

**URBAN DESIGN REVIEW BOARD
REGULAR MEETING
JULY 15, 2008**

Approved 08-05-08

A. CALL TO ORDER

The regular meeting of the Urban Design Review Board (Board) was called to order by Mr. Demetrios Callinicos, Chair, at approximately 9:00 a.m., Tuesday, July 15, 2008, in the Planning Department Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Island of Maui.

Mr. Demetrios Callinicos: It's nine o'clock. We have a quorum, so I'll go ahead and call this meeting to order.

Before we get into communications, I just want to ask the members of the Board if they reviewed the minutes of the last meeting and if they have any comments or corrections they want to make? If not, the minutes will be approved administratively. Thank you.

The June 17, 2008 meeting minutes approved administratively.

B. COMMUNICATIONS

- 1. MAUI BEACH PLACE, LLC requesting a Special Management Area Use Permit for the Maui Beach Place Condominium Project, a 3-unit residential condominium and associated site landscaping, parking, and utilities at 2192 Iiili Place, TMK: 3-9-005: 033, Kihei, Island of Maui. (SM1 2007/0017) (J. Buika)**

The Board may take action on the project design and matters within their purview.

Mr. Callinicos: We'll move on now to Item B, Communications. We have one item today. It's Maui Beach Place, LLC requesting a Special Management Area Use Permit for the Maui Beach Place Condominium Project, a three-unit residential condominium and associated site landscaping, parking and utilities at 2192 Iiili Place, TMK: 3-9-005: 033, in Kihei, on the Island of Maui, and James Buika is going to introduce this project.

Mr. James Buika: Good morning Mr. Chairman and Board Members. Thank you for your expertise and your service to the County of Maui. We appreciate it. My name is Jim Buika. I'm a planner with the Planning Department. And unfortunately to the audience here, I don't believe we have consultants here yet - Chris Hart & Partners – I had scheduled to have them here at 8:45 a.m.. I don't know what's going on. Hopefully that's them. Okay, here they are. Perfect timing to say the least. So may we take a five minute delay just to set up? They'll do a presentation. Sorry.

Mr. Callinicos: Okay. Thank you.

(The UDRB recessed at approximately 9:02 a.m., and reconvened at approximately 9:05 a.m.)

Mr. Buika: Again, my name is Jim Buika, and we do have the owner/applicant, Mr. John Barton, here today – and also the landscape architect consultant team of Chris Hart & Partners, and Jason Medema is leading the team this morning. We are here today to complete a project design review for the proposed Maui Beach Place Condominium Project located in Kihei, adjacent to Charlie Young's Beach at 2192 Illili Road. I have provided you with a packet for review with 12 exhibits and if anyone needs another packet, there is extras. Regarding the procedure this morning, I propose that we proceed by allowing the consultants to first introduce the project and provide you with the project design. I will take notes and for any conditions or changes, suggestions that you have, I'll make sure that I get your clarification at the conclusion of this meeting to transmit to the Maui Planning Commission later on.

By way of introductory remarks, the Planning Department does not have any design or infrastructure issues with the project at this point. We did receive the revised Special Management Area application in January of 2008, and have transmitted the application to various agencies for comments and review. We have those comments and reviews back. Nothing is big - showstopper regarding any of the design or the infrastructure. And the project has not yet been scheduled for review by the Maui Planning Commission. So with that –

Mr. Callinicos: Excuse me?

Mr. Buika: Yes?

Mr. Callinicos: Before you do that, has the applicant brought the material's board?

Mr. Jim Hillhouse: . . . (Inaudible) . . .

Mr. Callinicos: You do have it? I just didn't see it.

Mr. Jason Medema: . . . (Inaudible. Did not speak into the microphone.) . . .

Mr. Callinicos: Yes.

Mr. Medema: . . . (Inaudible. Did not speak into the microphone.) . . .

Mr. Buika: Yes. Please use the mic Jason.

Mr. Medema: I said the applicant has with them a whole bunch of materials, samples, cultured stone materials, color palette, et cetera.

Mr. Callinicos: You'll call them out or you've got samples?

Mr. Medema: He has samples.

Mr. Callinicos: He does have them? Where at? Are they here? I just want to know that they're here because we're required to have them.

Mr. Medema: Yes, Sir.

Mr. Callinicos: Thank you.

Mr. Buika: So I'd like to turn it over to Jason Medema of Chris Hart & Partners.

Mr. Medema: Good morning Mr. Chairman and Members of the Urban Design Review Board. My name is Jason Medema and I'm the project planner with Chris Hart & Partners. We're also the landscape architect on this project. And before I get started, I'd like to turn the floor over to the owner and applicant, Mr. John Barton, for a few words about the project's history and about his family's history here on Maui. John?

Mr. John Barton: Good morning. My wife Sandra and I are very glad to be here. And we'd also like to thank the Board for this opportunity to present our proposed redevelopment of our place in Kihei. Our two daughters and our son would also wouldn't mind being here as well, but with the high airfares I guess we'll try to do it and call. We'd also like to thank the Board very much your preliminary review of our project in April of 2006. Your advice and comments did help to improve and create the design we have now. My parents, Eugene and Jill Barton, purchased lot #38 in Kamaole Beach Lot in 1950 when dad was . . . (inaudible). . . in Haleakala Park. Dad built a house and it's still there today so that mom and I could be down here during the week, and I could go to Kindergarten in Kihei School. We added an ohana in 1964 when I was a Junior at St. Anthony. Dad and Mom also had a small farm in Kula, but Kihei was their main residence throughout their retirement, and both of them passed away in that home which is there now.

About four years ago, I was complaining to the assessors office about the big increases in property valuation and taxes that has been throughout Maui and certainly it passed a million. They told me I could develop the property to the highest and best use that is zoned for an apartment, and that was the inception of this project. Our family really can't afford to hold on to the property in the present situation without carrying it with a few other owners. We don't want to see the whole place go to someone who would build a mansion on it. And we strongly feel that multiple units here is better and more appropriate for the

neighborhood and for the Island of Maui. We do intend to keep the units and we would like to be able to live here again. Dad always called it the beach place and so that's how we named the development.

So Jason Medema and capable consultants, Chris Hart & Partners, will outline and introduce the presentation. I've had quite a bit of interaction with Jason over a number of months and I'm very pleased with their services. And Sandra and I would be happy to answer any questions you have for us later on. Thank you.

Mr. Callinicos: Thank you.

Mr. Medema: Thank you John. With us also today are other members of the project team. You got to hear a little bit from John Barton of Maui Beach Place. Jim and Adam Hillhouse with Hillhouse Architects are also with us today. Adam will be presenting some of the finer details of the architect to you in a little bit. Stacy Otomo is the project's civil engineer, with Otomo Engineering. And Chris Hart & Partners – myself, the project planner, and then Bill Mitchell, our principal and chief landscape architect is here as well.

The project is proposed as the two-story, three-unit condominium. For those of you who were here for the initial consultation in April 2006 will recall that at that time it was a four-unit development. It's been scaled back, reduced in land scale. It is now two-units of 1,400 square foot approximately – one four-bedroom unit of 2,100 square feet. The ground around is proposed at roughly 2,000 square feet. That's with the 25% threshold allowed for properties under three-acres in the A-1 Apartment district. And the total floor area, 4,861 square feet is also within the 50% threshold for FAR for the A-1 District. Building height will be 29 feet nine-inches above existing grade. There will be six-parking stalls - two per unit as required by Maui County Code. Total area of the site is 9,780 square feet, or just under a quarter acre. And then in addition to the SMA Permit, it also requires grading, demolition permit for an existing structure on the property, and a building permit.

The project is located in central Kihei, makai of South Kihei Road, between Kamaole Beach Park I – actually adjacent to the north end of that park, which is called Charlie Young's Beach – and Cove Park. Here's an ariel view of the project site, and it shows the approximate limits of the parcel. It's located at the corner of Iliili Road and the western makai terminus of Kaiiau Place. It's in the State Urban district. And its Community Plan is Multi-family as designated by the Kihei-Makena Community Plan. The project, as I mentioned, is in the district zone A-1 Apartment District by Maui County. And it's in the State Special Management Area. It's located in flood zone C which indicates the areas of minimal flooding. Base flood elevation is roughly seven-feet. And the makai boundary of the parcel at the makai limits of the property is 20-feet in elevations. And the property being on the shoreline you'll see that the shoreline setback encroaches slightly on the south western corner of the parcel. This property is separated from the actual – it's separated

from the shoreline by a State beach reserve that fronts the property. It's not actually – the park itself does not actually abuts the shoreline.

This is the existing use on the property right now. This is a single-family dwelling consisting of two structures separated by a breeze way. As John alluded to earlier, the southern structure was constructed in 1951 and the more northerly structure was added in 1964. Here is a view facing to the north-west, across the property from the existing building again. This is a picture of the naturally hardy and rocky shoreline fronting the property, viewing the – if you're facing mauka up toward the property from the beach reserve. And the rest of the neighborhood is characterized by massive single-family and multi-unit development. This is 2172 Ilili which is two properties to the north. This is a single-family residence - three lots to the north of the subject parcel. This is a multi-family project across the street. And also, there's a caddy corner across the street from this property. Here you're facing north to north-east I guess – okay, it's north, north-west – I'm sorry. This is from the southern terminus of Ilili Road, south eastern corner of the project site. And here, this is from the, basically north-eastern corner of the property, facing south along Ilili Road, toward the beach access at Charlie Young's Beach which abuts the property and immediately to the south.

At this time, I'm going to turn it over to Adam Hillhouse, and he'll go through the architectural plans of the project. Thank you.

Mr. Callinicos: Thank you.

Mr. Adam Hillhouse: Mr. Chairman and Members of the Board, I want to thank you again for letting us come and present our project to you today. We're very proud to present our project in its current form and we feel it will positively contribute to the neighborhood, the beach reserve and the surrounding communities. Our project went through a thorough re-thinking of the building based on the Board's comments from our preliminary hearing of April 2006. We reconsidered the massing in numerous ways. We looked at putting different use areas on different levels of the building. We looked at deleting the breeze ways. And we even looked at re-siding the building on the lot completely.

We decided on the basic layout that you see here for a few very specific reasons. From a sustainable standpoint, a decrease foot print allows for a greater ratio of permeable surfaces throughout the site through the use of such elements as porous pavings and also an increased landscaping area on the site. Both of which should help increase the site's abilities to manage and treat storm water. The decrease foot print also increases the shading of vehicle parking, site amenities and outdoor spaces, thus reducing the heat created by hard scape materials left in the full sun.

Also limiting the ground level entry with steel and secured doors while providing open stair

to the upper level main living spaces will help to limit accessibility to such things as crawling insects and rodents which help reduce pesticide use in the building. Added security from intrusion is another benefit of this set-up.

