. Munoz: We'd be willing to do it.

Ms. Sablas: Okay. So we spent a long time deliberating and I do appreciate it. Are we ready to move on to staff recommendation? Cause I had already asked for public testimony and nobody came up at that time. Are we ready or are we -- you want more discussion, commissioners? Are we ready to move on?

Ms. Long: Let's move on.

Ms. Sablas: Okay, staff recommendation, please.

Ms. Duensing: I think everybody already knows what the staff recommendation is.

Ms. Sablas: Well let's go through the process.

Ms. Duensing: We can go through it. Let's, again, just to make things quite clear as to which direction I'm coming from, and this is not my passion, it's just me trying to do my job, and I did discuss this project with a number of the senior planners who are here for 18 to 20 years and have that much experience. In analyzing this project, number one, very briefly, that dividing structure, the planter is not a permitted structure. Secondly, again, the applicant's first proposal was to relocate the front wall on the structure in order to create space for outdoor seating. Moving a wall on the building's primary facade is not consistent with historic district guidelines. And, again, reminding commissioners that historic district design guidelines pertain to the entire historic district, not just the contributing historic structures. The balustrades suggestion that I did put forward was a way to, you know, to mimic something better than what was already up there and that was where they came up with the idea for the Pioneer Inn. Again, we prefer not to see that dividing wall there. Number three is the big one, which you have already discussed and we talked about, although the proposed project complements Lahaina's historic architecture, with that balustrade, it's use is not compatible with the Lahaina Historic District. The proposal expands open-air commercial activity onto Front Street. As a result of abuses in recent years, the Commission, this Commission has discouraged open-air solicitation along Front Street. This type of open-air dining is not happening in the historic district at this time. Even limited exposure of commercial activity on Front Street has been a continuing problem. We have talked enforcement issues many times in the last six year on this Commission and even prior to that. Café O Lei was referenced. The CRC originally allowed the Aloha Cantina, when it was there, to open the windows, however, now these open windows are being used for display merchandise and to solicit activities. And, in further site visits to Lahaina, you know, with this kind of square footage being opened up, I would have concerns about a retail area going into there at a later time.

Lahaina Center was built in 1989 to be a shopping center, like it or not, it does exist and commercial activities conducted inside the structures in the central mall areas are where these activities were intended to occur. Allowing the restaurant to expand its seating onto the sidewalk on Front Street is not compatible with the center's original objectives, and I would add it is not compatible with the Lahaina Architectural Style Book that we operate under.

Four, this restaurant space already has outdoor seating on the interior part of the shopping center. Five, allowing the restaurant to have outdoor seating on a primary facade that was not intended to be an outdoor/sidewalk restaurant would establish a precedent in Lahaina, especially on Front Street, which is the main artery through the Lahaina National Historic Landmark District. The existing canopy on this building was designed to serve as a covered walkway, not as a future retail space, and even though this is not a public walkway, I believe that the intent when they built this building in the '80's was to comply within the Universal Building Code, which doesn't allow these kind of canopies to go over the public, so what they were doing was pulling back the buildings so that the canopy would be high

enough and not protrude onto public space, so I think that's why they didn't and I know that commissioners had mentioned that earlier. What we're trying to do in Maui County now is, hopefully, revised design guidelines in Wailuku and Lahaina so that canopies will be permitted to serve their historic function, but that's a project for the future.

Number six, the windows in this building were intended to be fixed and non-operable, and I don't know where that came from in the style book or the Planning Department rules, I don't necessarily agree with it and that's why we've worked on proposing the compromise that we come up with in number six. We would like this restaurateur to be able to open the existing windows so that patrons can enjoy the ocean breezes and unobstructed views. With the restaurant setback from Front Street, which is behind the canopied walkway, we believe that solicitation through opened windows would not be a problem. In addition, conditions can be established that will require the windows to be fixed should the restaurant be terminated and change in use occur in the future.

Number seven, the subject property is located within the SMA area of the Island of Maui and is subject to the provisions of the SMA Rules of the Maui Planning Commission, and this applicant has filed the appropriate SMA Assessment Application as well as this Historic District Application with the Planning Department.

And the recommendation, in consultation with other planners and Director Foley, was that we do not support the proposed project and recommends that the application be denied. The proposal is not consistent with the original intent of the Lahaina Shopping Center and would establish a precedent. We're afraid that Ruth's Chris Steakhouse might come in and ask for the same kind of treatment. Cold Stone Creamery has gone in along in the same shopping center and they could want to put out café tables and umbrellas and, you know, we could make it an outdoor shopping center with these types of projects. So, therefore, the Planning Department is supporting the compromise as was described in number six of the analysis.

Ms. Sablas: Wishes of the Commission at this point? Yeah, I'm asking for direction, wishes of the commissioners. We've had discussion. We've heard Planning Department's recommendation. We've deliberated. So what action, remember what -- we can approve or deny this application.

Ms. Rotunno-Hazuka: Well, for one thing, I'd still like to see some type of a compromise. What bothers me is that in the analysis you see several things that are inconsistent with the guidelines. Also what worries me is Ruth's Chris and the creamery, what do we say to them? I know that Cold Stone Creamery has a place in Kihei and you do eat outside. I enjoy outdoor dining and although I don't agree also that maybe the six restaurants folded because of that primary reason, I do see the advantages, so how do we help this restaurateur without going against all our guidelines and seeing that this will happen at

Ruth's Chris, you know, possibly they'll ask for that, so how do we make a compromise? Knowing that this facade may be -- we're talking about down here, right ...(inaudible)...

Ms. Sablas: Okay, Lisa, sorry, you gotta get the mike again if you go away.

Ms. Rotunno-Hazuka: This is Ruth's down at the other end.

Ms. Sablas: I'm sorry, is Ruth's Chris up or lower?

Ms. Rotunno-Hazuka: Down.

Ms. Sablas: Oh, downstairs?

Ms. Rotunno-Hazuka: So I'm sure they would wanna --

Mr. Munoz: Actually, I don't think they would. They're air conditioned inside. I'm sorry. They're air conditioned inside and, in fact, their wait help is dressed quite warmly.

Ms. Rotunno-Hazuka: Yeah, it's pretty high-end but --

Mr. Munoz: It you -- our restaurant's going to be a casual restaurant, that's more -- especially the, like I said, if you look at the wait help and the -- I don't think, in fact, I know Mr. Shock, the owner of Ruth's Chris, and if you like, I could solicit his input, but I do not believe that they would want to take the air conditioned main component away from their restaurant. We don't have the need for that because our staff is going to be dressed considerably more casual than they're people are.

Ms. Rotunno-Hazuka: But the inside will still be air conditioning for your restaurant, right?

Mr. Munoz: Beyond the 14 feet.

Ms. Rotunno-Hazuka: Yeah, the 22 feet?

Mr. Munoz: Yes.

Ms. Rotunno-Hazuka: Yeah.

Mr. Munoz: There's a restaurant. The bar and the dining area inside is air conditioned, yes.

Ms. Duensing: And do you intend to keep the windows closed then so you're not air conditioning the whole outdoors like so many Lahaina merchants do?

Mr. Munoz: Oh, yeah, the windows are going to be fixed. We're moving the windows into a fixed position. So, you know, if you look at it from the economics standpoint, we're trying to offer everything to everybody. So the people who cannot stand the heat of Lahaina, which, you know, I can tell you on many days I cannot, they can go inside to the air conditioned area, and those of us who are feeling a little chilly, can go and sit outside, so it'll be both. But we believe that the main thing that the outside of the restaurant will do is to draw activity to that end. And, by the way, that photo was taken about 1:30 in the afternoon and you can see how busy it is at that end of the street --

Ms. Rotunno-Hazuka: It's the morgue.

Mr. Munoz: You know, and this was on a school day before I was on my way to pick up my daughter at Sacred Hearts that I took these pictures, so I think it illustrates part of the problem at this end of the walk. But there's another point that occurred to me while you all were talking is that unlike the problems that you're experiencing at the cantina and so on, please remember that there is a benevolent owner here now and they control the entire center, and the concept that we are selling to you today, and I say "selling" because that's what we're doing, we had to sell to them too, so it's not -- I think you can look at the center and Dennis Iwasaka, who used to be the corporate secretary for Maui Land and Pineapple Company is now the property manager for Weinberg, and he is very, very concerned about what's being done in the islands and he was actually one of the people who asked me a lot of the questions that you're asking me today before they gave us their approval to move ahead.

Ms. Rotunno-Hazuka: Yeah, and again, I don't think what -- because of what happened, the abuses, I think we put in precautions, like Barbara suggested, for the abuses. I don't think we deny your permit based on other people's abuses. I think we learn from those abuses and try to put in some precautions. But it is -- this is tough.

Ms. Duensing: I have a question for Corporation Counsel. Let's say that Ruth's Chris Steakhouse goes out, we've allowed outdoor dining, now, as Lisa says, Cold Stone Creamery says, "Well, look, down the way they have it. We do it at our store in Kihei. Now we want it," and the new owner that goes into the Ruth's Chris space wants it too. How do we -- what do we do then? Is there anything that the County can do or the land -- to ensure that the landlord doesn't allow that? I mean because then you get applicants coming in just like Mr. Munoz and saying, "Well, you know, he does it at my building. My business isn't going to survive unless I do it." I mean it's a real catch-22 here, isn't it?

Mr. Giroux: Yeah, I'm also on the Board of Variances so we see this a lot. The bottom line is that the applicants have to come before this body and they have to convince you that this, in this sense, if it's a change or a variance, you know, is worthy. We have nine people on this Commission. They have to deliberate and dialogue, and see if it meets the

mandates of this body. The other thing is that they also have to go before, I believe, Planning Commission to get the SMA, so there's a second step. So if an applicant comes in and says, "Well, they got it; we should get it too," as long as the deliberative body went through a process and the standards were taken by a case by case basis, you cannot be saying it's arbitrary and capricious because, in the long run, I think the question to the Corp. Counsel is, "Would it violate or would it expose us," and I should probably get into those kinds of conversations, you know, in a different context, but I can just tell you the standard would be whether or not due process, whether or not it's arbitrary and capricious.

Ms. Duensing: Okay, so that if somebody did want to move a wall and did want to sit outside --

Ms. Rotunno-Hazuka: I think we've set the precedent.

Ms. Duensing: And made a argument and the Commission -- I mean it is precedent setting then?

Mr. Giroux: Yeah, my question is, because I'm just not familiar with the in-depth rules of the design guidelines, is with the moving of the wall and if it does go against the guideline, what is the ramification, I guess, in that? Do we run the risk of losing a historic designation or what is it as far as -- if you can't answer that, I should probably get on the ball and start doing some research, but I'm just --

Ms. Rotunno-Hazuka: Well, I mean isn't it that we are compromising the rules and so how often do we continue to compromise the rules? That's the whole point and when you let one person have a variance for one reason, there's gonna be more, and we've got to listen to the next person with the same open-mindedness that we've listened to this person, and we'd have to allow them -- I mean it's going to be the same argument, it's economics, and --

Mr. Giroux: Well, for this body, it's the cultural preservation of this area.

Ms. Rotunno-Hazuka: Right, it's not --

Mr. Giroux: So that's what you're making your deliberations about. It's not the economics, it's the cultural preservation, and do you see this degrading. And for precedence, I think as Sam pointed out, you're looking at the whole Lahaina area and if you're looking at the oldest buildings in the area, is that, you know, is that the standard?

Ms. Rotunno-Hazuka: Well, and that's again why I keep wanting to do a compromise. How can we stay within most of the guidelines and help this person? How can we, like I say, why can't we keep that wall and put in certain kinds of windows that still open it up and is

there enough room for a table from keeping that one wall, and, two, the railing that's out there that we already know wasn't permitted, you know, how do we compromise?

Mr. Whelchel: We could move the wall, let him move it, and the compromise would be to restore it when they sell if the Planning Department requires it.

Ms. Rotunno-Hazuka: But that's in thinking that we're so afraid of the abuses after. What we're trying to do is stay within most of the guidelines, so how do you stay in with the guidelines?

Mr. Whelchel: Kill it.