From the occupant's standpoint, placing living spaces on the second level as oppose to the sleeping and storage areas will give them an improved view and enjoyment of the surrounding environment. It will also remove them from immediate proximity from pedestrian traffic on the public ocean front which will also be less intimidating for beach visitors.

Two areas related to matching that we did vastly revise were the roof shape and the exterior stair towers. We thought about the roof in terms of both sustainability and local architecture character. Our new roof lines are far simpler than our previous design. They're more sleek, more low, and horizontal – more in line with the Hawaiian character seen in the area. Our intentions were to unify the three units while staying true to the vernacular hip shape seen throughout the island.

Our roofing material is light in color and will consist of a rib metal roofing system. And our intentions for this roof are for it to be a cool roof or one that has a high solar reflection index and can further reduce energy demand by reflecting the sun's heat back into the sky and not into the building below.

The stair towers which were once glass tubes off set from the building has become much less subdued in their architecture. Gone are the barrel roof and in their place small projections from the main roof compliments the new roof in character. Those areas are still used for vertical circulation, but instead of a stair tower defined by glazing, we have simple residential elevators finished in a manufactured stone veneer to match the first floor veneer. Few other notable changes or improvements to the building.

Our use and arrangement of fenestration has been greatly simplified through the deletion of the multiple schemes. We've used a more common window shape in placement, and a general reduction of the area glazing particularly on the makai side. We have, however, carefully preserved natural cross ventilation in all levels in areas to limit the need for mechanical cooling in the building as much as possible. The exterior stairs to the roof terrace, seen here, has also been simplified through the deletion of the art prop, and the inclusion of a similar roofing language to the overall roof design.

The exterior lighting scheme has been completely reconsidered and the sheet metal light was intended to the top of the bollard has been completely deleted. The only exterior lighting proposed now will be for safety and convenience and no exterior light source will be visible beyond the limits of the property. We have dedicated a large area of the new roof and the roof terrace as possible locations for solar collectors both for electricity and

supplemental hot water – a few new elements to this design that we feel are note-worthy. We have a new connected second floor lanai, seen here, which provides a light safety, more opportunities for exterior living and an increased opportunities for social interaction among the residents.

The makai retaining wall has been softened, in fact, replaced by an irregular, natural, planted rock retaining wall resembling the shoreline rock wall as seen in front of the project. We've coronated all the exterior columns to be stone in the attempt to unify those elements in the design. All railings are to be a wire mesh type set in an anodized aluminum frame, and our intentions there are to be as light and transparent as possible.

Our material in our color palette has been more carefully selected and we have simplified their use on our building. The first level and the vertical element such as the columns and again the elevator towers, seen here, are faced with a manufactured stone veneers chosen to match the shoreline out cropping. The color of the second level resemble the shade of the beach sand keeping the building colors as close as possible to the natural surrounding natural environment. We're also retained a projected efface band, seen here, to provide a Hawaiian character. The band both terminates the stone veneers and transitions into the efface of the second level. We've also retained exposed rafter tails with the intentions of complimenting the vernacular construction techniques that utilize such exposed tails.

Now we hope that the Board will – we took the comments and the recommendations from our pre-consultation meeting of April 2006 very seriously and to heart. The sustainable aspects of many of our design decisions are intended not simply to enhance the aesthetic of the architecture and the experience of the residents, but to significantly reduce energy and environmental demands the buildings will place on Maui resources, and also to serve as an example of sustainable development to Kihei. We feel all the modifications suggested by the Board, the revisions considered and the design choices made have been to benefit the project, and we thank you for your earlier input. We of course welcome any and all comments, suggestions, and your honest reactions. Again, we feel confident that this design fits in with the local architectural character – the recommendations made by the Board while retaining some important design criteria of the owner and its design team. Based on this, we feel the project to be considered for an approval from the Board.

At this time I'd like to hand the presentation over to Bill Mitchell of Chris Hart & Partners who will be addressing the landscaping design for the project. Thank you very much for your time and consideration.

Mr. Callinicos: Thank you.

Mr. Bill Mitchell: While Adam is doing that, good morning members of the Board, Mr. Chair. I'm Bill Mitchell, principal landscape architect with Chris Hart & Partners. Adam is going

to pass out here samples of the stone cladding, the stucco and some roof samples as well which makes up the majority of the exterior surfaces on the building. And we'll talk a little bit more about the stone as it will be incorporated into some of the landscape elements as well.

(Mr. Adam Hillhouse passes out samples of the materials.)

Mr. Mitchell: Let's go through the landscape design briefly with you. As Jason shows the pictures of Ilili Road – if you're familiar with Ilili Road, it's evolved in an interesting fashion over the last 10 or 15 years. I remember when I first moved here about 17 years ago, it was mostly the old houses like John and Sandra's, and those, as Jason indicated have been removed and either a large apartment buildings or single family homes have been put there which are certainly are all allowable. But the unfortunate part about it is they seem to put them all as close to the road as possible and they sort of loom large on that street in a fashion that doesn't make it particularly friendly from a pedestrian stand point. And I think John and Sandra wisely choose not to sort of maximize their building foot print but to do it in a fashion that would enhance – for a lack of a better word – the public's sort of impression of the project from Ilili Road. And that sort of demonstrated in that we have some landscape buffers here to the front which a lot of the other properties don't along Ilili Road. I'm going to have you jump back and forth here – go to the next slide, I want to show that elevation.

As you saw before, this is the Ilili Road elevation. And rather than having a solid six-foot wall, they chose to have a broken up wall with three-feet of rock and then with three-feet of rod iron – not rod iron these days – but just open fencing on the top of that three-foot wall, and then heavy landscaping in front of it with Manila Palms and bougainvillea and native planting along the street right-of-way. And we think that's going to give a much nicer impression both from a public view point and then of course from the residents of the project itself. And that wall will extend from property line to property line facing Ilili Road.

You can go back to plans – on the side yard, we'll be incorporating a masonry wall on both sides down both the beach park side and the north boundary, and that will be clad with the same cultured stone that you saw there that will be used on the building in that system. As Adam mentioned, and I think Jason mentioned as well, the owners want to use a permeable pavement surface in here and there's a number of products out now that have worked, that are working fairly well. One of them is the Abbott pavers. They make a product called aqua pave, and so we'll be using that as a permeable paver system in the parking areas.

And the back of the property on the beach side, as Adam showed you those photo simulations, again another sort of an important view from a public perspective and then also from a user perspective. Go to the next slide – there are and the photos were a little hard

to read, but there's quite a nice lava stone rock out cropping across this entire section of the frontage of the State land reserve in here. And what we're proposing to do is replicate that on the edge of property with planting as a transition, a gray transition, from the State beach reserve into the property itself – go to plan B for a second – and that's right along this edge. We are proposing with each of the three-units, each will get a spa, a Jacuzzi, and then that will be located just at the edge of our rock out cropping and planting along that, and there will be a little stair access, two stair accesses in from the State land and beach reserve there. We'll be planting on this side with coconut palms and incorporating native planting on drip irrigation in this whole area because the lot is fairly small and of course we also have an issue with water meters and with water use. We're going to be drip irrigation almost the entire property and also incorporating bio swales down the side yard. And we intend to use these more where we can sort of funnel rain water off the roof into the landscape. Although we don't get a lot of rain in Kihei, what we do get, we'd like to put back into the landscape and not just have it run right back off into a drainage structure and onto the ocean. So we'll incorporate those bio-swales down the sides of the property that the roof run off from our down spout.

Go to the next slide. This is an example of the permeable paving system that will be used in the motor court area, and there's a number of different systems and types of pavers that do that. And our civil engineer is looking at how that will affect our excess run off and we might be able to actually use that as a system to mitigate any kind of under ground storm water retention.

Next slide please – that's it. Any questions, we'll be happy to take those, and if there's any questions for Stacy Otomo, the civil engineer, he's here as well.

Mr. Callinicos: Let me ask, do you have any other consultants who is going to do a presentation?

Mr. Mitchell: Not at this time.

Mr. Callinicos: Okay, well, then in that case, we'll open it up for questions from the Board. We'll start with you Russ.

Mr. Russ Riley: I have no further questions.

Mr. Callinicos: Gary?

Mr. Gary Brauner: Just one and that's on the landscaping outside of the fence – who's responsible for maintenance?

Mr. Mitchell: On Illili Road? The owners, the Barton's, would be responsible for maintaining

everything in the street right a way. Absolutely.

Mr. Brauner: Is there any side walks here?

Mr. Mitchell: They're having a meeting with Public Works tomorrow to discuss the sidewalk. Iliili Road has, as I mentioned, developed to a piece meal. There's sidewalks hit and miss on both sides. They're not sure whether Public Work will want a sidewalk and if they do they're certainly open to providing one. But what we would like to suggest is actually doing a crush stone path rather than a sidewalk and that it's more permeable and just nicer to walk on as you make the turn into the beach access area there. But we don't know the exact answer to that question whether it will be required. But there will be a walking path in there in some fashion.

Mr. Callinicos: Anthony?

Mr. Anthony Riecke-Gonzales: I have a couple of questions. You mentioned rock walls on the side property line. How high are those rock walls?

Mr. Mitchell: Six foot on the inside of the property. Grade drops on – Jason go back to Adam's – we didn't get our slide in there. This is roughly the height of that rock wall. And then we have planting behind it. We didn't get the planting in there. But there will be a hedge that's behind or inside our property line that will break that elevation up. It will be roughly eight-feet or nine-feet exposed on the park side because the park lot drops.

Mr. Riecke-Gonzales: So on the park side, it's a eight or nine foot high wall?

Mr. Mitchell: That's correct. We are and the Bartons have engaged and we have spoken to the Parks Department about doing, potentially doing some landscape improvements to the park, and the Parks Department is very interested in that. So we're talking to them now about how that may be included. There's some other sort of systemic use issues there, but how some of the landscaping elements may be approved as well.

Mr. Riecke-Gonzales: Can we stay on this? This is my biggest concern with this project here is I heard a lot of mention about Iliili Road. But to me, you know, I haven't used this park for over 20 years. When I used it 20 years ago, the main access for a lot of the condominiums coming across is through this area here.

Mr. Mitchell: Right.

Mr. Riecke-Gonzales: So that is a heavily traffic public way.

Mr. Mitchell: It is.

Mr. Riecke-Gonzales: So I don't see much of an impact from Ilili Road for this project, but I see a huge impact for all the people who access the Kamaole Park walking by this proposed structure. I'm very curious as to why the building was pulled to the set back line on the park side and then at the same time you're building this eight to nine foot wall on the park side trying to bound off that portion, why wasn't it considered where the building massing was pulled back so that you had greenery or a landscape buffer between the proposed three condominium buildings and the park? If you looked at the picture #9 in the exhibit, right now, that is kind of the greenery and the open space is between the residence and the park.

Mr. Mitchell: Right.

Mr. Riecke-Gonzales: So this is a huge change and it's huge where everyone in Kihei is going to immediately notice.

Mr. Mitchell: Right.