Ms. Duensing: And, well, how are you -- well, yeah, and, you know, I think Lisa said it better than anybody this morning, and James added an important component, is that what do you do when the next guy in the next space wants to move the wall, and that's what I said earlier, what if he wants to do an angled wall, and this guy wants to just do a recessed wall, and then Cold Stone Creamery comes in and, you know, you've just opened up a huge set of potential problems. And, secondly, as James indicated, this is not a historic building but that's not what we're concerned with, what we're concerned with is the historic character of the district which is a national register landmark district. So, you know, you both made the points and that's what the consideration is supposed to be centered on.

Mr. Kapu: Well, I just wanna say if you wanna look into the historic character of a town, that's exactly it right there. But what we're dealing with Lahaina in itself today, that isn't exactly what we got. So the bottom line when we get on the outside of town versus what we got on the inside of town, as a Cultural Resources Commissioner, for me, bottom line is, you know, he like sell food. If it doesn't work for him, then it ain't gonna work, but what else we're going to have to prepare for in the future? I see this building no more signs so that's another thing he's going to have to go through is pertaining to what type of sign they going put up.

Ms. Duensing: And that would be in the conditions, and Keeaumoku is right with the historic character, if you look at it in Lahaina and one of the reasons why we don't want to start moving walls and changing windows is because over time, that's where we got that hodge-podge I referred to earlier and, you know, that's what the new design guidelines will be intended to try to fix, if it's possible.

Mr. Kapu: Well with the analysis based upon the County's recommendation and the analysis and the recommendation, what's the sense of coming to the Cultural Resources Commission to even talk about anything that has to even deal with a compromise when we're limited ourselves, as commissioners, to even try to find some kind of compromise to

these kinds of things? We're worried about this building at the same time in town we got this, yeah?

Ms. Duensing: Well, we're working on that one; that's why I happen to have the picture.

Mr. Kapu: Well, you know what, this is one building out of many buildings in Lahaina that has to go through some heavy scrutiny. This one is nothing, yeah? We got a lot more we gotta worry about this then worry about this kinds of things over here. This is happening right now.

Ms. Duensing: Commissioner Long?

Ms. Long: Yeah, but this Commission, before I was on it, gave permission to radically change the alleyway facade of the Planet Hollywood Building and that is a genuine historic building.

Ms. Duensing: Right, with one commissioner standing in strong opposition to that because it wasn't based on the Secretary of the Interior Standards.

Ms. Long: Yeah.

Ms. Duensing: And, Mr. Munoz and you are both right, and if you sat in on those meetings, we had what? Three of them before the developer, basically, got everything he wanted.

Ms. Long: Yeah.

Ms. Rotunno-Hazuka: Yeah, we wanted them to save stairs and --

Ms. Long: How would those standards apply if this building were being built today and if the design included that wall setback?

Ms. Duensing: The Secretary of the Interior Standards are for rehabilitation --

Ms. Long: Of older -- of authentic structures.

Ms. Duensing: Of historic structures, right --

Ms. Long: Okay.

Ms. Duensing: But the reason why we have design guidelines is so that newer buildings can be integrated into historic areas without winding up with something like what is next to the new Six Fathoms buildings with that steep pitched roof.

Ms. Long: Right. But right here, in the new one, Page 75, and this is design guidelines for new construction, offer a contemporary interpretation of those historic architectural styles.

Ms. Sablas: Commissioner Long, what are referring to again?

Ms. Duensing: But this is --

Ms. Long: This hasn't been adopted and I know, but it will be.

Ms. Duensing: Not without a lot of work.

Ms. Long: Yeah, true, but --

Mr. Whelchel: And the bottom line is they're guidelines.

Ms. Long: Yeah. Yeah.

Mr. Whelchel: And we have the --

Ms. Duensing: And that's why we a Commission and the applicant has the right to ask the Commission to go and make his request, and that's what I said when we opened this discussion --

Ms. Long: Yeah.

Ms. Duensing: And that's -- he's exercising his right to do so.

Ms. Long: If that whole wall would disappear during business hours and reappear after business hours, would that be okay? If they could figure out a way to make that happen with a post or two and, you know, I can't really -- you got two posts.

Mr. Munoz: A roll-up door system could achieve that but I don't think that that is consistent with the community plan or historical --

Ms. Duensing: No, it's not allowed in the design guidelines --

Mr. Munoz: Okay.

Ms. Duensing: Either are pocket doors and some of the other things that we're suggesting.

Mr. Munoz: Yeah, so --

Ms. Long: If -- okay, suppose the facade was not -- suppose it was bi-fold doors like the -- suppose that part of the structure was made to look more plantation architecture then it does now, is that a possible?

Ms. Duensing: The problem with bi-fold doors, and just for information --

Ms. Long: Accordion doors.

Ms. Duensing: Accordion doors. Remember we did that store front a couple meetings ago --

Ms. Long: In the pool hall.

Ms. Duensing: And -- the pool hall, right, Crispin's Pool Hall, and he was supposed to do the folding doors, which they still had the old ones left, and he did not get the approval from building codes folks because of the occupancy, so I don't think it would work in this case either, so what we did is a compromise is he's going to bolt them together so that they'll look like folding doors when it's closed but they won't be able to fold them back and we're hoping that -- they're planning on going in for a variance and we're hoping we can get a variance for the ...(inaudible)... so, yeah, there's, you know, and it's the same thing with the canopy, you gotta abide by modern building codes and we're trying to reform those but you know how slowly things happen because nobody's even brought this to the County's attention until the last few months when I've been working on this, so part of it is the Uniform Building Code problem and that would be a problem with -- and Mike might know more about that than I do actually.

Mr. Munekiyo: Actually I don't but --

Ms. Duensing: Oh, okay.

Mr. Munekiyo: If I may, Madam Chair, I think during the Commission -- I think one of the concerns is if this particular application is granted and what happens to future applications and I'm wondering if it might be possible to delineate in whether it be by condition or -- I suppose in conditioning the application to indicate some of the unique circumstances which apply this particular location only and that if other applicants were to come in, then it's not a matter of this being a precedent, but that this was considered favorably because there were unique circumstances that measures up or which establish the baseline for your decision. If others come in and cannot meet those standards, then I think it'll be difficult for this Commission to say, "Well, it's a similar kind of situation, and just because one was granted here would mean that we, as a Commission, would need to grant it elsewhere." I think it's a matter of understanding that this is a somewhat unique location at the end of the block, at the end of the street, that there is really no other commercial establishments

beyond, and that, in fact, that moving of the wall in this location establishes -- can be considered because it is a unique circumstance and that, again, if a future owner in that Ruth's Chris space were to come in, how does he measure up or how does he argue a similar type of unique condition which -- upon which your decision will be based. In other words, we want to make sure that you are protected, or if you consider this application favorably, you, I guess we'd want to make sure that you have no obligation to automatically grant any other applicant just because you've granted this applicant, and I think that's really important here. If there's a way either by clarifying through condition that the rationale for decision making was based on particular conditions at this location, then I think that might be helpful in addressing some of the precedent concerns.

Ms. Rotunno-Hazuka: Yeah, but, Mike, you gotta -- I mean it's true, it is the last place, I mean location, location, location is always the biggy, but Ruth's Chris is really the same location, so if we're talking about places that are much further away, yes, I can understand trying to use that argument. Dawn, do you see any -- now that you see where we're trying to go with this and based on your -- the compromise proposed before in number six, can you see a way to push that more -- another compromise? Or is that --

Ms. Duensing: Based on what was just said, I would ask that Corp. Counsel would advise us on what type of language we might use, but I think that the compromise would need to take a step towards protecting the architectural design character and putting that first story wall back so far and having a projecting second floor, you know you're not going to see that anywhere in plantation style architecture, so that's one thing that still bothers me and I guess that's why if you were to allow moving that wall back, I would want the, you know, the canopy and the building face to conform more to what is standard historic architecture here in Hawaii, but I would be more concerned about the language and how you would prevent somebody else from coming in and arguing hardship or unusual circumstances. I think that's a big concern.

Ms. Rotunno-Hazuka: So you're speaking of the -- that, it looks brown to us, the brown canopy underneath the corrugated -- so the applicant, if that was to be removed, but they still move the wall back, is that a compromise?

Ms. Duensing: Well that was my compromise. If they did move the wall back is to move the balustrade, which is the lower part of that, back to where the --

Ms. Rotunno-Hazuka: The canopy.

Ms. Duensing: The front wall currently is to where it's at the canopy's edge and the building walls.

Ms. Rotunno-Hazuka: Oh, all the way eight feet?

Ms. Duensing: Yeah.

Ms. Long: So they'd have 14 feet and not 22 feet. Would that work?

Mr. Munoz: Well, we'll still have 20 feet ...(inaudible)... but the problem is the post. If we go to four feet, then we create a new line, so I think that I guess we would have to use the line that's there now ...(inaudible)... the purpose for coming out -- the reason why that portion comes out is so that when you're standing on the sidewalk you can see that there's activity further down. If we move the balustrade back to where the wall is now, then the only way you'll see us is if you drive by, and if you talk about other restaurants, like Ruth's Chris or Cold Stone, they would have to sacrifice interior area, and the Cold Stone situation, and if you anything about making ice cream, I'm sure that they're very concerned about climate control in their space, but if they lose the interior, I think you'll notice if you go to Cold Stone, cause we go there two or three times a week, people don't stay at Cold Stone, they pick up and they leave, and so I don't think Cold Stone has the motivation to do it, but even if they did, then to me the question to you is do you prefer the building facade that you see there or would you prefer perhaps to see this shopping center start to take more of a this kinda of a look in its dining areas? You know, I do not believe, I do not believe that retail people, in this shopping center, would be allowed to provide outdoor seating. I don't believe it's the shopping center intent because we're allowed as a restaurant to do this to allow, therefore, all of their retail outlets to start to create balustrades and lanais so that they can do sidewalk sales. But if it's an eatery, then unless there's some adversity in Hawaiian culture or history to eating outdoors, I don't believe we're doing anything that's not culturally or historically proper. I notice Mr. Freeland came in the back of the room here, he'll tell you that the Pioneer Inn has been there for 103 years and it has succeeded and it hasn't turned into some solicitous operation; it's because people have gone there and it has succeeded and it's succeeded as a restaurant because of what they have provided, it's across from the ocean and it has this look, and that's all we're asking is to -- I mean I, Heaven forbid, I should ask that I can live 103 years and see my operation last that long but I think that what we're doing is we're giving new life to what was called an ugly Bostonian building. We're creating a new island look to a commercial center that's dying, you know.

Ms. Rotunno-Hazuka: Okay, but the thing is is that you see that we have these restrictions that we have to work in, I mean, at what point can you compromise? Is there any -- what do you see that you can do to try to meet what we're trying to accomplish? If we're willing to compromise, you know, and take the front or the wall out, what do you think you can do?

Mr. Munoz: Well, as I said, to me, I do not have a problem posting a bond that should our business leave that space and be replaced by something other than a restaurant, that we would be willing to replace the wall as you see it today. The windows, we're keeping the windows. The windows are going to be simply moved back and so we'll still have the

original windows that were at the front of the building and we'll be able to move them back in that respect. As far as the space, you see our plight. If we take it back into the line of the building, then we do not accomplish what we're trying to accomplish. We're trying to create activity at the end of the street. We're trying to let people know that we are there and we're giving people a place to sit and enjoy Hawaii as it is but --

Ms. Duensing: Okay, here's another compromise; throwing things out for commissioners. Because the wall is already there and I'm looking at it, I think the thing that bothers me the most about the use of under the canopy space is that if it's going to be used, there needs to be the post preserved as is with only the balustrade around the bottom.

Mr. Munoz: Okay, so the grill that's there now --

Ms. Duensing: Right.

Mr. Munoz: You want us to take that out?

Ms. Duensing: Right, and in your drawing you've got something and that's what looks really awkward.

Mr. Munoz: Well, the reason why -- the reason why we put that in is because if you notice, that condition exist here and here as well on the building.

Ms. Duensing: But it shouldn't be; that was the problem that started that.

Mr. Munoz: I understand. I understand, but we didn't design this building, we just inherited it, and so we have -- we have run with the designs that are in the building and we're not trying to add to it or trying to augment it, and as far as I'm concerned, if your only concern at this point is removing that fascia, then if that gets me my approval today, I guarantee you that that fascia will be gone. We will take that fascia out. We put it in because I think that, Commissioner Whelchel will say, most architects when they look at something like that they say, "Well, you know, that looks a little skimpy at the top there," and that's why they put it in because they saw it elsewhere on this building and they thought, okay, let's carry that feature to unify the building. But if in your estimation that is the thing that is the most offensive, then, in the spirit of compromise, then we will, we'll delete that issue. It's not essential to our restaurant operation, you know --

Ms. Rotunno-Hazuka: No.