Mr. Riecke-Gonzales: Because you have this basically wall that isn't there now going up. And it seems to me, looking at the plan, you could have gotten the same amount of massing, the same amount of function and still had the greenery at the tip of hat for the public. So that once this gets built, you don't get a whole bunch of nasty letters in the Maui News saying how could you allow this to happen?

Mr. Mitchell: Sure. Well, I think it's a point well taken and that's why the Barton's have asked to talk to the Park Department about doing the landscaping against this wall in particular. I'll let Adam or Jim address the architectural set back issues. But we are doing a couple feet of retaining on the site so the reason that wall was set on the property line and not in it is because it's retaining the site in order to make the building pad function.

Mr. Riecke-Gonzales: But it seems to me, if anything, you're making things worse and worse. I mean, you're retaining and now you're putting a six-foot high wall on top of it. This whole in your face to the public really bothers me.

Mr. Mitchell: I don't think it's consciously to be in your face.

Mr. Riecke-Gonzales: Your picture shows it right there.

Mr. Mitchell: There are, as I mentioned, some systemic problems in this park – and I'll let Mr. Barton explain them about use in there – that make a wall condition actually better for not only the residents of their property but also better for the park in that there's a lot of issues with the users of this particular access and in particular, after hours. I don't disagree with the visual impact, and I think we can handle that with landscaping on the park side to

completely soften that and nobody would know the difference. In terms of the set back of the buildings – and I'll let Adam speak to it – but it worked when they downscaled from four-units to three, they were able to sort of reconfigure the footprint in a fashion that worked better on the site and pulled the building away from the road. Although Illili Road, I think, is still an issue with how it looks, there's less exposure on the park side. But I'm going to let Adam or Jim sort of address the architectural massing and how they came to that conclusion. But I think we can deal with the wall with the landscape on the park side and do that successfully.

Mr. Riecke-Gonzales: I have some other questions landscape wise. I see one tree kind of tuck towards the building with another coconut by it. Is that going to be like the shade tree for that parking area out front? And if so, why is it near the building versus the driveway out where the road is where you could have more opportunity to spread itself out?

Mr. Mitchell: This tree right here?

Mr. Riecke-Gonzales: Yes.

Mr. Mitchell: It will be Jatropha or beach healy tree in this location to give shade in that portion of the corner.

Mr. Riecke-Gonzales: Put that in lay man's term, beach healy. Do you have a picture of what that looks like?

Mr. Mitchell: Thank you. There are power lines above the street so that's why the palms and not a canopy tree are in the street right of way. The beach healy and Jatropha, roughly 15 to 20 feet tall and roughly, it's a 12 to 15 foot canopy for tight space and very maintainable in size.

Mr. Riecke-Gonzales: So it's not really a shade tree then.

Mr. Mitchell: Not a large shade tree.

Mr. Riecke-Gonzales: Then there's another tree at the end of tandem parking stall.

Mr. Mitchell: Correct.

Mr. Riecke-Gonzales: What is that? It will be the plumeria.

Mr. Mitchell: Plumeria. Correct.

Mr. Riecke-Gonzales: So it's another one that's really isn't a shade tree.

Mr. Mitchell: Right. It is a shade tree. If they properly maintain a canopy, they're definitely a shade tree. They're not monkey pod trees.

Mr. Riecke-Gonzales: Right. They're not Rainbow Showers. Their canopy is maybe 10 to 15 feet when they're very mature.

Mr. Mitchell: Right.

Mr. Riecke-Gonzales: Versus what's kind of required by the code for a one shade tree for five parking stall.

Mr. Mitchell: Isn't that commercial? I believe that commercial only. I don't believe that's the residential code.

Mr. Riecke-Gonzales: It is. But the intent is to shade a parking area.

Mr. Mitchell: Well, with the permeable parking surface, being poor itself, we don't have a large area to do big tree with root intrusions. We can get the tree sizes, but both maintainability and water use and the feel to the building. We just don't have an area large enough to do a shower or a monkey pod.

Mr. Riecke-Gonzales: The other questions I have are probably not landscaping, they're more building. I see that there's like three full basements. Am I correct in reading the plans, there's like little light wells. Those are the only access to those basements?

Mr. A. Hillhouse: Those basements would actually be accessed by the residential elevators. There would be no exterior access to the light wells or an egress only. Those basements would be for storage only and no habitable space would be in those basements.

Mr. Riecke-Gonzales: And was there – maybe this is for the civil engineer – was there a soil testing done in this area? Was this area diggable or this is rock and we expect to have blasting or programming to make these basements?

Mr. Stacy Otomo: Good morning Mr. Chair, members of the Board. My name is Stacy Otomo. At this point, Anthony, there's no soil report that's done. The underlying soil on this particular property is classified as puuone sand. So just from the surface, other than along the beach, it doesn't appear that there's a whole lot of rocks. But again, there's no formal soil testing that was done at this point.

Mr. Riecke-Gonzales: If you would like to testify, please come up and state your name.

Mr. Jim Hillhouse: Excuse me, my name is Jim Hillhouse. I'm the lead architect on the

project. There actually was a soil test done about a year or so ago. Unfortunately we didn't share that information with Stacy. We did do an – actually we had an excavator – actually a back hoe out there and we dug down about 11 feet. We didn't find any water and it wasn't very hard to dig. We feel that we won't have any problems with blasting or anything like that.

Mr. Riecke-Gonzales: All right. Thank you. It was mentioned on the exterior lighting that there would be some lighting on the exterior. Do you have light fixture cut that you can show or what that light fixture would be like?

Mr. A. Hillhouse: We have some images here that will show some potential exterior lighting. The columns is the style that we're going to be going for. Of course, these will be in full compliance with the Maui Lighting Ordinance in that the light source would not be visible. There will be no up-lighting. It would all basically be, like I said, for use and convenience. Probably some wall (inaudible) as you see there with the palm tree cut out, maybe at the entry to each unit. Some small down lights on the exterior patios and perhaps some soffit lights would be about the extent. No flood lights illuminating the exterior.

Mr. Riecke-Gonzales: Okay. Thank you. Those are the only questions I have Mr. Chair.

Mr. Callinicos: Thank you Anthony. Linda?

Ms. Linda Kay Okamoto: No questions at this time.

Mr. Callinicos: Darryl?

Mr. Darryl Canady: No questions at this time. Thank you.

Mr. Callinicos: Susan?

Ms. Susan Liscombe: Just a curiosity, what's the difference of the height of the current building there and the height of the proposed building?

Mr. A. Hillhouse: I believe the peak of the existing building is probably about around 16 to 17 feet, and our proposed height would be 29 foot, nine-inches from existing grade.

Ms. Liscombe: Thank you. No more questions.

Mr. Callinicos: If there are no further questions, at this time, I'm going to open it up for public testimony. Is there anybody from the public who wishes to testify on this project?

Mr. Medema: . . . (Inaudible. Did not speak into the microphone.) . . .

Mr. Callinicos: He would like to respond to what?

Mr. Medema:(Inaudible. Did not speak into the microphone.) . . .

Mr. Callinicos: Okay.

Mr. Barton: Chairman and Mr. Gonzales, I would like to give a little bit more indication of what we've done in terms of designing this landscaping and the placement of the buildings. It's been suggested more than once that why didn't we use the wider end of the lot and place the buildings over there and keep it farther away. There's a certain amount of parking and turn around area off-street that's required to this project. One of the initial criteria that we set is no cars out on the beach front. This is a problem we have right now with Kaiu Place with the County park adjoining us that was an executive order from the State to the County of Maui in 1986 is that ever since the 1950's that the parking lot which use to be a parking lot is now a loading zone has been constantly used by vehicles. What we're proposing to the County Parks Department is to make that a totally pedestrian friendly area. There's a large parking lot provided by the County one block away, at the corner of South Kihei Road and Kaiu Place which is meant to serve the public. For the condominium dwellers there, most of the pedestrians, this would be consistent with the shoreline park areas all along Kamaole there. That parking lot right up there against the wall that goes right to the ocean front basically, right through the shoreline, is out of character with the area and probably inappropriate, and Parks is in agreement with us on that, that the pavings should probably be removed. And we're proposing to contribute heavily to that and possibly do that work to improve that park.

Now as far the wall demarcating the parking lot from the house, we're very willing to work with whatever Parks, whatever the Board would like to see on that in terms of landscaping to both shield our structure and make it blend in nicely with it. But the objective is to keep that as much of a nice pedestrian area as possible with as much accessibility as can be on that. So, you know, it's not at all an intention to make it an in your face kind of thing there. And as far as I pointed this out many times during the course of this, we are concerned as well about having a nine-foot rock wall out there. The wall quite possibly will be stepped down toward the ocean end and also covered with vegetation.

Mr. Riecke-Gonzales: While you're up there, I have a couple more questions I guess. What has been the experience in the last 20 to 30 years with the park users? Is there a posted sign by the County that the loading zone can only be used between certain hours? Is there experience in problems already with drug dealing or other types of activities that occur in that area?

Mr. Barton: Yes, Sir, there have been just about every kind of problem you can imagine. But the major problem, of course, in recent years, drug dealing has become an issue and

the Police are controlling that little better now. Noise has been issue since probably the 1960's or 1970's. My parents in their elderly years called the Police probably three to four nights a week to stop loud parties out there. There has been progress made on that, but the problem that remains and the problem that has been a constant one is that vehicles can back in there and although it's posted with ever kind of sign that you can imagine. I mean there must be 20 signs on that south side of that parking lot or loading zone, but the problem is, is that vehicles can still back in there and sit there until somebody tells them to leave. So you'll see pick up trucks in there with the guys with their stereos cranked up, sitting on the tail gate, drinking beer and throwing bottles down onto the shoreline rocks. And this is not a new development. This has been going on steadily for almost 40 years. So there are clearly some improvements. And yet the other thing is that with vehicles in there, it is not pedestrian friendly. We have seen people, unpleasant people, with dogs and other things, more or less parking themselves out there and then allowing or requiring the public to skirt around the area, either to Iliili Road or down to the beach or through the rock and bird grass below the parking lot in order to avoid getting harassed or bitten or something like that because they can park vehicles in there. Our belief is that if the vehicles are not able to get in there, there are a lot of people that only use that and use it inappropriately because they can have their vehicle, their stereo, their cooler right by them. If they can't get in there to do that, they'll probably find some place else hopefully. This is not appropriate use and Parks thoroughly agree and so do most of the people – all of the people on our street that we know which is most of them. I mean, I know Kimo Kenolio since I was this tall and he lives right behind us. Everybody is like we don't want this, let's fix it. It's been a problem for a very long time, and I can go on for a lot of time about this.

Mr. Riecke-Gonzales: So what occurs right now when it's 10 o'clock at night and there's a problem in the park?

Mr. Barton: Well if I'm not there and our house is vacant quite a bit of the time, my neighbor, Derek Sullivan, who is Charlie and Betty Young's grandson is living in their old house there and I understand from Derek that he's been calling the Police like my parents use to when it gets bad. But we have noticed that – I guess because he's doing that and other neighbors are complaining, that the Police are doing some controlling problem. In our stays there recently, we have not had much problems. There are occasional vehicles that will come in, throw gravel, spin tires, turn up stereos, but they don't seem to stay very long these days as compared to when they use to party out there for an hour or two.

Mr. Riecke-Gonzales: Okay, thank you.

Mr. Callinicos: Before I go ahead and call for public testimony, I had a couple of questions myself that have arisen out of discussion recently – recent discussion. Can we look at exhibit #5 please?

Mr. Medema: . . . (Inaudible. Did not speak into the microphone.) . . .

Mr. Callinicos: That's the site plan with the basements. There you go. I'm not too familiar with this area. I mean I've driven past it once or twice since I've moved here, but I'm not familiar with this set up in the Kamaole Beach Park public beach access. I see here an existing low stone wall. I'm assuming that's on County property and that is County wall right?

Mr. Mitchell: Yes, that's correct.

Mr. Callinicos: And that's a low wall. What do you call a low wall?

Mr. Mitchell: Just a couple feet.

Mr. Callinicos: Just a couple of feet.

Mr. Mitchell: Yeah. It looks like a rubble wall.

Mr. Callinicos: And what are these things planted behind?

Mr. Mitchell: Right here?

Mr. Callinicos: Yeah.

Mr. Mitchell: Those are iron wood.

Mr. Callinicos: Are they all going to be planted there?

Mr. Mitchell: They're existing, correct.

Mr. Callinicos: They're existing?

Mr. Mitchell: Yes. That's correct.

Mr. Callinicos: Now the new wall that you have on your property line.

Mr. Mitchell: Which is located right along the property line right there.

Mr. Callinicos: How high is that wall?

Mr. Mitchell: It starts at six-feet here and it will end up – we won't take it past – obviously the shoreline setback. It will end up six plus to eight plus feet here depending on how that

grading intercepts the existing grade along this edge.

Mr. Callinicos: Then why does it say four-foot high wall on the plans? It says four-foot high stone privacy wall. Is that a mistake?

Mr. Mitchell: You're referring to the front where it shows it in the front elevations right here? This note?

Mr. Callinicos: I'm referring to the note that's in the Kamaole Beach Park public beach access just underneath it.

Mr. Riecke-Gonzales: Yeah, right where you just had your pointer – just above that big tree. Right there. Yeah.

Mr. Mitchell: Right there?

Mr. Callinicos: Yeah. That says four foot high stone privacy wall.

Mr. Mitchell: Six or four? I can't read it on the –

Mr. Riecke-Gonzales: It says four on the plan.

Mr. Callinicos: It says four on the plan.

Mr. Mitchell: That's incorrect.

Mr. Callinicos: That is incorrect.

Mr. Mitchell: That is incorrect. Yeah.

Mr. Callinicos: So it's going to be from six to eight feet.

Mr. Mitchell: It should be six to eight feet. Correct.

Mr. Callinicos: I want to go to the Iliili Street with the landscaping on the front of the property. I think it's going to look very nice. My question is number one does the County allow that? I'm not familiar with them allowing where they will allow it and where they won't allow it. Do they allow it in Iliili Street?

Mr. Mitchell: In public right of ways, as long as you maintain it, they will allow it. And you're not blocking public access.

Mr. Callinicos: So that's what you're referring to when you said you'll be meeting with –

Mr. Mitchell: – Public Works Department.

Mr. Callinicos: – Public Works Department to establish whether you can or can not do it.

Mr. Mitchell: That's correct.

Mr. Callinicos: In the presentation by the architect – I'm sorry I forgot what his name is – Adam?

Mr. Mitchell: Adam.

Mr. Callinicos: He was talking and he talked about the permeable paving, he also alluded to shading. And Anthony raised this issue as well – it's one thing, the permeable paving, yes I agree with you, will reduce the heat. But it's not going to reduce the heat on top of the vehicle. Let's be honest about it. The sun shining on top of that vehicle, it's going to bake.

Mr. Mitchell: As part of the parking lot – I'll let Adam explain – they have covered parking.

Mr. A. Hillhouse: What I was referring to when I was talking about the shading and the side amenities was actually shading by the building itself.

Mr. Callinicos: You drive underneath.

Mr. A. Hillhouse: And that's based on the parking that occurs underneath the second level.

Mr. Callinicos: Because you show concrete paving there.

Mr. A. Hillhouse: Correct. The concrete would mostly be covered, but not 100% covered. But it would mostly be covered and the concrete would only be where the cars actually park. The turn around area would again be the permeable surfaces.

Mr. Callinicos: Thank you.

Mr. A. Hillhouse: You're welcome.

Mr. Callinicos: All right, then at this point, let me open it up for public testimony. Is anybody here from the public who wishes to give testimony? We limit public testimony at these Board meetings to three minutes, so if you could try to keep to three minutes. Would you state your name for the record please?

Mr. Don Couch: My name is Don Couch and I am a board member of the Kihei Community Association (KCA.) However, I'm not speaking on behalf of the Kihei Community Association. We have looked at this project and have sent them a letter of approval. But I wanted to speak about Anthony's concerns about the public access there. There are some issues, huge issues, with drug dealing and people actually being able to access the beach right there. Kamaole One, or Kamaole I, is what they like to call themselves, the complex just down the other side of Solomon's house, the old Betty Young's house. They have an organization going on and they're working with the homeowners there to deal with that situation, as well as the Police Department and the KCA. So there's a lot of activity going on as to how to mitigate the drug use and access issues that are there now. Part of the things that they were looking at is that stub at the end of Iliili there. They're looking at taking that out and making that grass. So removing about 20 feet of asphalt and making it grass. And Anthony, I know you say you haven't been there for 20-years, the County has put a parking lot on the other side, on South Kihei Road, so it's a short walk down the street to the park. So the real parking should be at the parking lot. There are issues with the cars going back and forth, and staying – and like you said, dogs guarding the entrance there. It's an uninviting situation now, and when we fill it with the grass area there, it will be more inviting.

Mr. Callinicos: Thank you.

Mr. Riecke-Gonzales: I have a question for the testifier.

Mr. Callinicos: Go ahead.

Mr. Riecke-Gonzales: Has there been any discussions that you would know of with the Kihei Community Association of either doing – like helping the County out? Because if we rely on the County, my past experience has been – my kids would be lucky to see improvements to that park. So has there been any discussions on that?

Mr. Couch: I believe we talked about that with the applicant saying that we realize that putting grass in there would be a maintenance issue, and that we, the KCA, suggested that they maintain it, and I believe they agreed with us. I can't remember how that worked, but they were going to maintain it. The applicant was going to maintain it.

Mr. Riecke-Gonzales: If I'm understanding you correctly, though, you're talking about that little spur.

Mr. Couch: The stub out at the end of –

Mr. Riecke-Gonzales: Right. So are they proposing that they would landscape that portion for the County?

Mr. Couch: I believe so.

Mr. Riecke-Gonzales: Is that shown on the landscape plan?

Mr. Couch: As far as I know, that's outside of their property and I'm not sure.

Mr. Riecke-Gonzales: I understand that. From my past experience, if this was a big commercial project – let's say this was a hotel in Wailea, they'd be asking them to put an apartment next door. So I could definitely see a lot of my concerns would be eliminated if the applicant said look, we'll do, as a condition of our SMA Permit that we'll put in the landscaping and the grass that the County can afford to do, and that's a win-win because it gets rid of the cars next to this unit that we're going to propose that's going to be very expensive so that we don't have the problem with the guy with the boom box who parks there with his beer keg. And then the County gets the landscape that they need anyway but can never seem to budget. And as much as from my own projects, I hate when people do this. That way it assures that, you know, this whole concept of look we're going up 10-feet to the setback line, we're going to put up walls and stuff, but it's because this is now a pedestrian park not a vehicle park. And we're going to make sure that happens because we're going to pay for it. So it sounds like there's been discussions on that already from the KCA.

Mr. Couch: With the KCA yes. And that's part of our approval that we said.

Mr. Riecke-Gonzales: Okay, I see. So it's already been part of the KCA's approval?

Mr. Couch: Yes.

Mr. Riecke-Gonzales: Okay. Thank you very much.

Mr. Callinicos: Anybody else?

Mr. Barton: Mr. Chairman and Mr. Gonzales, I'd like to clarify this a little bit. Chris Hart & Partners has been engaged by us, the owners, in a totally separate capacity to propose to the County of Maui to improve that park at our expense and to maintain it at our expense in the long term. And that's precisely for the reasons that we discussed a few minutes ago. So in doing that, what they have done so far is met with the Parks Department. Mr. Mitchell has come up with several concept schemes for this, and the intent is to remove most of the paving from that spur and leaving only a loading turn out there that will be usable for loading and unloading beach goers and their equipment, and not as a permanent parking place. And the rest of it will be nicely landscaped and pedestrian friendly with an added path in addition to the concrete path that's there now, so that there is a good access for the pedestrians from the neighborhood as well as from those parking in the County parking lot

at Kaiiau Place. The parking lot is – or what is now posted as a loading zone is actually the stub end of Kaiiau Place that intersects Ilili at that corner – that south side.

Mr. Riecke-Gonzales: Right, so we're talking about the stub end of Kaiiau Place.

Mr. Barton: Correct.

Mr. Riecke-Gonzales: If we were to recommend to the Planning Commission that we approve this project as presented with the condition that the landscaping gets done at Kaiiau Place, do you know of any impediment that that would be say a hardship on you or it sounds like you're already open to that.

Mr. Barton: No. I'm quite open to it and I'm sure that any future owners of our three units as well as all of the condominium owners on Ilili Road are very supportive of this. All my neighbors are supportive of it. It is not going to be a huge impediment to us. There is on sort of threshold level that we are facing and that is if we exceed \$125,000 of improvements out there, which is quite a lot, it kicks in a requirement for a major SMA, which is going to prolong the process and add additional cost. So we're trying to limit to that and we think we can do it, but one of the reasons for us meeting with Public Works this week – it's on Thursday actually – is to define what Public Works would like to see in terms of street improvements there as well as in front of our place, recognizing that there is a connection here. They've got to be integrated. We can't, like the rest of Ilili Road, say well we'll put a wall and sidewalk here, but not there. It needs to flow together and that's the purpose of Public Work's meeting.

Now if Public Works were to come and demand from us and say you need to put in storm drains and a number of other things too, that's going to blow our budget on this. While the budget is artificially set at \$125,000 – I didn't set that – and kind of financial reasons, it's set because of the Major SMA and Environmental Assessment and all of these other things that we would have to go through. But our intention is to also maintain the park, control the iron wood proliferation out there which is quite bad. The ocean view is almost totally block or at least spoiled down Kaiiau Place by iron woods right now. We're looking at eradicating some of that as well, and some of that maybe done as contributed maintenance outside of actual landscape improvements in the parking.