Mr. Munoz: So we will.

Ms. Long: Couple of un-precedent things here. First of all, this is not a historic building. Secondly, it is in Historic District 2, not in Historic District 1 where we would never consider anything like this. Three, it is a renovation and should not be allowed in new construction, if that makes sense or not, but that's -- I'm looking at differences in how if somebody says, you know, they'd come in from a whole different block on Front Street and says, "Oh, I wanna move," okay, so these why you can't do this. This is a unique situation plus it is the very last commercial property within Historic District 2, northern most, and the further you get from the center, the less, hopefully, impact you have. So I think if we really work on things that differentiate this particular thing from anyone else who might come to us, we would have firmer ground to stand on with anyone else.

Ms. Sablas: That being said, I mean, we have talked about this quite awhile --

Ms. Rotunno-Hazuka: Yep, move on.

Ms. Sablas: So we need to move on so is anyone, Commission Long, would you be comfortable to make a motion with your recommendations that you have stated earlier as conditions and go from there, or do you wanna --

Ms. Long: I'd want to see certain things before I'm prepared to do that I think.

Ms. Sablas: So we defer it then and then have them come back?

Ms. Long: I would like to be very sure about this bond situation or whatever. I'd like to hear from the landlord to see whether they're willing to say this is the only type of renovation of this type that can occur within Lahaina Center, if they're willing to do that. I'd like to really tie this down so that what we hope will happen, will happen, and that when I'm gone, you know, we won't have to worry about this. And what else. Is there anything else?

Ms. Sablas: The lease amendment you mentioned.

Ms. Long: Pardon?

Ms. Sablas: Didn't you mention a lease amendment that you wanted to see?

Ms. Long: A lease, yeah, an amendment to your lease, Ron, that states in support of the bond or whatever thing it is that ties you to a financial commitment to restoring the wall back to the way it was.

Mr. Munoz: Actually our lease already does say that --

Ms. Duensing: Use the microphone, please.

Mr. Munoz: Our lease already does have a provision in it that should we leave the restaurant space, then we have to restore it to the way that we found it so --

Ms. Sablas: Oh, okay.

Mr. Munoz: I'm sure that Corp. Counsel can tell you that most every standard commercial lease written, in Hawaii anyway, has that provision in it but ours --

Ms. Long: Yeah, that's usually though if the landlord wants that to happen.

Mr. Munoz: Yes, well our, you know, our lease is a near 74 pages so it does have an extensive description of that particular term but that's why I was well prepared.

Ms. Long: But that's -- I understand that but I want our counsel to be able to read that then and say, okay, but, yeah, our leases are only about 35 pages and we have something like that but it's at the landlord's discretion and I don't wanna run afoul of that.

Mr. Munoz: Okay, no, we would be more than pleased and I am sure that the landlord can be cajoled into modifying their agreement to the wishes of Corp. Counsel on that particular matter.

Ms. Long: Yeah, and our communication to you, following this meeting, should request that you also obtain a statement from your landlord saying that this is a unique -- he's given his permission for this and will not give permission to any other tenant in the center to do this, but good luck.

Mr. Munoz: If you met our landlord, you would know that he will probably demand such a letter anyway from us as well as himself.

Ms. Long: Okay, well from him is important because that would limit what his other tenants could do.

Ms. Sablas: Okay, so what is our action? Are we ready to take action or do you wanna defer it until all those conditions are met?

Ms. Long: Dawn, what do you think?

Ms. Duensing: I would like to make a suggestion. As the Commission has spent more than two hours discussing this, if you would like to vote on whether or not to come up with, you know, make motions to what you're going to do about the design elements of this, and then we can write down the problems with the, you know, your condition request with the lease and any other thing, and if you'll defer that for staff to work that out with the applicant

and also under the guidance of Corporation Counsel for the legal aspects of it, and if we can manage to do that, if you can, you know, agree on what the design is going to be, and then if there are problems with this, staff will bring it back to the Commission if there are any substantial changes or problems that we cannot work out with the applicant. The applicant's willing to work with staff like that and, you know, so that you don't have to put this on your agenda and discuss it for another couple hours or whatever because you have discussed this quite a lot.

Ms. Rotunno-Hazuka: Yep. Okay.

Ms. Long: So what you're saying is that we can move to approve --

Ms. Duensing: Make a move to do something with the design aspects of this project and then we can work on the conditions of the project.

Ms. Rotunno-Hazuka: Okay, with the language.

Ms. Duensing: We can take the vote and then the staff will work to work on the language and make sure that all your conditions are met, i.e. the lease or whatever letters or whatever.

Ms. Long: And then you bring that back to us to vote on?

Ms. Duensing: Well, no, we'll just -- these will be the conditions and we will get these, and if these conditions are not met and there are problems, then we would come back to the Commission.

Ms. Rotunno-Hazuka: So they'll get the right language from Corp. Counsel on how to --

Ms. Duensing: Yeah.

Ms. Rotunno-Hazuka: Yeah, that's ...(inaudible)...

Ms. Duensing: Corp. Counsel can help me work on the language. Corp. Counsel can review the lease to make sure that your concerns are part of this lease, and if they're not and there are problems remaining with the application, as far as the County is concerned, then we can come back to the Commission and you can address that as to -- I mean but if the conditions aren't met, they don't get their permit.

Ms. Long: Right.

Ms. Duensing: Right? You've approved it but they still have to meet the conditions.

Ms. Sablas: And if all the conditions are met and if counsel come up with legal language, I'd like to have it on staff report in the future of a Cultural Resources Commission meeting so that we can -- you can just report on it and we can be familiar with what the final -- this is a reporting -- staff report.

Ms. Duensing: And you will -- you always -- you always get the final copy of the staff, the director's letter to the applicant approving and listing the conditions, so you will get that in any way.

Mr. Giroux: And isn't there an SMA process also? Maybe we can just bleed that in or tie it in so there's another review at that time that anybody who reviews what this condition -- or this Commission has wanted to see if that has actually come about.

Ms. Rotunno-Hazuka: Okay.

Ms. Duensing: Yeah, and they've submitted their SMA applications together with the Historic District Approval and usually when the letter of approval goes out, it will restate what happened at the Cultural Resources Commission meeting, whether you approved or denied anything, we will look at it in terms of Chapter 343 because it needs to go through an EA being in the landmark district, you get the review as to the SMX, and then you get the Historic District approval or denial with all the conditions or reasons; all of that is stated in the letter.

Ms. Sablas: Okay, who's going to make a motion?

Ms. Long: This is not going to Urban Design review is it?

Ms. Duensing: No.

Ms. Sablas: No?

Ms. Duensing: No, historic district doesn't, no.

Ms. Long: Okay.

Ms. Sablas: Okay, are we ready for the motion then or --

Ms. Long: Dawn, why don't you give us the words.

Ms. Duensing: No, because you guys -- what's your motion on the design aspects of it, that's what you're concerned with today, right now.

Ms. Long: The motion is to approve as presented with the removal of the fascia, or what do we call that?

Ms. Rotunno-Hazuka: It's the wall facade?

Ms. Long: Well, as presented would be with the --

Ms. Rotunno-Hazuka: The railings.

Ms. Long: Railing, right?

Ms. Rotunno-Hazuka: The removal of the existing --

Mr. Whelchel: That's goes -- that goes with it.

Ms. Duensing: Okay, let's make this easy. First of all, do you wish to allow him to move the wall; that's item one -- that's Item No. A.; Item No. B is how do you want the dividing structure to be.

Ms. Long: "Dividing" meaning?

Ms. Duensing: Because the dividing structure is the balustrade that separates the public sidewalk from the dining area.

Ms. Long: We want it to be like that.

Mr. Kapu: The rail.

Mr. Whelchel: It goes with the design.

Ms. Long: We want it look like that.

Ms. Duensing: And you're going to allow the thing to go along the top.

Ms. Long: But with the elimination of what you said.

Ms. Rotunno-Hazuka: Was that the fascia?

Ms. Duensing: It's not really a fascia cause it's not part of a --

Mr. Whelchel: Victorian's row of spindles.

Ms. Duensing: Yeah, it's a --

Ms. Long: Filler.

Ms. Duensing: It's a thing.

Mr. Whelchel: Yeah, it's nothing.

Ms. Long: You know what we mean.

Mr. Munoz: I'll get some white-out and white that out.

Ms. Rotunno-Hazuka: Okay, and then the installation of the railings instead of --

Ms. Long: Instead of solid --

Ms. Rotunno-Hazuka: Planters.

Ms. Duensing: This balustrade, which mimics Pioneer Inn, will be replacing what's there with nothing running along the top between the posts.

Mr. Kalalau: Right, right.

Ms. Rotunno-Hazuka: Those were all the major changes, correct?

Ms. Duensing: Yeah.

Ms. Rotunno-Hazuka: And do we need to state why we're doing this?

Ms. Duensing: That's going to be part of the language of the conditions.

Ms. Rotunno-Hazuka: Okay, it's basically because of the uniqueness.

Ms. Sablas: And I think, Barbara, you had mentioned earlier you had three items and if you could share that with the final so that we can have it and restate it again, you had written it.

Ms. Long: Yeah, more or less.

Ms. Sablas: Yeah, well Suzie has all the discussion, but this is the motion now, we need to be clear on what our motion is.

Ms. Long: And that we are agreeing to this difference from the Historic District Design Guidelines because of a variety of reasons, which make this unique, and one of those is it is definitely not a historic building; number two, it is at the very north-end of Historic District No. 2, it is the furthest one away, and, number three, it is not new construction but a renovation of something, I hate to say it, the architecturally inferior --

Ms. Duensing: How does that add to the uniqueness? That third point.

Ms. Rotunno-Hazuka: It's a unique -- well this decision is unique because --

Ms. Duensing: Because of that reason.

Ms. Long: Because we're trying to correct the deficiency that we recognize in this --

Mr. Kalalau: Building area.

Ms. Long: Building. Yeah.

Ms. Rotunno-Hazuka: But wasn't your point was that you don't want new construction to think that they can do this.

Ms. Long: Exactly.

Ms. Rotunno-Hazuka: That was your point.

Ms. Long: Exactly. New construction should be built along -- according to the guidelines because then it will be attractive and not like ...(inaudible)...

Ms. Sablas: And you mentioned it's in Historic District No. 2.

Ms. Long: Historic District No. 2, at the very edge, so it gives us a little leverage as far as precedent is concerned, I hope. Anything else you can think of?

Mr. Munoz: You mentioned the bond ...(inaudible)...

Ms. Long: Well that'll come under the conditions.

Ms. Rotunno-Hazuka: That's going to be in the language that they're going to --

Ms. Sablas: That's going to come under the conditions too, the bond.

Mr. Giroux: Can commissioners think of any reason, historically or culturally, that this is in the spirit of, I guess, the Pioneer Inn or something like that to further that or --

Ms. Long: That would apply anywhere ...(inaudible)...

Ms. Sablas: Well I think, you know, again, from what the applicant said from the beginning is open dining on the lanai, that is, you know, from my era, very cultural, very --

Ms. Duensing: It's not a unique reason why you're approving this.

Ms. Sablas: But it's, yeah, yeah.

Ms. Rotunno-Hazuka: These are reasons -- and that these motions will be --

Ms. Duensing: And this is a good thing to do because when that letter gets written, there's going to be something that needs to say that this was a hardship, this is why the CRC did this, it was an unusual circumstance, the guy next door is not going to be able to do it whether it's Ruth's Chris Steakhouse or Buzz's Wharf or whatever.

Ms. Long: The fact it's been vacant for three years is indication. That's a good criteria ...(inaudible)...

Ms. Rotunno-Hazuka: So then these motions will be backed up by conditions and the language of the conditions will be worked out between Dawn and Corp. Counsel and Chairperson.

Ms. Duensing: Because what we're going to do is you're going to have your motion for whatever design it is you chose to approve, the reasons for approving this design in the historic district and why you, as Cultural Resources Commissioners, are doing that, and then what we will do is I have a list of recommendations that I prepared in case you decided to do this.

Ms. Sablas: Thank you.

Ms. Duensing: See, I mean, I'm not -- I'm well prepared. So then we'll go over -- I'll make my recommendations for the conditions and then you have also added several others and we will include those in.