Mr. Riecke-Gonzales: Okay. Thank you.

Mr. Callinicos: Thank you. Is there anybody else from the public who wishes to give testimony? Okay, then public testimony is closed. I now open it up to Board Members for comments on this project. I'm going to start with Susan and go around this way. Susan?

Ms. Liscombe: No more comments.

Mr. Callinicos: Darryl?

Mr. Canady: Only one comment on your paver blocks that are in the interior – the driving area – are they going – is there going to be cool deck for those pavers?

Mr. Mitchell: No. The paver system is a stand alone system that has joints in it so the water can penetrate it. So it's sealed with a clear sealer. So the pavement itself, the pavers themselves are stand alone system so no other surface on top of them.

Mr. Canady: Thank you. No other comments.

Ms. Okamoto: Well, my only comment is – I drove down there yesterday because I had not been in that area, and there is such a, right now, hodge podge of things there. My concern obviously was views. I didn't see that that would be a big of a problem because of the way the other houses and a couple of the places that are really in bad shape. Except for the wall which is a bit of a concern to me, but it seems like they are working with the Parks Department to landscape. I would hate to see landscape only on the owner side and not on the outside. That would be my only concern.

Mr. Callinicos: Thank you. Anthony?

Mr. Riecke-Gonzales: As most of you have probably gathered, I have a lot of concerns on how this fronts what is called a public Kamaole Beach public beach access which I'm not clear in my mind. Is this actually a separate lot that's owned by the Parks Department? Is it just an extension of the road? To me, I can support this project without reservations if what was verbally discussed here is actually done and that becomes a landscaped area with just a very small spur for loading and unloading. I think it solves a lot of problem for the community, for the owner that's before us and then it makes it a total different project. Where instead of having this heavily intensely used public area, only ten-feet away, from what's going to be a very high end condominium unit is a nicely landscape area. And also, the picture that they presented to us – picture #9 – this building is going to totally change the character of what people see when they drive down the road. And I think a mitigation to that is taking this paved area with all of the signs and trash cans and parked stalls, and make it look kind of like picture #9 again – you know it mitigates things – I can support the project if as a condition of the project, and that would be my recommendation to the Planning Commission because they're the ones that put on conditions that they would require, you know, landscaping up to \$124,999 be done in this public beach access way. So that's my main concern on this project. If that can't be done, then I would not be in support of the current design that's proposed because I do think there's other opportunities where they could pull the buildings back from this public area rather than have the biggest mass fronting that. That's my only concern.

Mr. Callinicos: Thank you. Gary?

Mr. Brauner: No comment.

Mr. Callinicos: Russ?

Mr. Riley: First I'd like to say that I knew Gene very well and visited the site a number of times in various capacities. And I share the concerns but I think from what I'm hearing, I think it's under control or will be with the adjacent work going on at Charlie Young's Beach they alluded to with Chris Hart's Office is working on. I think that would really restore the whole area to what it could and should be. Well I'll leave it there. I think it's fine project and they bent over backwards to do a good job for the people of Maui. Thank you.

Mr. Callinicos: I have comment, but before I get into them, our legal Counsel has a question.

Mr. Michael Hopper: I just had a question about the \$125,000 limit. I understand that that's the limit that delineates between an SMA Minor or Major Permit. It doesn't delineate on whether or not you need to get a permit though. You've already been advised that this landscaping would require an SMA Minor Permit if the value is under \$125,000; or you would be able to get an exemption for this work which in a case of an exemption it wouldn't matter if the value is over \$125,000. The determining factor is the actual impact on the SMA area. Maybe the Planning Department could help with that. But in discussions, is \$125,000 limit – the only difference is that you would have to get Minor versus a Major Permit. And the main difference there would be that it would involve a public hearing. Not necessarily an EA (Environmental Assessment) unless it was in the shoreline setback area as I understand it. So if you can comment a bit on that and how the \$125,000 limit – before they put that on as a condition, I think it needs to be very clear as to what we're exactly talking about.

Mr. Medema: I'm Jason Medema with Chris Hart & Partners. That's a good question and the answer is we don't have definitive answer yet. There have only been some preliminary discussions with the Planning Department based first on the question of whether as County property this would be an EA. As landscape improvements it sounds like that is an exempted action. Now whether this would be an exempted action from the SMA, I think that probably depends somewhat on – all this would most likely be outside of the shoreline setback. Again, you know, I don't know how that would affect the EA. We would need a survey. We need a certified shoreline survey. The other thing is what kind of hard scape improvements the Public Works would require for this type of project. As landscaping improvement, you know, we would be hopeful that we might be able to apply for an SMA exemption. It's going to take an assessment obviously.

As a chaviot to that, if I may, one hardship I see with this and I would caution – at least exercise some amount of caution – imposing this as a condition. The client does not control this property and so you're tying their project to something that may or may not be allowed to happen on County property could pose them undue hardship on the applicant in that would not allow them to move forward with the construction of their building. And while the Kihei Community Association has voiced support for this, and while we've gotten support from certain people in the Parks Department based on preliminary discussions, as you know, anything can happen. Does this go forward when we have another change in administration? What happens if the political world evaporates before that? I think the client is control of anything that happens along that property boundary in terms of being able to soften up how that looks from the park and maybe that's worth exploring. But while everyone here is willing and while most of the party you've spoken with have been supportive. We have no concrete – we have nothing to stand and say yes we can move forward with this. It's in this point, it's a proposed action that we would like to see for many valid reasons.

Mr. Callinicos: Thank you. I just have some comments. You go ahead.

Ms. Okamoto: Based on that I have another – since right now the wall that we seem to find the most objectionable is right on the property line. If there was no further work with the Parks Department, would the applicant be willing to move that wall back a foot so that they could landscape without the approval of the County? Because if they move it within their property, they can landscape along the property line, am I correct? And then they would not need the approval of the County. If that becomes a problem is that something the applicant would be willing to address?

Mr. Callinicos: On that issue, if I'm not reading this incorrectly, there are landscaping along the area.

Ms. Okamoto: On the inside.

Mr. Callinicos: On the inside.

Ms. Okamoto: No, but I'm saying the –

Mr. Callinicos: On the outside.

Ms. Okamoto: – on the public side.

Mr. Callinicos: They wouldn't be able to do it in a foot. Come back at least two or three.

Ms. Okamoto: Would that be okay?

Mr. Barton: Yes. John Barton the owner. Yes, that's certainly a possibility to do something like that. And I've stated before I don't see anything keeping us from also softening the top of the wall by stepping if necessary because as you get towards the ocean front we don't have – we have a 15-foot rear setback so there's no particular need for that wall to run right out to the shoreline setback. We intend to make that as integrated and soft as possible and not some sort of huge barrier. And these walls again will not be the blue rock which is out of character. They will be black which is in character with the out cropping.

Mr. Callinicos: I've just got a couple of comments and it may appear to be nit picking. I'm concerned that you haven't taken your stair cases down into your basement. It's a personal concern as an architect. I'd hate to see – I would never – all spaces like this where you're going to have storage and the possibility of a fire and somebody is down there, they're not going to get out of the elevator.

Mr. A. Hillhouse: Right, and that was the intention of the egress wells.

Mr. Callinicos: You have knock out windows they can get out the egress?

Mr. A. Hillhouse: That's correct.

Mr. Callinicos: Okay. Thank you. And the other thing is I'm not really sure that the color of the roof really tones in with you efface walls. Is there a reason why you chose platinum? It's a personal feeling of mine that the colors don't really compliment each other.

Mr. Barton: Yes Sir, the platinum color is a color offered by that particular supplier and actually it's probably a little bit darker than what we will intend to have because we do as a priority intend to have a reflective solar coating on that roof, 500 type of metal product. So we presented that sample as an example as close to the color, but we need to make it as light as possible in order to match – in order to give the solar reflection. Personally I would like to go a little bit more toward a gray or silver color. We're not able to get samples of that here at this time, but they can be obtained. The actual situation is that – and if you look at some of the photographs we had of the houses in there – the existing houses have aluminum roofs on them now that have been on there for 40 or more years. And they are not silver. They are reddish-brown as most everything is on the island because of the cane that get on there. So whatever light color we use will eventually be somewhat tan to reddish tan color.

Mr. Callinicos: Yeah, because you're not going to get it washed by any rain that's for sure. Thank you. I'll go ahead and close the comments. At this point, I'd like to ask for a motion. Somebody would like to make a motion to approve?

Mr. Canady: So move.

Mr. Brauner: Second.

Mr. Callinicos: We have a motion to approve and second. Do we have any further comments?

Mr. Canady: No comment.

Mr. Callinicos: Anthony, no comment?

Mr. Riecke-Gonzales: Right now I wouldn't vote for the motion because as much as I'm sympathetic to the client that they don't have control over the adjacent parcel, I do see key support of the project that they would need to landscape this County parcel next door. If not, then I would recommend that some redesign would be needed for that massing that's close to the public park. So I'm torn on this one. Looking around me, I think you guys have a quorum and can pass this without me, so I'm probably going to take that position.

Mr. Callinicos: Then can I ask all those in favor, would you raise your right hand. The other right hand. Five in favor. Any nay?

Mr. Riecke-Gonzales: I'll just abstain.

Mr. Callinicos: Thank you. We have five. That's enough for –.

Mr. Hopper: A silence or not voting is counted as an affirmative. There's no right to abstain. Not that it's –

Mr. Riecke-Gonzales: Then I would be a negative vote.

Mr. Callinicos: Do I have to vote then in this case where we have – I don't have to – thank you. So we have five in favor, one against. The motion carries. It's approved as submitted to us.

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

VOTED: To recommend approval of the project as presented.

**(Assenting: R. Riley, S. Liscombe, G. Brauner,
D. Canady, L. Okamoto
Dissenting: A. Riecke-Gonzales)**

Mr. Buika: Staff would like to, at the conclusion, just to clarify a few of the comments that would be forward to the Maui Planning Commission. Would you like to hear them right now? The first condition – the first item would be to condition the project to require landscaping along Kaiu Place public beach access.

Mr. Callinicos: Before we go on, let me just discuss this with the Counsel. We've already had a motion and it's been approved without conditions.

Mr. Hopper: Right, it was an unconditional approval.

Mr. Callinicos: It was an unconditional one so, you know, I don't think we can go back.

Mr. Hopper: There's a motion for reconsideration, but if your intention was to approve with no condition, that's what you did.

Mr. Buika: Yeah, that's a moot point then.

Ms. Okamoto: Well I have a question. Can he still give the comments that were made to the Planning Commission? Because I think our comments were important.

Mr. Callinicos: They were not conditions.

Ms. Okamoto: Yeah.

Mr. Callinicos: But comments can go through.

Mr. Canady: Mr. Chairman, there were no conditions made on our vote. If any comments are to come now, I think they would be out of order as to the motion. And if the Planning Director wants to forward something, they would forward it on their own rather than ours. My comment Mr. Chair.

Mr. Riecke-Gonzales: I would agree with that Darryl.

Mr. Callinicos: Yes, that is right.

Mr. Hopper: Yes, typically comments would be made along with the motion. It wouldn't necessarily be conditions, but comments, as I've done with Commissions before. On EA's for example, there's usually a summary by the Planning Department prior to the motion. The motion is then made to incorporate those comments or to pass those on as the comments, and that's how that would normally go. But you can certainly provide no comments or conditions on the project. That's up to the Board.

Ms. Okamoto: So would we need to vote to approve that he give the comments?

Mr. Hopper: I would recommend to you because, you know, the comments, it's important because the Planning Department is just giving their take on what the comments were – it's to hear all of them. And I would recommend having them in some form of a motion, whether it's not to condition them. If there was an interest in the Board to do a motion for reconsideration on the previous motion simply to add your comments, that you could do that if there was a strong preference for that. But that would be, I think, under Robert's Rules, the correct way of doing things and the cleanest way of doing things.

Mr. Callinicos: To get a reconsideration?

Mr. Hopper: Yes, if there's an interest in that.

Mr. Callinicos: Well, can I ask Board Members if they are all in favor? Is everybody in favor of having those comments that the Planning Department wishes to submit to the Planning Commission?

Ms. Okamoto: Yeah.

Mr. Canady: Mr. Chairman, I will continue to vote for the motion as it was made and passed; and no conditions at this point be added. If suggestions wanted to be brought to us by the County, then I think that should be a separate item that we look at to maybe then amend what we have said. But at this point, I don't feel I want to amend my original vote.

Mr. Callinicos: I didn't ask for changes or conditions. I said comments.

Mr. Riecke-Gonzales: I think Mr. Chair at this point it would have to one of the members making a motion. And since I was the only one who was kind of beating on the comments, I will go ahead and be the member that makes the motion that we –

Ms. Okamoto: No, if it's a separate motion.

Mr. Hopper: A motion for reconsideration has to be brought by someone who voted in favor of the original motion.

Mr. Riecke-Gonzales: I see, it can't be somebody who voted against.

Mr. Hopper: And you're the only one who voted in against, so you'd be the only who couldn't.

Mr. Riecke-Gonzales: That's the old catch 22.

Ms. Okamoto: If he's simply making a motion not to reconsider, but to authorize the Planning Department to give the comments to the Planning Commission, is that not a totally separate motion?

Mr. Riecke-Gonzales: No I don't think we can do that because it would have to be a new agenda item Linda. So it would have to be one of the people who voted for it.

Mr. Hopper: Counsel has advised that it's cleaner and more appropriate to do it this way.

Ms. Okamoto: Can we hear his list first before we do anything?

Mr. Callinicos: Well, not really.

Mr. Canady: No.

Mr. Callinicos: So we need somebody who voted in favor to come up to make a motion that we reconsider the previous motion to include comments and any conditions that the County Planning has recorded through this meeting.

Mr. Hopper: And the motion for reconsideration would place you just before the vote on that motion.

Mr. Callinicos: Correct.

Mr. Hopper: So you could, for example, have a motion to amend to incorporate the Department's comments, if you're okay with those comments, to modify them and then go from there. Really, honestly, it's the Planning Commission that's going to condition this project. Whether you call it a condition or a comment, it's basically for you to pass on information. And the reason the comments should, in my opinion, be adopted by the Board is to make sure that one member's comment – you know, if everyone else disagrees with that comment, then that really shouldn't be forwarded as a comment of the Board. So that's sort of the idea.

Mr. Callinicos: Correct. Does anyone want to make the motion?

Ms. Liscombe: I'll make that motion.

Mr. Callinicos: Second?

Ms. Liscombe: As long as I don't have to repeat it.

Ms. Okamoto: I'll second that.

Mr. Callinicos: So we have the motion and second. All in favor say aye.

Mr. Canady: Could you read the motion please?

Mr. Riecke-Gonzales: No the motion is to reconsider the main motion. And I have one question on the Robert's Rules. Now that it has been – a motion has been made and seconded, I can vote on it even though I was not one of the voting in favor?

Mr. Hopper: I believe you can vote on that.

Mr. Riecke-Gonzales: Okay, thank you.

Mr. Callinicos: All right, can I have all those in favor, raise your right hand. So we have – it's approved five to one. Anybody nay?

Mr. Canady: Nay.

Mr. Callinicos: I've got one. Five in favor and one nay. It's approved.

It was moved by Ms. Susan Liscombe, seconded by Ms. Linda Kay Okamoto, then

VOTED: To reconsider the previous motion to include the comments and/or conditions presented to the Board.

***(Assenting: A. Riecke-Gonzales, R. Riley, S. Liscombe, G. Brauner,, L. Okamoto.
Dissenting: D. Canady)***

Mr. Callinicos: All right, we're back, as I understand it, at a point just before the motion.

Ms. Okamoto: Right.

Mr. Callinicos: So at this point, let me ask, we've got the motion, and I've asked is there any further comments on the motion?

Ms. Okamoto: Now –

Mr. Callinicos: So we're at that point now.

Ms. Okamoto: Now I would like, as comments, I would like to hear the Planning

Department's list of what they think we said.

Mr. Callinicos: We haven't had a situation like this before. I apologize. Carry on.

Mr. Buika: Okay. Thank you kindly Chair. Two small things I had heard were first was to correct Exhibit #5 to include the six to eight foot high stone privacy wall – on Exhibit #5 from the Chairman. One was – now I worded this way – to suggest no blasting or back hoe work to create the three basements. I heard that one – that one came from the Vice-Chair. And then the issue of reducing the wall and building massing along Kaiiau Place to create a more pedestrian friendly separation between the building and public beach access. And then there was the counter point to that one which was to actually condition the project to require the landscaping along Kaiiau Place public beach access way by working with Parks & Rec Department and the Kihei Community Association to consider replacing the parking area at the beach along Kaiiau Place with landscaping and grass up to a 20 foot stripe. Period, long sentence. And maintain a small vehicle spur for loading and unloading only. So those last two were the ones that were debated.

Mr. Callinicos: So you have a total of how many?

Mr. Buika: I have four, and #3 and #4 are kind of addressing the public beach access way. One is the correction to Exhibit #5. One is the no blasting or backhoe to create the basements. Third is to reduce the wall and building massing along Kaiiau Place that the Vice-Chair brought up. And then fourth would be a requirement that the project require landscaping along Kaiiau Place in the park, the park property there, or the County Park property.

Ms. Okamoto: Since I asked for the list, can we now either take things off or change the wording?

Mr. Callinicos: I think the way we should do it perhaps Counsel can advise accordingly is go one, two, three and four. Let's discuss #1 right now.

Ms. Okamoto: Okay.

Mr. Callinicos: Number one, would you read that again.

Mr. Buika: One was to correct Exhibit #5 to indicate a six to eight foot high stone privacy wall.

Mr. Callinicos: That's very simple.

Ms. Okamoto: Yes.

Mr. Callinicos: All in favor?

Mr. Canady: Question. Do we need a motion on that, Mr. Counsel, on each one?

Mr. Hopper: At this point, I'd recommend you do. You have motion to amend to add them. Your original motion was to approve no comment, no comments, no conditions. So I'd recommend and it does seem like we're being a stick – . . . (Inaudible. Mechanical problems with the PA system) . . . – I apologize. I'm not sure what happened there. I'd recommend it since the previous motion was one to simply adopt without comments. What you could do is read through all of the comments at this point. Have them all read to you, and if you're okay with all of them, simply have a motion to amend to add the comments as read by the Planning Department. If not, you could say to add comments #1 through #3, excluding #4 by the Department. You could do it piece meal. This is up to the Chair's discretion. But to amend something that was already – you've got a motion pending right now – so adding those I'd recommend a motion. I suppose you could do it by unanimous consent without taking a vote but that sometimes risky and if one person objects, then you need to take a vote as a motion to amend. That's what I would recommend. I look at comments as no different than any other Board action is all I'm saying.

Ms. Okamoto: But at this point we're just in discussion stage, correct?

Mr. Canady: But can you discuss without a motion on the floor and a second?

Mr. Hopper: There could be discussion. Robert's Rules usually recommends that you have a motion to amend before you begin the discussion. But you can do that either way. You can, and we have had in the past, particularly with items like comments, some discussion prior to actually making the motion to refine what the motion would be in order to – because the motion at this point would have to be to, for example, adopt all of the Planning Department's comments as your own. Then you have to do motions to amend to change that motion if that happened. So that can get problematic, but that's often done. The County Council does it that way often times. So it's at the pleasure of the Chair at this point, but those are two options that you could have.

Mr. Callinicos: Thank you.

Mr. Riecke-Gonzales: And just to clarify, I can still not make motions to amend the original motion cause I voted against it.

Mr. Hopper: It's as if you haven't taken a vote at all. So you can make motions to amend. You can proceed how you like.

Mr. Riecke-Gonzales: I see. Thank you.

Mr. Canady: Mr. Chair, what would you recommend?

Mr. Callinicos: I foresee if we try to have a motion passed, that we adopt it, adopt all four at this point, I don't think it's going to succeed.

Ms. Okamoto: No.

Mr. Callinicos: That's why I suggested we take each item by itself, get a motion to approve, have comments and see whether we can approve it. That's the way I think we should do it. So let's start with #1.

Ms. Okamoto: I move that we approve comment #1.

Mr. Callinicos: Do we have a second?

Mr. Riecke-Gonzales: I would second that.

Mr. Callinicos: All right, can you read it through again please?

Mr. Buika: Comment #1 is to correct Exhibit #5 to indicate a six to eight foot high stone privacy wall.

Mr. Callinicos: Thank you.

Mr. Canady: I call for the motion.

Mr. Callinicos: We have a motion. We had a second.

Mr. Riecke-Gonzales: Yes, I seconded the motion.

Mr. Canady: And I call for the motion.

Mr. Callinicos: All in favor, raise your right hand. It's unanimous. Thank you.

It was moved by Ms. Linda Kay Okamoto, seconded by Mr. Anthony Riecke-Gonzales, then unanimously

VOTED: To approve comment #1, to amend Exhibit #5 to indicate a six to eight foot high stone privacy wall.

Ms. Okamoto: Then we just go to #2?

Mr. Canady: I make a motion that we accept #2.

Mr. Callinicos: Do we have a seconder?

Mr. Riecke-Gonzales: I would second the motion.

Mr. Callinicos: All in favor, raise your right hand.

Ms. Okamoto: I have a question.

Mr. Callinicos: All right. Can you read #2 please?

Mr. Buika: Yes. The UDRB recommends no blasting or backhoe work to create three basements.

Mr. Riecke-Gonzales: I would clarify that, no backhoe ram, which is different than backhoe work.