Ms. Long: Okay.

Ms. Duensing: Okay?

Ms. Rotunno-Hazuka: Okay.

Ms. Duensing: And some of my recommendations came from other files of similar type structures being built.

Ms. Sablas: But that's a long discussed motion we have so are we ready for a second? Are we clear?

Ms. Duensing: Let's clearly state a motion again, I think.

Ms. Rotunno-Hazuka: Barbara, are you going to say it?

Ms. Long: Okay, I move to approve the renovations as depicted in Exhibit B with the exception of the horizontal fascia additions at the top of the pole to be removed. Got a little more dramatic with that.

Ms. Rotunno-Hazuka: Second.

There being no further discussion, the motion was put to a vote.

**It has been moved by Ms. Long, seconded by Ms. Rotunno-Hazuka, then unanimously**

**VOTED: to approve the renovations as depicted in Exhibit B of the Planning Department Staff Report with the exception of the horizontal fascia additions at the top of the pole to be removed.**

Ms. Sablas: Motion carried. Okay, wow.

Ms. Duensing: Now conditions.

Ms. Sablas: Conditions. I'm sorry, now we need to go through that, it's been approved, now we're going to go through the conditions part, so at least get over the first hurdle.

Ms. Duensing: Some of these are very standard, okay. Condition No. 1, that staff will review building plans prior to the permit being issued and it shall be based on the CRC's motion just made. Building plans shall include lighting plans and any other elements to be constructed for this outdoor dining area, okay.

Ms. Long: Signage? Is that a separate one?

Ms. Rotunno-Hazuka: She's going down the list.

Ms. Sablas: She's going down the list.

Ms. Long: Okay, never mind.

Ms. Duensing: No. 2, all windows in this building shall remain inoperable, as the applicant has already said he intends to do. No. 3, building modifications shall be painted to match the existing structure. No. 4, a building permit shall be obtained prior to the initiation of construction. No. 5, and some of this is standard language, it'll probably move down the list when this actually gets written, but the applicant and its successors and permitted assign shall hold the County of Maui harmless from and against any and all claims or demands for property damage, personal injury, and/or death arising out of this permit. No. 6, that appropriate measures shall be taken during construction to mitigate the short-term impacts to the project relative to soil erosion from wind and water, ambient noise levels, and traffic disruptions. This should not be a major problem. That, another condition, that full compliance with all applicable government regulations shall be rendered. No. 8, and this will move up on the list, that the applicant submit applications for historic district permits for his signage and we would like to approve this concurrently, not after the permit is granted so that we'll start working on this at the same time. Another condition that was briefly mentioned is that there will be no sunshades on this building neither. So, another condition then is your language for this bond for the replacement of the wall or whatever you want to -- however you want to handle that.

Ms. Long: Whatever the legal --

Ms. Duensing: Yeah, and I guess --

Ms. Long: The most effective legal method.

Ms. Duensing: Okay, so two things were mentioned was the bond and the lease, so how do commissioners want to handle that? You know, the staff will take care of doing this, but those were the two things that you had discussed.

Ms. Rotunno-Hazuka: The bond ties it monetarily, right, to the person? So I think -- I think if we could get both, it would be great.

Mr. Munekiyo: I'm wondering if, as a suggested condition, and I'm not sure if this works, something to the effect that the applicant shall guarantee that in the event the space is vacated and utilized for non-restaurant use, the wall shall be restored to its original condition. Assurances towards, I guess, to meet this objective, applicant shall post a bond or other financial instrument to secure that guarantee, because, you know, bond may not --

maybe he might want someone to put a deposit or something, I just want to assure that there's some flexibility in terms of how that financial assurance is provided. And, secondly, the applicant shall provide assurance and, you know, I'll leave this to Ron, applicant shall provide assurance that the lease between Island Restaurant Ventures and the lessor shall provide guarantee that the restoration of the wall shall be complied with in accordance with this condition - something to that effect. But what it does then is, number one, it provides a financial commitment on the part of the applicant to restore the wall by whatever mechanism he feels appropriate, and, number two, he gets the assurance from -- he is obligated by lease, if Ron is comfortable with that --

Mr. Munoz: We already are.

Mr. Munekiyo: Okay, to restore that wall to its original condition.

Ms. Munoz: If the verbiage in the lease is insufficient for Corp. Counsel, I'm sure that we can cajole ...(inaudible)...

Ms. Long: I'm sure.

Mr. Munoz: But it is pretty ...(inaudible)...

Ms. Long: In the event that this restaurant is so successful that somebody comes along and pays you 17 million dollars for it and moves in, we want to continue the same thing with whoever occupies that space as a restaurant, so that kind of language needs to be in there that it runs with the tenancy.

Mr. Munoz: Personally, if somebody offers me 17 million dollars, I would sell it ...(inaudible)... I would certainly do not want to be ...(inaudible)...

Mr. Munekiyo: I suppose, Madam Chair, that issue could be addressed, Dawn, with a transfer -- non-transferable condition. In other words, this historic district permit shall not be transferred without approval from this Commission so that --

Ms. Long: That's a good one.

Mr. Munekiyo: And that's somewhat standard in SMA conditions which could be applied here that if there is that situation, then they come back to you and, you know --

Ms. Long: Right, if the ownership changes, then --

Ms. Rotunno-Hazuka: It's non-transferable. Good.

Ms. Sablas: Okay, so how many conditions did we have in total?

Ms. Long: That was 12 so far. That was 12. And then I -- the one I was talking about was asking for a letter from your landlord saying this is the only one that I'm going to allow in Lahaina Center, the only renovation of this type.

Ms. Duensing: Is that letter going to be binding?

Mr. Giroux: Yeah, they're not going to build without the landlord's approval.

Ms. Long: The landlord's gotta give approval so if the landlord says I will not ...(inaudible)...

Mr. Giroux: You can't just start building on somebody else's property without the landlord's approval. So that might be a good --

Ms. Duensing: What I would request is that this letter from the landlord would state that no other outdoor restaurant of this type, what we're talking about today, will be permitted along Front Street or allowed under --

Ms. Long: Or modification of facade or something like that.

Mr. Munoz: I might interject that I thought that there might be a concern about continuing our ...(inaudible)...railing and balustrade down the building, and I did talk to the landlord about it, and he said absolutely not.

Ms. Duensing: Good.

Mr. Munoz: He was pleased that ...(inaudible)...

Ms. Sablas: The motion needs to be made to approve the conditions as stated, the 12 conditions.

Ms. Rotunno-Hazuka: I make a motion that we accept the 12 conditions.

Ms. Sablas: Okay, second?

Ms. Long: Second.

Ms. Sablas: It's been moved and seconded that we approve the 12 conditions as discussed earlier.

There being no further discussion, the motion was put to a vote.

**It has been moved by Ms. Rotunno-Hazuka, seconded by Ms. Long, then unanimously**

**VOTED: to approve the 12 conditions as discussed.**

Ms. Sablas: Motion carried unanimously so, wait, she needs to clarify, we have --

Ms. Duensing: We may have 13.

Ms. Sablas: We may have 13.

Ms. Duensing: Yeah, and the other thing I would like to say is because this sign approval process was wound up into these permits, I know you said that you hadn't done anything about picking a name for your restaurant, isn't it going to be a problem to get these -- get this going so that it can all be handled together?

Mr. Munoz: Both of my partners are flying in today --

Ms. Sablas: You need to speak in the mike. I'm so sorry, for recording, yeah.

Mr. Munoz: Both of the partners are flying in today. One flew in yesterday, actually, and one's flying in this afternoon, so we're going to make some, depending on the outcome of this hearing, we were going to make decisions today on a number of things and I believe --

Ms. Sablas: The name of --

Mr. Munoz: One of the things is going to be the name of the restaurant.

Ms. Sablas: Island, yeah.

Ms. Duensing: So that you can start working on your sign.

Ms. Sablas: It has to have an island flavor. Hey, that could be your restaurant, Island Flavor.

Ms. Long: With an Italian flare.

Mr. Munoz: Well, it's a different island, Sardinia.

Ms. Sablas: Okay, commissioners, we thank you very much for this dialogue that we've had, and thank you for your presentation, and I'm going to call for a short -- is it five

minutes or ten minutes? What do you guys need? Five minutes okay? And then we'll reconvene. Thank you.

Ms. Munoz: Thank you very much.

(A recess was called at 11:40 a.m., and reconvened at 11:50 a.m.)

**2. ADVISORY REVIEW - NONE**

**3. DEMOLITION PERMITS - NONE**

Ms. Sablas: The meeting is reconvened. So we're on item C.2., Advisory Review, none. Item No. 3, Demolition Permits, none. Communications.

**D. COMMUNICATIONS**

**1. COMMISSIONER BARBARA LONG'S MEMO, SEPTEMBER 1, 2004. The CRC will recommend that this communication be filed. Public testimony will be accepted.**

Ms. Sablas: Any public testimony on Commissioner Long's letter? Okay, hearing none, we are going to move on to Item 2.

**2. COMMISSIONER KAPU REQUESTING CRC CONSIDERATION OF SHPD LETTER DATED JUNE 10, 2004. This item was deferred from the August and September meetings. Members previously received the SHPD letter and a summary presentation plan. (Members are requested to bring these.) At the CRC's request, SHPD archeologist Melissa Kirkendall will answer questions regarding the preservation plan, which was accepted by the SHPD. Public testimony will be accepted.**

Ms. Sablas: So we are on the agenda Item No. D.2 if we have any public testimony, please come up forward and identify yourself please. Okay, no public testimony so staff?

Ms. Duensing: I did speak to Melissa Kirkendall and asked her to come in. She apparently had a conflict today and was unable to make it. In speaking with her, it's important to note that the report that was done on the golf course project out at Launiupoko was done prior to her being our SHPD archeologist so that she was wondering exactly what the commissioners wanted to know, and I think that you talked to her right, Keeaumoku?

Mr. Kapu: Yeah, she requested that, you know, by any chance if the meeting, this portion of the agenda could be deferred to the following month, and she also made mention about a lot of the sites were under Criteria D.

Ms. Rotunno-Hazuka: E?

Mr. Kapu: D.

Ms. Rotunno-Hazuka: D?

Mr. Kapu: Yeah.

Ms. Rotunno-Hazuka: Okay.

Mr. Kapu: But, you know, my concern was based upon some people that live up there they had some concerns, so I actually went to those places and saw specific things, so the reason why is because it's not compliant to the application of the cultural inventory survey that they put together. Certain things upon certain areas that was designated for some type of preservation is no longer being preserved and maybe there was a way that, being that, you know, she came to me to ask if we could table this until the next following month until she had time, I was wondering if it was possible for us to do some type of site visit into the area because of the massive alterations of that place. We're looking at 16 sites that are being preserved, 47 sites total, yeah, so it creates a lot of concern for myself because of people coming to me asking me for some kind of advice as pertaining to what they should do about their so-called properties. And the biggest concern for me is that Launiupoko Association LLC is the one that to determine what site is under a criteria for protection or non-protection, so there's a lot of concerns in this area based upon, you know, the fox watching the hen house kinda thing. I'm really concerned about this area because it also encompasses large tracks of pre-contact sites so you can't say that one area is Criteria D, then right across the street is Criteria A or B or C just to make a clear determination based upon whether or not they want to protect the sites or not, but it doesn't give me enough information. In fact this doesn't give me any information based upon whether or not they're trying to protect Hawaii's history, so it draws great concern for me. So I don't know if Commissioner Rotunno-Hazuka ever went over this or not, maybe she might have some input that can share with this too.

Mr. Rotunno-Hazuka: I haven't read the inventory survey. Now I know of the preservation plan. One of the things that I had heard on that preservation plan was originally even fewer sites were slated for preservation and someone got involved, I don't remember who it was, whether it was you guys or another group, and then they decided to preserve more. I do know that one of the concerns I had had with the preservation plan was that it was written by Launiupoko and Associates, they didn't hire an archeologist to write the preservation

plan, from what I understood, and that you have to have a consultation process during your preservation plan and you have to consult with, not only people that live there, but other people - people from that ethnic group so, obviously, the native Hawaiian people. And I'm not sure if Keeaumoku is saying that does the inventory survey propose one thing and then the preservation plan proposes another, or you're just questioning their designations as far as significance?