Mr. Canady: I would also agree with that. I don't think you can do any ground work without a backhoe. I'm not a contractor, but I don't want to use my fingers on it.

Mr. Riecke-Gonzales: So we have a motion and a second with the re-wording.

Mr. Canady: I call for the motion.

Mr. Callinicos: On the legal thing about this is I'm not even sure we can insist that we not have those forms of construction.

Mr. Riecke-Gonzales: We can recommend it to the Planning Commission that they make it a condition.

Mr. Callinicos: Until such time as they establish what the conditions are for excavation, I don't see how you can tell them they can't do it.

Mr. Riecke-Gonzales: The Planning Commission can make it as a condition of the SMA permit, and then they would need to work it out.

Mr. Callinicos: Has it ever been done before?

Mr. Riecke-Gonzales: I would have to defer to the Planning Department on that. I have had on my projects a condition that you cannot blast.

Mr. Callinicos: I know you can not blast in certain areas in Wailea, but that's the Wailea Community Association.

Mr. Riecke-Gonzales: No, I had it as an SMA condition. I believe it was the Hope Chapel Project that was put on as a condition by the Planning Commission as part of the SMA.

Mr. Callinicos: All right, where are we at this stage?

Mr. Buika: To answer your question. I don't have the longevity that Clayton Yoshida would. Has there been any blasting – was that the question – has there been any blasting condition – any condition to limit blasting on projects that you can recall?

Mr. Clayton Yoshida: There may have been.

Mr. Callinicos: Let me ask you to read #2 again.

Mr. Buika: The UDRB recommends no blasting or backhoe ram work to create three basements.

Mr. Canady: Call for the motion.

Mr. Riecke-Gonzales: We take a vote right?

Mr. Callinicos: If no further comments. We're not open for comments. All in favor in approving that item, raise your right hand. Are there any nays? Well that's a problem.

Mr. Riecke-Gonzales: Well it doesn't pass.

Mr. Hopper: The Chair would have to vote in that situation. If there's four.

Mr. Callinicos: Well, I'm not in favor either. I'm a nay as well.

MOTION FAILED – It was moved by Mr. Darryl Canady, seconded by Mr. Anthony Riecke-Gonzales, to approve comment #2 which the UDRB recommends no blasting or backhoe ram work to create the three basements.

**(Assenting: A. Riecke-Gonzales, D. Canady, S. Liscombe, R. Riley
Dissenting: D. Callinicos, L. Okamoto, G. Brauner)**

Mr. Callinicos: All right, could you read #3 please?

Mr. Canady: I call for the motion to approve #3.

Mr. Callinicos: Go ahead and read it please.

Mr. Buika: Reduce the wall and building massing along Kaiiau Place to create a more pedestrian friendly separation between building and public beach access.

Mr. Riecke-Gonzales: I call for the motion.

Mr. Canady: It wasn't seconded.

Mr. Riecke-Gonzales: Okay, I seconded it if you didn't hear that.

Mr. Canady: It's your business.

Mr. Callinicos: I'm aware of that. This is uncharted territory.

Ms. Okamoto: Yes, it is.

Mr. Canady: I apologize.

Mr. Callinicos: All right, so all in favor of approving it, raise your right hand. Is that in order? Am I in order? We've got two approvals. Any nays? It fails. Thank you.

MOTION FAILED – It was moved by Mr. Darryl Canady, seconded by Mr. Anthony Riecke-Gonzales, to approve comment #3, to reduce the wall and building massing along Kaiiau Place to create a more pedestrian friend separation between the building and public beach access.

**(Assenting: S. Liscombe, A. Riecke-Gonzales
Dissenting: L. Okamoto, G. Brauner, R. Riley, D. Canady)**

Mr. Callinicos: And the next one is #4 is it?

Mr. Buika: #4, yes.

Mr. Canady: I call for the approval of #4.

Mr. Riecke-Gonzales: I second.

Mr. Callinicos: Would you read that please?

Mr. Buika: Condition the project to require landscaping along Kaiiau Place public beach access way by working with Parks and Recreation Department and the Kihei Community Association to consider replacing parking at the beach along Kaiiau Place with landscaping and grass to up to a 20 foot strip, maintain a small vehicle spur for loading and unloading only.

Ms. Okamoto: Can we change the word from – what was your first word on that?

Mr. Buika: Condition.

Ms. Okamoto: Just to recommend – that they work with the Parks Department – and have it worded so that it is really –. They're working with the Parks Department, but if it doesn't work, that's the Park Department. I'm not sure how to say that.

Mr. Riecke-Gonzales: I would call to – make a motion to –

Mr. Canady: We have a motion.

Mr. Riecke-Gonzales: Okay, so then I would amend the motion per Kay's language.

Mr. Canady: You don't have the approval of the maker.

Mr. Callinicos: Right now we have a motion and a second.

Mr. Hopper: There's no requirement for the consent of the maker of the motion. Once the motion is the property of the body and it can be amended with a motion and a second, as long as the amendment is germane to the motion, which I think in that case it would be. I would highly recommend that you give the specific wording of this motion down though because it seems to be a bit unclear – or this recommendation – even though it's only a recommendation.

Mr. Canady: Can we have discussion now?

Mr. Riecke-Gonzales: Yes.

Mr. Callinicos: I think we can have discussion on it and I'm sure we can amend it.

Mr. Hopper: There's a motion to amend and a second?

Mr. Callinicos: Second over there.

Ms. Okamoto: No, that was the first one.

Mr. Hopper: No, to amend. You had made the motion to amend for a suggestion.

Mr. Riecke-Gonzales: I made the motion to amend. I didn't hear a second.

Ms. Okamoto: I'll second that.

Mr. Riecke-Gonzales: Okay, Kay has seconded it.

Mr. Callinicos: All right, now we'll have some discussion. Can we start and go around the table? Susan?

Ms. Liscombe: No discussion.

Mr. Callinicos: Darryl?

Mr. Canady: I think we're sticking our head in a large crevassed in this particular motion no matter how we would go though and amend it, change it. I don't think the applicant can guarantee, nor the County can guarantee who is going to act when, where and how, there being the problem as it exists. And even though I made the motion, I intend to vote against it.

Mr. Callinicos: Linda?

Ms. Okamoto: Regarding the amendment, I would word the amendment to say that we recommend that the applicant work with the County of Maui Parks Department to, I guess, the word mitigate, the wall through additional planning. I would not want to put all that other about taking out because that's a little too much to know whether the County is going to take out that spur. So I wouldn't want to put that in there. Just that we want to soften the wall and so that they continue to work with the County to get that particular portion of it done.

Mr. Callinicos: Anthony?

Mr. Riecke-Gonzales: I'm kind of the one who originally came up with this. I support what Kay's language is there, and I'll tell you where my concern is, is that I think the Planning Commission who has the final say on this, when they look at this project and take everything into account and take into account having gone through the Urban Design Review Board, I think right now the Planning Commission is going to be less likely to approve that project, or less likely, to approve it than say no we don't approve it. And I'm kind of looking at if I was sitting on the Planning Commission, you know, what things would

make it more amenable to me to vote for this project. And I think they're going to look and say well what is it that we object to this project at? And the first thing that strikes me as a professional and even as a lay person is versus all of the other projects you see, when you look at the roof plan, this building takes up this whole site and it's very close to the public beach. And that's what the Planning Commission is kind of tasked at looking at – how does this impact the public? Does it impact the public? I see right away, yes, it does impact the public and I can't sit here on the Urban Design Review Board and say, yeah, aesthetically this fits into the neighborhood and it's wonderful, the public is going to pat us on the back and say thanks a lot of approving this project.

So that's why I was trying to put language in there and say how could we as the Urban Design Review Board say these are things you could do to make this project better that yes then the public might come and say thanks a lot of allowing this project to go through. We see it enhancing the Kihei community. And I saw that as two ways, one, we either have them redesign the buildings so that it pulls it away from the beach park and that already has been – that suggestion has already been nixed. The other one is what the applicant has already said they're trying to do which is we need to give support somehow and our way of giving support is to tell the Planning Commission is look there is a way that this project as designed can be acceptable. And that way is, you know, the client is willing to work with the County to do enhancements to the public beach park to their benefit and to the benefit of the public. That's the win-win. So I see this as a very important condition. Lots of sympathy to the client. I've been in his shoes where conditions has been put on my project that I had no control over.

I had one example where, you know, I worked with the Planning Department, and they said as a condition of your project is you have to do shoreline enhancement, you know, beach nourishment. Well, my client spent a ton of money working with the State to do beach nourishment only at the end to be shot down at the very end. We had to go hat in hand to the Planning Department and say well you made this a condition of my permit but to the very best our ability we haven't been able to get the State to allow us to do beach nourishment. The Planning Department reasonable. They said well you did your best, you couldn't do it, we're still got to build the project and we had another scheme to do where we put some sand on our property so that if the waves with the tsunami ever come up and wash the sand down, then that works.

But I think there needs to be something from this Board, which is a design board looking out for the public and looking out for the aesthetics that the public is going to see that we can say look, we did our due diligence and we saw that there was a way that we could meet the applicant's requirements. You know, he wants to build on his property, but at the same time we meet the public's requirements that his building doesn't detract but enhances the community that we all live in. And I see this as one way to do that. So I would be in support of the language that Kay is proposing.

Mr. Callinicos: Gary?

Mr. Brauner: I'm so lost, no comment.

Mr. Callinicos: You're not alone. Russ?

Mr. Riley: Same comment.

Ms. Okamoto: Can we have the Planning Department read the amendment?

Mr. Callinicos: Let me try to get to the nitty-gritty – just a question. From what I heard so far, we all seem to be in a quandary about one thing and that is what happens along side the beach park access. That's it. We're not really overly concerned, I haven't heard any comments about the front elevation, the back elevation, this north elevation, the appearance from Illili Road – it just all comes down to the beach park access and the impact on that south wall of this building. Is that correct?

Mr. Riecke-Gonzales: I would definitely agree with that, and I think that needs to be communicated to the Board or the people that this Board serves which is the Planning Commission. And the only way we can do that, from my understanding, is through our comments.

Mr. Callinicos: Correct. And I just want to make sure that everybody's on the Board understand. We're just looking at one issue and that is the south wall. The wall with the elevation adjacent to the beach park access.

Ms. Okamoto: Yeah, that would be my concern.

Mr. Callinicos: All right. Now I'm also in at a lost on where we are. Where are we right now?

Mr. Canady: We take a vote.

Ms. Okamoto: On the amendment.

Mr. Canady: On the amendment.

Mr. Callinicos: Okay.

Ms. Okamoto: I would like him to read the wording now.

Mr. Callinicos: Could you read the wording again so we can see what everybody is going

to vote on.

Mr. Buika: I was unable to catch exactly what you said. And actually what you were talking about is very different than this issue about modifying the park. Modifying the wall was voted down. And then your comment was to mitigate the wall again, which does not pertain to this issue of modifying the park area or landscaping the park area.