Mr. Kapu: Well, for one, the inventory survey that was put together back in 1991 was for a golf course, yeah?

Ms. Rotunno-Hazuka: Right.

Mr. Kapu: I don't know what went happen that made the developers, at that time, decide not to develop in the area, so it was left at that, but they did an inclusive inventory survey of the area so if -- what gets me is from a golf course to subdividing of massive lands for residential development. I don't know. It draws a lot of questions for me especially for the inventory survey or the archeological preservation plan that they got doesn't coincide with the inventory survey that was done in 1991 by somebody else.

Ms. Rotunno-Hazuka: Well, what happens on a survey is it doesn't matter what -- it shouldn't matter what their proposed use is. If it's a golf course or whatever, they should look at that intensively anyway, no matter what the use is proposed. What happens a lot of times in a golf course is you end up being able to preserve a lot more sites because you can dogleg a hole or you have a lot of the sites in the rough, but I'll read this and then I'll re-review the preservation plan, and then I'll make some comments, and I can even call you in the interim and then we can address whatever needs to be addressed at the next meeting. I think -- do you agree that a lot of the sites were already destroyed? I mean --

Mr. Kapu: Oh yeah.

Ms. Rotunno-Hazuka: That's true, right?

Mr. Kapu: So if the preservation plan was put together and now going through it's final approval, there's a lot of things that already done on this despite of the approval process, yeah, the lands had been already altered?

Ms. Rotunno-Hazuka: Yeah, there's already homes and everything. Correct? Okay.

Mr. Kapu: Yeah, so has there been adequate buffer zones placed upon areas, you know, in there with Criteria C or D or A, that kinds of things needs to be clarified based upon an association putting this thing together. There's a lot of things that need to be --

Ms. Sablas: So I hear a couple of things is that, you know, as our archeologist here, that you'll be speaking with Commissioner Kapu but we need to have a motion so that it's going to be from the group that the two of you would be discussing this. And the second thing, are we still going to be wanting -- waiting for Melissa to be able to come? Is that what we're hoping to do? So we are -- we need to take a motion on the two of you discussing it and then we need to, I guess, defer this item again until we can have Melissa attend and, at that time, perhaps you can give us your report. Is that what we're discussing? The third thing was the site visit that was suggested. So what's the wishes of the Commission? I guess the first, let's make a motion to make it -- move it along that we -- who's going to make a motion about the two of you meeting?

Mr. Kalalau: I do.

Ms. Sablas: Okay.

Mr. Kalalau: I so move that Keeaumoku and Lisa meet and review the -- this Launiupoko archeological inventory and the other portion of the already existing I guess subdivision, agricultural, I mean archeological --

Ms. Sablas: The preservation plan.

Mr. Kalalau: Preservation plan by Launiupoko Association.

Ms. Sablas: Okay, thank you. Second?

Mr. Artates: Second.

There being no further discussion, the motion was put to a vote.

**It has been moved by Mr. Kalalau, seconded by Mr. Artates, then unanimously**

**VOTED: that Commissioners Kapu and Rotunno-Hazuka meet and review the Launiupoko archeological inventory survey, and the preservation plan by Launiupoko Association.**

Ms. Sablas: Motion carried. Thank you. Then the second thing. I mean that's -- we know we're going to defer it until she comes. The site visit. What do we -- is that the wishes of the Commission that we actually do a site visit of these?

Ms. Rotunno-Hazuka: Are you proposing to visit the ones that are in preservation now, you know, like the ones that have the signage? Is that what you want to try to do or what do you -- what are you thinking?

Mr. Kapu: Well, there's a couple of areas that was of great concern for me based on what they had included in the report on the preservation.

Ms. Rotunno-Hazuka: Okay.

Mr. Kapu: And now I don't know how this is going to work because now that the lands are subdivided, it falls into private jurisdiction.

Ms. Rotunno-Hazuka: Oh right.

Mr. Kapu: Are we going to have to ask some kind of permission to go on these areas? I don't know.

Ms. Duensing: May I make a suggestion? If the Commission so desires to make a site visit, since you've designated your two representatives to work on this project and a report for the next meeting, perhaps Keeaumoku could work with the landowners to ensure access to the Commission next time. The next agenda will have several other Lahaina items so we could just, this is what we'll try to do if there's a space available to have our meeting there, we could have our site visit at 9:00 and convene our meeting at 10 or 10:30, whatever, in Lahaina if the civic center is available and, you know, with Keeaumoku working on access and Suzie can work on a place for having the meeting, we could it that way.

Ms. Rotunno-Hazuka: One thing that I do need to mention too is that right now in this area, you know, they're redoing those electrical lines. Do you know about that, Keeaumoku? And we've been in there monitoring to make sure that they don't hit any of the sites that are in preservation, so I don't know if that's ever going to be like a conflict or whatever. They're putting in the big steel poles now and they're going to take away the wooden pole transmission line so they had proposed locations to do that so I don't know. It goes -- it's part of Launiupoko relocation transmissions. I don't know if that'll be --

Ms. Duensing: Is it separate from this preservation plan you're discussing though, right? Well, yeah, it has nothing to do with the preservation plan but I'm using the preservation plan when I look to see what sites are near the area so that I know what's going on and then we look at the proposed hole, so it's -- I mean I'm in the same area but I'm not working for these people, I'm working for Maui Electric.

Mr. Giroux: Do you think that's going to influence you in any way? I guess that question is accuracy on this, right? So --

Ms. Rotunno-Hazuka: Yeah, I don't think it'll influence anything. The holes that we've looked at did not have sites near them or in them but because if it did, then we wouldn't have allowed them to put the poles in, but I guess let's look at it and see if I see that there's an area where he has concerns and then that's where the proposed pole is, then I'll have to -- we'll let you know.

Mr. Kapu: The electrical lines is within Launiupoko Mahana Loa Subdivision?

Ms. Rotunno-Hazuka: You know, have you ever seen some of the poles that are going up there? There's a wooden pole transmission line and it kind of goes in front of some of these homes, I'm not exactly sure, and then there's another of the steel pole that goes up and then goes more mauka.

Mr. Kapu: Yeah yeah.

Ms. Rotunno-Hazuka: Okay, we're working a hundred feet off of the steel pole line and they're putting in an additional line, and then they're going to take down the wooden line. Now, apparently, this hundred-foot easement along the steel pole was looked at in 1992 or something by another firm, so now that this was done in '97 and that preservation plan, we're using that as a guide to see, you know, you can't put a pole right next to a preserve anyway or something like that, but we can talk.

Ms. Sablas: We'll deal with that when --

Ms. Long: If and when we do the site visit, could we have a map before we go that would indicate which are the ones of concern so that we can then -- would they be included in this or would we need to read about -- cause I'd like to know what I'm looking at.

Ms. Rotunno-Hazuka: I think it would be in that preservation plan. You have a copy of that?

Ms. Long: Yeah.

Ms. Rotunno-Hazuka: The synopsis.

Ms. Long: So, yeah, if we could, in the packet, just indicate which of those sites so we can read about them before we go look at them. That would be helpful.

Ms. Rotunno-Hazuka: Okay.

Ms. Sablas: Okay, so we --

Ms. Long: So we deferred.

Ms. Sablas: Yeah, deferred. Thank you. Moving along to Item E., Unfinished Business.

## **E. UNFINISHED BUSINESS**

- 1. LAHAINA DESIGN GUIDELINES, OCTOBER 15, 2003. Department of Planning will present an overview of the new guidelines. The CRC may discuss and comment on the new design guidelines for the County's Historic District's 1 and 2. Public testimony will be accepted. (D. Duensing).**

Ms. Sablas: Do we have anyone from the public who would like to testify on this agenda item, it's your time now? Item E. No. 1, on the Lahaina Design Guidelines. Okay, hearing none.

Mr. Kapu: Before we continue, Madam Chair.

Ms. Sablas: I'm sorry, yes?

Mr. Kapu: Before we continue, I'm sorry, but I have to leave. I have some responsibilities with my son that we have to do so if everybody can excuse me.

Ms. Sablas: Well thank you for being here so a hui hou.

Mr. Kapu: Thank you. Aloha.

Ms. Sablas: Okay, Dawn.

Ms. Duensing: Okay, what I wanted to do today was just introduce our new commissioners to these Lahaina Design Guidelines, give you a little bit of background on the project, and try to move this along so that we can fix some problems that there are with this, and, hopefully, get these approved by the Commission and start implementation in the Lahaina Historic District.

And I had a whole bunch of notes and I left them on my desk but I'll just ad-lib. This project, you guys all know, we're a Certified Local Government and we get Federal funding and it's our year to get it this year and this is what we did with our -- the last time around we got it. We hired Nore Winter and a couple of other consultants as our, shown on the

credit page, on Page I at the beginning here, to look at the Lahaina Historic District and come up with a more user-friendly and more up to date version of design guidelines that this Commission can work with to guide it in its planning and decision making in the historic district.

The previous Architectural Style Book that everybody was given when they joined the Commission dates to 1966. It was done by John T. Jacobson, who was a local Honolulu architect, did a lot of things for Ala Moana, he did Sea Life Park, and somehow he also did our Lahaina Design Guidelines. Preservation has changed a lot since 1966 when we got the National Historic Preservation Act, which kind of spurred along all these activities in historic districts, such as Lahaina. And what the Commission wanted to do was get more in tune with preservation as its happening across the United States and, for instance, in these design guidelines, we now have a section on -- we need to start thinking about what is a Hawaiian culture in Lahaina because that had always been ignored previously. So, for instance, number -- Chapter 5 has the treatment of cultural and archeological sites, and this is really only a beginning because it would also involve County legislation and perhaps revising the National Historic Landmark District nomination forms to more appropriately encompass more of what Lahaina is all about officially. So what this is designed to do is, like I said, get us on a new start to better review of architectural features and some Hawaiian things that we look at as the Cultural Resources Commission.

So what we're going to need to do is everybody should take a very close look at this. We do have an architect on our Commission and I would like to probably work more closely with Lon in reviewing it. I've sat down with Ann Cua and Colleen Suyama of our department, who have together nearly 40 years of experience in doing this kind of thing, and what we looked at is, they let me look at all the textural things, but what we really looked at is was a lot of the pictures that are inappropriate as examples in these guidelines. For instance, you might have a picture, and like I said, I forgot my notes and this is really dumb, but in a lot of the pictures, if you go through the book, you'll see that it might be a good example of architecture and what to do, but it's got no approved signs in it and they're all out of conformance, so we thought what can we do; we don't wanna have Nore redo everything, you know. This was a rush job by the County, by the way. They got this all done in two months so it wasn't necessarily properly reviewed so that it was in final form. So what I'm looking at is how can we fix things because Mr. Winter's contract is over and I would like to work with him in making some fixes. For instance, when a picture shows a good architectural example and they add un-permitted illegal signs. Actually, I ran into Nore last weekend when I was in Kentucky at the preservation conference and we thought what we could do is we can work to redo the captions so that we can say, "this building has nice architectural features, notice the such and such, but also notice that the signs are illegal and blah, blah, blah," so that's what we'd like to work with. There's a few, in discussing this with Colleen and Ann, there's a few pictures that are completely inappropriate and aren't gonna work and one of them, for instance, that we believe really

needs to be replaced is, if you look in the section on Hawaiian or cultural and archeological sites, it's Chapter 5, Page 38, they have a -- he's got a picture of a interpretive sign at Moku`ula, and this is the problem when you work with somebody who doesn't live here on Maui and doesn't really realize what's permitted and what's not, but this sign Lahaina, working with the restoration foundation and the Lahaina Town Action Committee and a bunch of other places, people, they did an interpretive master sign project and this Commission approved it, so there's nice signs at archeological sites that would be better examples than this kind of ugly sign at Moku`ula, which is inappropriate, so we'd like to make changes like that. There's another picture in here earlier that shows the remains of the Brick Palace and it's got a fire hydrant in the middle of it, you know, just kinda dumb things that, you know, don't really illustrate what we should be trying to achieve in a historic district if we're really going to be professionals with this.

I did talk to Commissioner Long about this. There's a number of typos because it was a rush job. I had pages of notes prior to this being finished last year and I don't know what happened to that, I could probably find the email, but Barbara has graciously agreed to help me with that kind of editing and so we --

Ms. Long: The English lady.

Ms. Duensing: Right. I remembered how she told everybody she's an English teacher so I'd like to work with her on that, I've got editing experience, work with Lon on some of the architectural things that could be improved, but, you know, I'd like input from all the commissioners, so this is kind of my introduction. If everybody could, you know, go along with this, we can figure out from individual members, perhaps at the next meeting, what we need to do so that we can get this in shape, have it passed by the Commission so that the County gets its moneys worth and it's a usable documents; that's the goal.

Ms. Rotunno-Hazuka: Okay.

Ms. Long: You refer in here to the Cultural Resources Management Plan of 1984. I have never seen that.

Ms. Duensing: It's in your binder. It should be. It was in my binder.

Ms. Long: I have nothing in my binder that says Cultural Resources Management Plan.

Ms. Duensing: Yeah and, you know, like one of things that wasn't referred to in there that should have been referred to is Title 19 is outdated as it is in the code, but that's really important because when you look at what gives us our authority, and for instance, remember Mr. DUKW, the Honu guy with his DUKW tours, Mr. Honu, he says, "Well there's nothing in Title 19 that says I need to come before you," so people really do look at Title

19. This is the Cultural Resources Management Plan. It's outdated too and that's one of the reasons -- one of the --

Ms. Long: I always wanted to see it and I never have. Could you just have Suzie --

Ms. Duensing: Yeah --

Ms. Long: Get me one of those. I'd appreciate it cause I don't have it.

Ms. Duensing: Talk to Suzie, yeah. If you don't have one, mention it to Suzie and she could get one. I thought it was in everybody's binder.

Ms. Long: There -- I looked at the old design guide-- this one says nothing about color of buildings, painting.

Ms. Duensing: Right.

Ms. Long: Is that -- there a reason for that?

Ms. Duensing: No, we don't know. That was one of things Ann and Colleen and I discussed at our meeting yesterday. Another thing that I know that we wanted to put in is I copied this out of the beginning of the book, he calls it a typical design guidelines, and there's -- it's not anywhere in there so I don't know why he put that in there.

Ms. Long: No. No. And the explanation of it makes no sense either.

Ms. Duensing: No, but, to make a long story short, this should go and what we should do is use this building facade as a way to illustrate architectural elements --

Ms. Long: Yes.

Ms. Duensing: That he talks about later.

Ms. Long: Yes.

Ms. Duensing: So what we would like to do, and Ann and Colleen and I discussed this, is there's also -- we'd like to do stuff like that, show them what architectural features are. If you look in the book, one of the good things it has is a glossary, but towards the end somewhere, I think it was design guidelines for new construction, on Page 77 for instance, they talk about buildings that are right on the ocean, and they talk about stepping the building so that it goes down to the ocean and the idea is right, but how they illustrate it is

wrong because typically the way we do it in Hawaii is by the use of shed roofs, not a nice square type of rectangular plan that he has illustrated so --

Ms. Long: Not a flat roof.

Ms. Duensing: Some of these illustrations need revisions. There's also another section, and it's on Page 61, where we have storefront sketches, this page, and if you look at these sketches, it makes the buildings look like they're almost solid glass and, I think Lon will remember and probably Lori too, when we permitted that new building on Front Street, the Six Fathoms Building, when the architect came in he had a design like this and we said, "Oh, no, wait a minute. We don't want it that way." Lisa you were there too. So I looked through the old style book because some of Mr. Jacobson's sketches were pretty good and so what we'd like to do is import more of that into this because I remember when I was a commissioner, one of things I said is, "well, maybe we shouldn't throw out the baby with the bath water, we should still use some of Mr. Jacobson's things," which were quite good and the sketches, many of them were pretty good. So these are the kinds of things, you know, Ann and Colleen have been very helpful, like I said, they've got so much experience between them and, you know, my hats off to them because, you know, they're not even trained in this but they're really good at it. So, you know, for the members who have the time and could look through this and make suggestions, you know, we don't want to make it too much of a committee project that it takes us forever to finish, but there's definite room for improvement. I think I consider this a draft that needs to be finished. I will be calling Nore Winter to see, you know, what he can do to help us with some of this and then if Lon has time, you know, I'd really appreciate his assistance as an architect in fixing some of the problems.

Mr. Whelchel: Nore will not be able to come down and take more photographs?

Ms. Duensing: You know, I don't think so because it's going to need money.

Mr. Whelchel: That's a loaded question. You and I can do that.

Ms. Duensing: We can do that, yeah.

Mr. Whelchel: Yes.

Ms. Duensing: And I think some of the photos need to be done. We've got this entire thing on a hard copy but we've also got it on a CD so that we should be able to get, you know, if we need other electronic files, we should be able to get that from him and, you know, get new digital pictures to re-import, you know, like get the fire hydrant out of the Brick Palace picture, and stuff like that, and the maps are a problem too.

Ms. Long: Terrible.

Ms. Duensing: Yeah.

Ms. Long: Terrible maps. The former map was -- it was very specific especially for someone in a residential district who has to comply, they wouldn't know.

Ms. Duensing: Yeah, well, I don't know why, and part of this was because, you know, when this project took off, you know, they just kinda did it, they got it done in two months, and there was no room for a whole lot of input. I mean I think we only got to discuss it once last September when we were out in Lahaina. But we have three very good maps that were done by our GIS people and I would like to insert at least the one that has the historic districts with the landmark district in there. This map, if you look at it -- what page is that, Barbara, the first one?

Ms. Sablas: Nineteen?

Ms. Long: Three.

Ms. Duensing: Number -- Page 3, this is the one with the real problem, and Ann and Colleen and I discussed this, it's got principle historic structures, but if you read his text, what he's got listed on the maps and he has in his written text, don't even match.

Ms. Long: The key. The key to map ...(inaudible)...

Ms. Duensing: Yeah.

Ms. Rotunno-Hazuka: So we should send some comments though to him.

Ms. Duensing: Well, I don't think it's gonna do any good. He's contract is over.

Ms. Rotunno-Hazuka: No, I know, but what I'm saying, you know, we paid you this and look at what -- here's your mistakes.

Ms. Duensing: I'd rather just fix it and move on. And, like I said, we already have a good map produced by Walle and those guys so, you know, one of the things we need to do is work on this map and -- we can't have two conversations going on here folks.

Mr. Whelchel: Is the final one going to be in color?

Ms. Duensing: Well, that was the other suggestion is to make the final one not in color so we can get a lot more copies printed for a lot less money.

Mr. Whelchel: But it wouldn't have illustrations like this? You know, just black? You need to get it more detailed.

Ms. Duensing: Well, if you get a good digital picture, that's not going to happen.

Mr. Whelchel: Drawing it in.

Ms. Long: But even that photograph, Dawn, I'm not sure what it says the relationship to the buildings to the makai side. You can't even tell there's an ocean out there. I don't understand the ...(inaudible)...

Ms. Duensing: Well --

Ms. Long: Of that photograph.

Ms. Duensing: I think, in this case, it's okay because he's going under the assumption that people who are reading this document are familiar with Lahaina and are gonna go and look at the courthouse and see it's relationship to the ocean, which is obviously right across the street when you go to the courthouse.

Ms. Long: What does that have to do with architectural guidelines?

Mr. Whelchel: It should show us with the photograph.

Ms. Duensing: It's a prominent building in a prominent location to the ocean. I mean I don't need to nitpick at this level, this is not what this discussion is about.

Ms. Long: Okay. Okay. I just -- I read that thing over and over and I couldn't figure out why ...(inaudible)...

Ms. Duensing: I don't think it's that bad.

Ms. Long: One thing I liked in the old guide is that they have a short list of things specifically to be avoided.

Ms. Duensing: Yeah.

Ms. Long: And I think that would be helpful. We have that, I believe, in the sign guidelines, what you cannot do here --

Ms. Duensing: Yeah, I think what he was trying to do here was using his pictures with the "X" instead.

Ms. Long: Yeah, I was going say, here you have the pictures with an "X" but I don't know whether an unsophisticated homeowner would extrapolate from a photograph as well as they would from something that says --

Ms. Duensing: Well, unfortunately, homeowners aren't going to be the primary users of this, and I say "unfortunate" because they could benefit. But we could maybe add something like that in.

Ms. Long: It's architects and the planners, obviously, who are working with applicants. And will it be in libraries?

Ms. Duensing: Yeah, that's the general idea is to get it out there.

Ms. Long: So that the general public will have an opportunity to look at it --

Ms. Duensing: Yeah, if they want.

Ms. Long: To understand what they're looking at, yeah.

Ms. Duensing: I think one of the other things is there is a glossary in the appendix, which is nice. Another thing I would like to see in the appendix, and those of you who've known me won't be surprised, are the Secretary -- they mention the Secretary of the Interior Standards, and Nore did put that in for me, but I also am working on the Wailuku Design Guidelines and I made a bibliography list of the Department of the Interior's Briefs for how to restore certain parts of building elements and, basically, we can put this list in and they can go to the website and download it and use it.

Ms. Long: That's good.

Ms. Duensing: Yeah, so there's a few things like that I'd like to take from my work in Wailuku and put into this as an appendix.

Ms. Sablas: That'd be wonderful.

Ms. Long: So there will be a color section?

Ms. Sablas: I thought I understood she said --

Ms. Duensing: I think we try to avoid that because of the money issue because putting two sheets like this --

Ms. Long: Okay.

Ms. Duensing: For a couple hundred copies, the estimate was almost \$5,000.

Ms. Long: So how do we avoid people who inadvertently paint their buildings an inappropriate color?

Ms. Duensing: Well, what people who paint their buildings are supposed to do, and this should go in the book, Ann and I talked about this yesterday, is they don't really need a permit but what we encourage them to do is write us a letter, together with the color palette, and ask us to review it, so we'll be putting something like that in there.

Ms. Long: Put that in. Great.

Ms. Duensing: And if we were going to put these colored things in, we'd probably try to put them in one section. Like if we had a color palette, we could put that in at the end.

Ms. Long: Yeah, wouldn't even think of that, but there, you know, you could talk about the intensity of the tint or the hue or something but ...(inaudible)...

Ms. Duensing: Yeah, but that's addressed in the sign design guidelines and we can do that here as well.

Ms. Long: Right. What I'd like to see and the problem that people have with doing something like this is that you guys know the material so well that it's hard for you to comprehend what a layperson doesn't know, and you really need to have a page in here that says if you were going, and you do have when you need a permit, when you need to come to us --

Ms. Duensing: Right.

Ms. Long: You need a couple paragraphs about procedure, this is the phone number to call, these are the types of people you need to talk with at the County --

Ms. Duensing: The phone number's gonna change though.

Ms. Long: Whatever, then, you know.

Mr. Kalalau: The ABC's to an application.

Ms. Long: Basic. Basic. Basic.

Ms. Duensing: I mean I think one of things in relationship to what you're talking about is it'd be nice to have a chart that talks about what natural materials are to be used and what fake materials aren't to be used.

Ms. Long: Yeah.

Ms. Duensing: And the harbor project that we looked at last time is a perfect example. They came in with hardy board, plastic sky lights, and, you know, a bunch of fake materials, and what we want to do, and, you know, I'm working with their architect cause we want to have vertical board, tongue and groove, and you know, the appropriate materials in the historic district, so we could have a list of something like that if you think it would make it easier for people to use.

Ms. Long: That would be, yeah, but the easier the better. You gotta think that you're talking with somebody who lives in Iowa who doesn't have a clue. It's never bad if it's simple. It's bad when it's so complicated that the basics are ...(inaudible)... I like that it says preserve mature trees. I think it should say that a little more strongly. Destruction of mature trees will be punished or something.

Ms. Duensing: You know, since this one -- since we are dealing with the National Historic Landmark District and we do have an exceptional trees program in Hawaii, we could also mention that in reference to it to encourage people to think about things like that.

Ms. Long: Yeah, it's just that to be an exceptional tree, it really needs to be exceptional and a lot of these old mango trees that have been here for 30, 40, 50 years and --

Ms. Duensing: Yeah.

Ms. Long: Monkey pods and -- they're not exceptional.

Ms. Duensing: They're not going to work.

Ms. Long: But, boy, they sure give you a sense of place and character and all.

Ms. Rotunno-Hazuka: How come they're not exceptional? Just because they're not old enough for ...(inaudible)...

Ms. Long: The criteria for exceptional means some kind of uniqueness in size or --

Ms. Rotunno-Hazuka: Oh.

Ms. Duensing: Like the Banyan Tree.