Ms. Okamoto: Because we've got so many things combined into a comment, the #3 to me, had to do with the massing of the building as well as the wall. And that's why I voted against it. Maybe we need to vote this one down and just create a new comment. That might be the easiest way.

Mr. Riecke-Gonzales: Well we'd still need some wording to have some kind of vote right now.

Mr. Canady: I think we're – Darryl Canady – I think we're sitting in a position where we're either going to strap the applicant with the full results that his project will not go unless the County does this, this, this and this; and permits him, the applicant, to do what we're asking on this comment, to do. And I, at this point, don't feel we have or want the power to dictate to the County or any other government agency that will strap a project like this or any other project.

Mr. Riecke-Gonzales: Darryl, I think you should be clear that we don't actually have that power. We're an advisory board to the Planning Commission, so all we're doing is, in our professional view point and capacity, is advising the Planning Commission on our concerns.

Mr. Callinicos: And recommend too.

Mr. Riecke-Gonzales: We can make recommendations, but we don't have the power. We don't have actually any power to make any conditions to the permit.

Mr. Canady: I understand that. I'm the new kid on the block and I will – if I'm stepping my bounds, over my bounds, I'm happy to be told about it.

Mr. Riecke-Gonzales: It's not that. It's like, the way I look at this as someone who has reviewed the project, it's really up to us to choose what we want to highlight to the Planning Commission. And it seems to me that now that we've had almost an hour discussion on the issue that Demetrios actually put in very good terms – that the concern that we narrowed this down to is how this project interacts with the public's space next door. That is important that that be communicated to the Planning Commission who actually do have the final say and have the ability to investigate this further. And also have the ability to say

thank you very much Urban Design Review Board. But we don't have that concern.

Mr. Canady: We'll go this way, or we'll go that way.

Mr. Riecke-Gonzales: Yes. So all I think is that we have an obligation that the job that we've been tasked is to communicate – that the seven people here putting our heads together. After looking at this project, we went around and around on an issue that everyone, at least that I've heard so far, has said well yeah, there's something that's going on there. We don't really know how to fix it. We don't know maybe in detail why it bother us, but there's something here that doesn't sit right. I think we have an obligation to communicate that somehow to the Planning Commission, so at least they don't get blind sided when they have their hearing, and somebody gets up and says, how come the Urban Design Review Board didn't mention anything to you guys that they had an hour of discussion of this?

Mr. Canady: I appreciate that comment, and I so agree.

Ms. Okamoto: As the maker of the amendment, can I withdraw the amendment?

Mr. Hopper: If you have not stated the motion yet in front of the Board, then you could withdraw your motion at this point. I know it's been seconded, but it only becomes the property of the body once the Chairperson restates the motion or have staff do that. Obviously, that's the problem. It hasn't been restated, so I think you could withdraw your motion under procedure.

Ms. Okamoto: My intention would be then to make a separate – that is different than what he's got.

Mr. Callinicos: Okay, so your original motion to amend is withdrawn? Now you wish to make another motion?

Ms. Okamoto: No, at this point then, we would vote on #4. That would be correct?

Ms. Callinicos: Well I don't want to nit pick this to death, but I'm going ask you one more time to read #4 please.

Mr. Buika: I do believe we had a motion to change it from condition the project, to recommend the project – recommend that the project.

Ms. Okamoto: I'm withdrawing the whole amendment.

Mr. Callinicos: So your original wording. Just read it.

Mr. Buika: The original wording is condition the project to require landscaping along Kaiiau Place public beach access place by working with the Parks and Rec. Department and Kihei Community Association to consider replacing parking area at the beach along Kaiiau Place with landscaping and grass up to a 20 foot strip, maintain a small vehicle spur for loading and unloading only.

Mr. Riecke-Gonzales: So I call the motion.

Mr. Callinicos: All right, all those in favor?

Mr. Hopper: You need to make a new motion. Wasn't Kay the original?

Ms. Okamoto: Only of the amendment.

Mr. Riecke-Gonzales: Only the amendment. The original was by Darryl and seconded by me.

Mr. Hopper: I apologize.

Mr. Callinicos: So we have motion and a second.

Mr. Riecke-Gonzales: So I call the motion to take a vote.

Mr. Callinicos: All those in favor, raise your right hand to approve item #4? Two in favor. Against, raise your right hand? Four against. The motion fails.

MOTION FAILED – It was moved by Mr. Darryl Canady, seconded by Mr. Anthony Riecke-Gonzales to approve item #4, to condition the project to require landscaping along Kaiiau Place public beach access place by working with the Parks and Rec. Department and Kihei Community Association to consider replacing parking area at the beach along Kaiiau Place with landscaping and grass up to a 20 foot strip, maintain a small vehicle spur for loading and unloading only.

**(Assenting: A. Riecke-Gonzales, S. Liscombe
Dissenting: L. Okamoto, R. Riley, D. Canady, G. Brauner)**

Ms. Okamoto: I move we add one additional condition, that the UDRB recommends that the applicant continues to work to mitigate and soften the view of the wall facing the public access area.

Mr. Riecke-Gonzales: I second the motion.

Mr. Callinicos: Any comments?

Mr. Buika: Can you repeat that so that I can write that down exactly. I didn't catch all that, I apologize.

Ms. Okamoto: UDRB recommends that the applicant continues to work to mitigate and soften the view of the wall facing the public facing area.

Mr. Buika: That the applicant continues to mitigate?

Ms. Okamoto: Well, to work to mitigate and soften the view of the wall facing the public access area.

Mr. Buika: Mitigate and soften the view –

Ms. Okamoto: – of the wall facing the public access area.

Mr. Buika: – of the wall facing the access area.

Ms. Okamoto: Yes.

Mr. Buika: Thank you.

Ms. Okamoto: Do we have second?

Mr. Riecke-Gonzales: I did second it already.

Ms. Okamoto: As the maker, I make a discussion. I think by making it open, we're saying the wall, you know, we think is a little much. But we're leaving it open to them who they negotiate with and who they work with to do it.

Mr. Riecke-Gonzales: I think it's sufficient to communicate to the Planning Commission that there's an on-going design issue in that area.

Mr. Callinicos: Any other comments?

Mr. Canady: I will choose – because I think it is worded properly now – to vote for the motion on the floor.

Mr. Callinicos: All right. Seeing no other comments, all those in favor raise your right hand.

It's unanimous. Thank you the motion is approved.

It was moved by Ms. Kay Okamoto, seconded by Mr. Anthony Riecke-Gonzales, then unanimously

VOTED: To add an additional condition, that the UDRB recommends that the applicant continues to work to mitigate and soften the view of the wall facing the public access area.

Mr. Callinicos: Where are we now?

Mr. Riecke-Gonzales: Now, we need to vote.

Mr. Callinicos: We've now got to vote with those conditions or comments. All right, can I have motion?

Ms. Okamoto: I move -

Mr. Callinicos: We have a motion on that don't we?

Ms. Okamoto: No – to reconsider – I move that we approve the project with the two conditions that we have added.

Mr. Riecke-Gonzales: I second that.

Mr. Callinicos: We have a motion and a second. Any further comments?

Mr. Canady: Call for the motion.

Mr. Callinicos: All those in favor, raise your right hand. It's unanimous. Thank you. All right, the motion is approved.

It was moved by Ms. Kay Okamoto, seconded by Mr. Anthony Riecke-Gonzales, then unanimously

VOTED: To recommend approval of the project with the two comments/conditions as so noted.

C. ADMINISTRATIVE APPROVAL OF THE JUNE 17, 2008 MINUTES

The June 17, 2008 minutes were administratively approved as

presented.

D. DIRECTOR'S REPORT

Mr. Callinicos: All right, the next item on our agenda is the Director's Report. Clayton?

Mr. Canady: I move to approve as given to us.

Ms. Okamoto: We don't have any.

Mr. Callinicos: We haven't had it yet.

Mr. Riecke-Gonzales: They have to give us –

Mr. Canady: That's why I didn't have it.

Mr. Yoshida: Thank you Mr. Chairman. Our next meeting is scheduled for August 5th. We have a Moloka'i project, the Duke Maliu baseyard maintenance building for the Department of Parks and Recreation. They decided to relocate the maintenance building on the Mitchell Pauole Complex to the Duke Maliu Park. So we won't hear the saws going during the Planning Commission meetings. And also, I guess we've also, in terms of activity, for the first six months, we received 15 SMA Major Permits, compared to 20 for all of last year. Although many of them are for public project, improvements to harbors, tennis courts addition, we have some new buildings coming up at the college. So we'll be a little bit busier in the next couple of months. That's all we have to report,

Mr. Callinicos: Thank you Clayton.

Mr. Canady: I don't have to approve it?

Mr. Callinicos: We don't have to.

Mr. Canady: I'll keep my mouth shut for a change.

Mr. Callinicos: If there's no further business –

Mr. Riecke-Gonzales: I have one. You know, I was the one who asked for the administrative approval of the minutes to be put on the agenda and so I appreciate that. And maybe what we could do on the next agenda, move it to the second item, right after the Call to Order, so that we could get it out of the way right away. But the reason I had asked to be put it on the agenda, I think we had the discussion several meetings ago that, you know, by the sunshine rules, we really do need to have it on the agenda even though

if we're doing it administratively. So that's why I had to ask –

Mr. Callinicos: So we were advised incorrectly then? Because we were advised to do it that way.

Mr. Riecke-Gonzales: Well we were advised to do it administratively, but then I think since then there was some more legal counsel that really it should be on the agenda even if we're doing it administratively.

Mr. Callinicos: There's a problem with it and I think the right place is after the Call to Order.

Mr. Riecke-Gonzales: All right. Thank you.

Mr. Callinicos: Just for Darryl, before we adjourn, just to let you know, we always adopted a fairly – what's the word I want to use. I don't want to stick my neck out. This is going to go down. For the new members, this Board has always had a relatively informal way of conducting our meetings within Robert's Rules. That is the reason perhaps why we got so tied up today.

Mr. Canady: I did it, and I'm sorry.

Mr. Callinicos: Well, it doesn't matter who did it. It was good because we got educated by it. So if you did it, thank you. Because I certainly know a lot more now than I knew then. We very rarely run into this kind of situation. I don't think we've had it more than once or twice – something similar, but not quite as intense as today's one. So having said that, if there's no further business, this meeting is adjourned.

E. NEXT MEETING DATE: August 5, 2008

F. ADJOURNMENT

There being no further business brought forward to the Board, the UDRB meeting adjourned at approximately 11:00 a.m.

Respectfully transmitted by,

LEILANI A. RAMORAN
Secretary to Boards and Commissions I

RECORD OF ATTENDANCE:

PRESENT:

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

EXCUSED:

Hunton Conrad
Eric Nakagawa

OTHER:

Clayton I. Yoshida, AICP, Planning Program Administrator
James Buika, Staff Planner
Michael Hopper, Deputy Corporation Counsel