Ms. Long: Type or whatever.

Ms. Rotunno-Hazuka: Okay.

Ms. Duensing: I think his design guidelines for site elements, this is one thing that I have spoken out on a lot in the six years I've been involved --

Ms. Long: Yeah.

Ms. Duensing: I think he did a good job with that because he doesn't try to introduce a kind of fakiness where you -- let's line Front Street with palm trees.

Ms. Long: Oh, come on.

Ms. Duensing: Hey, we had one application, when I was first on the Commission, that was for a new building and it was going to be decked all out with palms trees. So, you know, he's really taken some good examples here and, especially, you know, Page 70 and 71, he's got really nice examples of something that's not overdone but, you know, it's just the way things are and it's nice. So I really like that section. And then I know that one other thing that needs work is he talked about ADA compliance and I had asked for there to be more in here than there was, but the examples he gave were pretty bad because he did it on his section in Chapter 9, design guidelines for adaptive reuse, and if you look on Page 63, adaptive reuse is great, we want to encourage it, but he's got this picture here, which is a terrible -- it's a good example of an adaptive reuse for a house into a business, but then you've got the newspaper stand there and all kinds of signs that are in violation, so there, again, we're going to correct that caption. And then if you turn the page, this is actually a poor example of adaptive reuse because if you look at it, if we want handicap accessibility, the Secretary of Standards say that that should be hidden from the main facade; it should go on the side.

Ms. Long: Yeah.

Ms. Duensing: Glad you agree. Look behind this, and he's got patio doors here, this isn't a good example of adaptive reuse, so that picture -- that's another one that Lon and I need to go out and find a better example and scuttle this one.

Ms. Long: Yeah.

Ms. Rotunno-Hazuka: Yeah ...(inaudible)...

Ms. Duensing: Yeah, so the more I go through it, the more I say, "well, I really like that or I don't like that," you know, the two examples, again, that he has on things to do on

Page 60 are very good examples with the Ichiki Building and the nice window and its trim elements. But I think those of us who know Lahaina well know that some of the things could be better illustrated.

Mr. Whelchel: The photographer taking the picture of these examples see certain things they're looking for, a ramp or something, and the thing looks great, they take a picture, bring it back, look at it, then they see what's in the picture, sliding doors ...(inaudible)...

Ms. Duensing: Yeah, especially if you have to go all the way to Boulder, Colorado with that picture and you can't just walk across the street or drive up to Lahaina and take it over again, yeah.

Mr. Whelchel: When you're looking at a view, your eyes automatically make all the telephone poles and the lines invisible --

Ms. Duensing: Yeah.

Mr. Whelchel: You don't see them, take a picture, and there they are.

Ms. Duensing: Yeah. In fact, I asked Nore, when I ran into him and we, literally, ran into each other passing on the street in Louisville last week, and I said, "Well, you know, what do we want to do about some of these pictures? Do we wanna -- you know, like one of the guys I works with, you know, he -- work with he's able to --"

Ms. Long: Take it out on the computer.

Ms. Duensing: "Use the computer program to obliterate half the stuff," and, you know, he can turn a man into a woman, I think, if he wanted to, and Nore says, "Well, you know, that doesn't always work," and so I thought, I said, "Well then how about captions with just replacing some of the pictures," and he thought that would be a better way to do it cause then we can use it as a better education tool as well.

Ms. Long: Okay.

Ms. Duensing: So if -- if there aren't any other comments, is it okay with the commissioners that Commissioner Long works with me on -- she can be my grammar assistant or my grammar teacher, and Lon can be my assistant for architectural and photograph matters, if that's alright.

Ms. Long: Happy to do it.

Mr. Whelchel: As long as I'm not the --

Ms. Rotunno-Hazuka: That's fine.

Mr. Whelchel: The spell-checker.

Ms. Duensing: No, that's her job, not yours.

Mr. Whelchel: Right.

Ms. Duensing: Should do a motion.

Ms. Sablas: We do a motion then for that?

Mr. Kalalau: Yeah.

Ms. Rotunno-Hazuka: I make a motion that Dawn work with Barbara and Lon on the Lahaina Design Guidelines.

Mr. Kalalau: Second.

There being no further discussion, the motion was put to a vote.

**It has been moved by Ms. Rotunno-Hazuka, seconded by Mr. Kalalau, then unanimously**

**VOTED: that Dawn Duensing work with Commissioners Long and Whelchel on the Lahaina Design Guidelines.**

Ms. Sablas: Motion carried. Thank you. Okay, good, so we're moving along to Unfinished Business, Item 1, oh, where am I? I'm sorry, we did that already. No. 2.

**2. CHAIRPERSON SABLAS will report to Commissioners on the meeting with Councilmember Riki Hokama concerning Mr. Freeland's proposal for the Lahaina Historic Districts.**

Ms. Sablas: So, thank you, Keoki, for being here with us from beginning to end and, you know, you have the patience of a Saint I found out. So, anyway, we did meet. We had, actually, two meetings from our last meeting. We first met with, when I say "we," Commissioner Long, Keoki Freeland, myself, met with Riki Hokama and about the idea of carrying on the proposal for the Lahaina Historic District as proposed by Keoki Freeland. You know, here he had -- he recognized all the problems and, you know, what are the possible solutions, including financial. So Riki met with us and was very patient and

listened and actually came up with an idea that, you know, this proposal is doable, it'll take a lot longer. What he is proposing is that we look at our existing manpower that are -- that we have for Lahaina enforcement and he suggested, at that initial meeting, that we go back to Planning and suggest to them, with him, his support, that we designate one of the existing enforcers that are currently assigned to all of Maui to just the Lahaina Historic District. This way, he said, it's doable, and if we could look at the money and things like that, this is something that we can kinda work on right away.

We were excited about that so we, the next step for us was to be able to get, you know, Riki had said, well, we need to have -- we can propose that but the director needed to also be in agreement with that proposal. So we then scheduled another meeting to meet with Director Foley and that happened yesterday. And, before I go any further though, I really wanna acknowledge Barbara Long for a lot of the research work that she did to help us prepare ourselves going into the meeting cause, you know, it was good to have all of the information that she provided so when we went in there, at least we had a lot of the answers that did surface, as it turned out.

So I think our meeting yesterday went very well with, in attendance we had again Keoki Freeland; Barbara Long; Dawn was able to join us; someone from the Zoning, Francis --

Ms. Duensing: Francis Cerizo.

Ms. Sablas: Cerizo; as well as Riki Hokama and Mike Foley. So what we ended up that we were all agreed upon was that we would be -- we would hire, when I say "we," Department of Planning, would hire a contract person or organization to do the initial sign survey cause that needed to be done. Before we have an enforcer, we needed to be able to get someone out there, go through beginning and all the way, and do a sign survey and look at all the violations. And that is something that, with the existing budget, having our budget chair there, that's doable. We have funds, according to our planner, that have not been used so that can happen. And then the second thing is for us is to, along with what Councilman Hokama had suggested, was to hire or create a new position for the historic district enforcer and that can be done with our existing, and chime in, Barb, if you kinda feel like I'm going, you know, but that can be done with our existing planning staffing and that, to me, is a real milestone for us cause that's what we've been wanting to do, have someone dedicated. So we accomplished a lot, I think, in that short month, and one is to be able to have commitment from Planning that we have dollars to hire a contract person to start this sign survey. We couldn't really rely on, you know, which we thought we could do with the Lahaina Town Action because they still have their own agenda, I mean, that they have, but this way, if you hire someone, they're going to do it.

Ms. Rotunno-Hazuka: Didn't we have Aaron Shinmoto, didn't he come in here before and said that we have put out an advertisement but nobody ever responded for that position because it --

Ms. Sablas: Yes, but since then, they have hired, but they're still in training so --

Ms. Rotunno-Hazuka: The staffing is all in place now, they have five, is what I understood.

Ms. Duensing: Well, there's a couple other things at work here, just to add to what the chair is saying, is we do have, what is it five, but one, with his motorcycle accident, is out of commission indefinitely. Planning Director Foley has always wanted to have one -- the other thing here is that Mike Foley has always wanted to have an officer that he can, you know, send out to Lahaina but the big problem is is that, you know, they'll put out the ads and these jobs really do pay poorly and they can't get anybody to fill the positions, so that has been a problem, and what he and Riki suggested that because the State employment system works that, you know, my job and the job on Kauai, and my counterpart on Kauai, we all get paid the same thing, you know, you can't just, you know --

Ms. Rotunno-Hazuka: Right.

Ms. Duensing: Throw in a few extra thousand dollars every six months, that we would need to create a specific position for a historic district enforcer or officer so that if you created that position, you could establish a salary based on what you thought that position was worth and not on a -- an enforcement inspector trainee salary. So that was one thing. The other thing that is a problem, and this is why I suggested trying to get a sign survey done on a contract basis, is that it takes a while to hire somebody and there's also the how you can spend money from fiscal year to the next, and whether, you know, the new positions are available after July 1, and, well, I don't want to be bothered with that stuff, so I suggested, well, could we hire somebody on a contract basis to at least go out and start looking at the signs, see which ones are legal, which ones have no permits, which ones have no permits but could be legal if they put in an application and paid the \$50 application fee because then we could probably get this contract out soon if we can find somebody to do the work whether, you know, the non-profit agencies in Lahaina that are so concerned and help us all the time would be interested, we don't know, but at least then, when we are able to get an inspector, you know, the work's been started because he or she will have something to start with and, you know, they can finish the sign survey if the contract doesn't have enough money or, you know, whatever, but at least something will be existing so that the guy or girl can go out and say, "oh, that sign has a seal, it's okay," walk to the next door and say, "that sign has no seal, I gotta go in and talk to them about getting their sign in compliance." So the contract would be a stop gap measure to get things going. It might also be necessary that, you know, the enforcer would have his hands full and we would

want to finish the complete sign survey so that it can continue once we have a full-time person.

Ms. Sablas: At least this gets this project -- it'ss going and so and that's supposed to be happening, right? Right away? I mean everybody, you know, was in agreement that that's going to happen so --

Ms. Rotunno-Hazuka: Great.

Ms. Long: Should we send Councilman Hokama a thank you note?

Ms. Duensing: Most definitely.

Ms. Sablas: Yes.

Ms. Duensing: And I think you should, you know, acknowledge, you know, Mike's willingness to --

Ms. Sablas: Yes.

Ms. Long: Oh, yeah.

Ms. Duensing: You know, take this up as a, yeah, let's get it going with the contract thing until I can get a person to do it.

Ms. Sablas: He did tell us the squeaky wheel gets the work down, so he said, "Nag, nag, nag him," and we will squeak.

Ms. Long: We are gonna squeak.

Ms. Sablas: We have to get it going cause this is something -- so --

Ms. Duensing: He's still going to remember. You'll probably going to have to still be patient. Believe me, cause now I'm on the inside instead of where you guys are.

Ms. Sablas: Yeah, and I'm -- I guess, I'm sorry, I was remiss in not asking if there was any public testimony in this area and I see you, Keoki, out there. Did you want to add anything too because you're guy who got us going? So, thank you, we acknowledge you.

Mr. Keoki Freeland: Keoki Freeland, Lahaina Restoration Foundation. First of all, I just want to thank Chairperson Lori Sablas and Commissioner Barbara Long for the help that they've done so far on this. You know, we've been talking about this stuff for years and it

hasn't moved along, but after my presentation, you folks have really jumped forward and it is moving. We're still not there to where we really want to be, at the finished end, but I'm very satisfied at the progress that we've made so far, especially the reception that we're getting from especially Councilman Riki Hokama. You know, he's the money man and without his blessing, I don't think we can move along very much at all. But, anyway, we're not pau with that at all. Although we're getting the project started at the present time, we're talking about what I had presented about really financing the project, there is still a question to be answered -- why hasn't the plan been implemented in the JDI buyout, the justification for their buyout? I mean those guys collected their four million bucks and they're gone, but the plan that justify that hasn't been implemented and I, personally, would like to see that implemented, not only for the County purposes, but I can see a benefit for the historic district because if we get what we're talking about, is that will not only pay off that four million dollars but, in the long run, we'll have money coming in and our goal is to have that money stay in the historic district to be utilized for whatever; updating rules and regulations, paying for the position of the historic district officer, even though we're talking about getting it, it's going to be put into the next year's budget whatnot, I'd still like to see this plan implemented because some day when the budget gets tight, they start cutting, okay, we can still pay for the guy, don't need to cut that position and that's why I say we want to keep on going. I'm very thankful for your folk's help in getting it started, but we're not pau yet.

Ms. Sablas: I was going to say that and our next follow-up meeting is to meet with Kalbert Young and to really review -- cause that was the other question we proposed cause this is the document that he had presented, has a lot of good merits, so the first two recommendations is something we can do like in the now, the third recommendation is to really, this is not on the shelf, we are still going to pursue this proposal and we need to meet with the new -- what is position called?

Ms. Long: Finance Director just so that we know that how we're going to do this financing thing within the jurisdictions of our County guidelines and so that's going to be the next step so it's still -- it's still hot potato yet, right?

Mr. Freeland: Like I said, no pau.

Ms. Sablas: Yeah, no pau.

Ms. Long: No pau.

Ms. Sablas: Yeah so, again, it's nice to be able to report in a month's time that we have made progress, so thanks for your support too from fellow commissioners. Yes, Dawn?

Ms. Duensing: I just want to make one comment cause I know when Keoki first presented me with his Lahaina parking solution plan, you know, I had just wondered in his office one

day and he says, "Oh, you got a minute?" And he sat me down and he, you know, showed me the whole thing, and I think I've heard three or four times now with Mike Foley and various other people, and I just want to commend him because I think that it's really great that a private citizen and a non-profit organization went to the trouble to lay all this out and, you know, he's given it to me at least three times, maybe more, and I don't know how many times to other people and, you know, he's really a dedicated public citizen and we don't have very many of those in today's world who really do things for the right reason and because they think they want to contribute to the community, and I really appreciate that as a taxpayer and a citizen of Maui in itself.

Ms. Sablas: Here here.

Ms. Long: Here here.

Mr. Freeland: Well thank you very much.

Ms. Long: We commend you.

Ms. Rotunno-Hazuka: Third, second ...(inaudible)...

Ms. Long: Yeah, you get the award.

Ms. Sablas: I wish more of our things on the agenda could move like that.

Ms. Long: Can we, at some agenda, discuss briefly the phantom parking issue while I'm --

Ms. Rotunno-Hazuka: Six Phantom -- that thing? Oh, no.

Ms. Duensing: Phantom parking.

Ms. Long: Phantom parking. A whole different issue and it kinda comes up at the Board of Variances this month and Dawn and I have talked about it and --

Ms. Duensing: It's an issue that's really important to the community in general cause it's a problem in Lahaina too, I mean not Lahaina, Wailuku.

Ms. Long: Wailuku. Yeah.

Ms. Rotunno-Hazuka: Really?

Ms. Duensing: Well, it's not a problem now, but it could be and --

Ms. Long: Well they're going to build that garage.

Ms. Duensing: But don't -- never mind, let's not go there --

Ms. Rotunno-Hazuka: Okay.

Ms. Duensing: But it's an important County issue.

Ms. Long: Yeah, I know. I know.

Ms. Sablas: So that can be --

Ms. Long: Yeah, let's do that.

Ms. Sablas: Maybe under New Business.

Ms. Long: And if we're still in Director's Report --

Ms. Sablas: We haven't finished No. 2, so are we okay, everybody, I mean you know? Okay, so thank you, Keoki.

Ms. Rotunno-Hazuka: Thank you very much.

Ms. Long: Thank you, Keoki. I'll let you know when our appointment is.

Ms. Sablas: Okay, so we're moving on to Item F., New Business, and the sign enforcement, I think we had talked about that, so Item H. now, Director's Report, November 4 meeting agenda.

**F. NEW BUSINESS**

**G. SIGN ENFORCEMENT PROGRAM IN THE LAHAINA HISTORIC DISTRICTS**

**H. DIRECTOR'S REPORT**

- 1. November 4, 2004 meeting agenda.**
- 2. Administrative Permit Reports**
  - a. Demolition Permits**
  - b. Historic District Approvals Report**

Ms. Duensing: Thank you, Madam Chair. So far we have briefly talked about our November 4 meeting agenda. One item that has already come to my attention and been

requested was the DOBOR guys, DLNR guys, that presented the restroom plans at our last meeting, the comfort station, that continues to move along, I guess I'll say it's moving along, I don't know how well it's moving along, but anyway they want to have some architectural design plans to come and present to the Commission. I got an email this morning and -- from the project engineer from DLNR asking me to meet with them and the two SHPD architects on Monday morning out at the site. After our meeting last time, I headed out to Lahaina and met with Richard Rice, the DOBAR chair or administrator I guess they're called, as well as the two project engineers, and I think we got some progress going there. The Mayor still wants a huge building, 1400 square feet is what they're still looking at. I did go to Section 106 training when I was on the Mainland and I think that's going to be a problem. I encouraged the project engineer, I talked to him for about an hour yesterday, to come in with some design alternatives for the Commission to consider, not something that he's just going to have rejected and thrown out, or approved and move on. I think one of the -- I reminded him that Commissioner Long had requested alternatives to plans, not just here it is, approve it, so I did --

Ms. Long: Well that was sites as well as ...(inaudible)...

Ms. Duensing: Right. Right. Well, the comfort station site should remain the same.

Ms. Long: Oh ...(inaudible)...

Ms. Duensing: Well, yeah, on that. So that's one thing that'll be on your agenda and I will continue to work with them from now until then. Another item that will be on the agenda is there's a new half marathon, the Sand and Surf Marathon, planned for West Maui, and I've been working with these folks for most of the year trying to get all of their permits and everything and that will come for historic district and SMA approval because that involves road closures and things that will impact the historic district, so you have historic district approval or denial for that.

The other thing then is I will work with Commissioner Kapu on whether we will have a site visit and where our meeting will be. But those are the three items on the agenda at this time. And as long as we're talking about agendas and the Director's Report, earlier it was - - the Banyan Tree issue is another one.

Ms. Long: The food booth. How was that communicated?

Ms. Duensing: That was not communicated. What the status is is that I wrote a policy memo, which was signed by Director Foley after the Banyan Tree policy was made with the exception of the deferred item of the food booth, and I talked to Cindy Young, Deputy Corp. Counsel at some point, and she says, "No, that shouldn't be a policy memo; that should be a decision and order." So I started working on my decision and order, I spent many days

outlining everything, the history and, you know, all the procedural matters and everything, and James and I have been talking this week, and I will be requesting his review of this to make sure that all procedural matters have been followed. The reason why we're very concerned with following the proper procedure, at this time, is because one of the organizations is threatening litigation and/or appeal, so we want to make sure that all our i's are dotted and all our t's are crossed, so I had hoped to have this ready for the Commission's signature today but, obviously, that's not going to happen because James and I will be working to make sure that everything was appropriately done, so that's the status of that.

As far as the actual activities going on under the Banyan Tree, you know, they're going for their monthly permits. I was told that Na Kupuna decided to go ahead and do their thing on the rest weekend anyway. LahainaTown Action Committee is not supporting this. They were going to register an appeal and I talked with Theo and I said, "Well, you know, the Mayor's office is going to be not willing to continue to listen to all the arguments over this," and John Buck said that if everybody doesn't get their act together, nobody's going to use the tree, and she decided that it would be in their best interest to just wait and see what happens and when the annual review comes up, then they'll decide what they want to do. But Na Kupuna aren't going along with that, so last weekend, or whatever it was, they were under the tree, collecting money because Theo's group refused to act and do the cashiering services inside the courthouse as per the permit, and I don't know what the outcome will be from that. But Lahaina Arts Society is the one that's really fighting this tooth and nail, and they are the ones that, you know, want to do the appeals. You have letters in your packets that I wrote to them on -- for Mike Foley stating what the ordinance provides for them and they will not only have to appeal this Commission's decision, but they'll also have to appeal Parks decision, which is a BVA matter, so that's the status of that item right now. And, you know, as staff, I have spent more than seven days in the last month working on this, it's taking an inordinate amount of my time, and I'm doing the best that I can, and that's really all I can say at this point, and I know Director Foley met with the Mayor's office and I don't know how many other people from LAS on September 21 also. I would have been there except I was attending the trust conference.

Ms. Long: I'm really disappointed in Na Kupuna.

Ms. Sablas: So what action can we take, Dawn? I mean this would be from the department ...(inaudible)...

Ms. Long: That's an enforcement.

Ms. Duensing: It's an enforcement issue. If the commissioners wish to decide it should be placed on your next agenda, we really can't discuss this anymore. I can tell you what has

transpired in the last month because that's part of my Director's Report, but for your action -  
-

Ms. Sablas: Okay, so we're talking about agenda items. Should we put that in the --

Ms. Duensing: If you would like to put that on the next agenda --

Ms. Sablas: Because it's in Lahaina too and --

Ms. Duesning: Yeah. It may be in Lahaina.

Ms. Sablas: Oh yeah, okay.

Ms. Long: Yeah, and would Parks be enforcing? We should have someone from whatever administrative, whatever would be enforcing it.

Ms. Duensing: Actually it's a Parks issue but I know that, in the past, when there's been complaints, ZAED inspectors have also gone out and they work for Planning so that's something that you can take up at your discussion, and John Buck is on vacation most of the month, so I wouldn't have a chance to talk to him, but he's been very good throughout this whole thing, you know, he's been really good to answer my phone calls and, you know, provide assistance in what needs to be done.

Ms. Long: That might be the day to really irrigate the tree.

Ms. Duensing: Okay, so that's basically my Director's Report. I also did attend the National Trust Conference and Section 106, which should be very useful in proceeding with this Lahaina Boat Harbor project. As for Administrative Permit Reports, you have those enclosed, and one of the permits was for a demolition and that permit was not yet granted so just for to note, that was Tamura, I believe, the name on it was, but that's all I have to report.

Ms. Long: With reference to the JDI thing, if we can go back to that. One of the things that came out of the meeting we had yesterday that I thought was good was that they're trying to deal with the demolition of those houses that JDI had converted into commercial space and --

Ms. Sablas: I'm sorry, Barbara, we're going to just go on to Commissioner's Announcement and that will be part of it is that --

Ms. Long: Whatever.

Ms. Duensing: Stick to the agenda.

Ms. Long: Okay.

Ms. Sablas: We'll -- it's probably good to stick to the agenda. So now we're moving on. So I'm sorry for --

Ms. Long: Thought I was going backwards.

Ms. Sablas: Yeah, okay.

Ms. Long: Cause it had to do with the parking.

Ms. Duensing: But that item's already been closed.

Ms. Long: Whatever.

## **I. COMMISSIONER'S ANNOUNCEMENTS**

Ms. Sablas: So we're on Item I.

Ms. Long: No, I just wanted to say that the good news there because there was a problem about having to do an environmental assessment to remove those derelict houses and, you know, jump through a lot of hoops that were delaying getting them out of there but apparently, between Dawn and Mike Foley, they've figured out ways to expedite that, yeah.

Ms. Duensing: We're working on it.

Ms. Long: You're working on it.

Ms. Duensing: Yeah, I did a -- the environmental law, Chapter 343, says that you cannot demolish buildings in a historic district, which is kind of a blanket thing, so that means if a guy comes in for a four-post structure with a iron roof over it, he can't demolish it even though it's a non-contributing thing, so I had one of these permits sitting on my desk and wrote the appropriate environmental assessment. We're hoping that we can use this to, you know, serve as an example for other silly little things that we need to get rid of and that would probably pertain to what Barbara's talking about with JDI.

Ms. Sablas: Okay, so we'll just move along. Our next meeting date is November 4, and to be announced as far as location, and we talked about the agenda. So Item K. is adjournment.

**J. NEXT MEETING DATE: November 4, 2004**

**K. ADJOURNMENT**

There being no further business brought before the Commission, the meeting as adjourned at 1:00 p.m.

Respectfully submitted by,

SUZETTE L. ESMERALDA  
Secretary to Boards and Commissions I

**RECORD OF ATTENDANCE**

**Present**

Lori Sablas, Chairperson  
Keeaumoku Kapu, Vice-Chairperson  
Lon Whelchel  
Barbara Long  
Solomon Kaopuiki  
Perry Artates  
Samuel Kalalau, III  
Lisa Rotunno-Hazuka

**Excused**

Camillia Hamakua-Napoleon

**Others**

Dawn Duensing, Planning Staff  
James Giroux, Deputy Corporation Counsel