

(APPROVED: 02/05/09)

**CULTURAL RESOURCES COMMISSION
REGULAR MEETING
NOVEMBER 6, 2008**

*** All documents, including written testimony, that was submitted for or at this meeting are filed in the minutes file and are available for public viewing at the Maui County Department of Planning, 250 S. High St., Wailuku, Maui, Hawaii. ***

A. CALL TO ORDER

The regular meeting of the Cultural Resources Commission (Commission) was called to order by Chairperson Samuel Kalalau, III, at approximately 9:08 a.m., Thursday, November 6, 2008, in the Planning Department Conference Room, first floor, Kalana Pakui Building, 250 South High Street, Wailuku, Island of Maui.

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

B. INTRODUCTION OF NEW COMMISSION MEMBERS - KEPA MALY and ALEXANDER "ALIKA" ROMANCHAK

C. APPROVAL OF MINUTES OF THE OCTOBER 2, 2008 MEETING

Mr. Samuel Kalalau: Will the Cultural Resources Commission meeting please come to order. First on our agenda, we would like to introduce one of our new members, Kepa Maly. He's right here. Kepa. He's actually from Lanai. We have another new member but he couldn't make it today so, anyway, Commissioners, we're going into the minutes, approval of the minutes.

Mr. Raymond Hutaff: I move that we approve the minutes as written.

Mr. Erik Fredericksen: Second.

Mr. Kalalau: It has been moved and seconded. Is there any discussions?

Mr. Kepa Maly: Aloha, Chairman and Commissioners. Mahalo for the opportunity to be with you this morning. And I wasn't a part of the last meeting, nor was I able to attend because of a previous commitment with Lanai High, but there were a few small typos that, and so do those get addressed or not, just relative to people's names or -- and one is a particular point of interest though and it's actually an SHPD letter which says ahupua`a of Hulopoe which there isn't one on Lanai and so do we address those things during the meeting?

Mr. Kalalau: Yes, the changes now and corrections now.

Mr. Maly: I went through and marked mine, it may be easier to share it with Suzette, but it was just simple things on a few people's names and things, and then the most important one, as I said as far as I was concerned, was just on the last letter of October 15, 2008, SHPD to Nakamura, and it just mentioned Hulopoe Ahupua`a, Lahaina District, and there isn't such a place, it's Palawai and the ili is Hulopoe, so we may just want to somehow reflect that to make sure we don't establish a new set of land divisions on the Island of Lanai.

Mr. Fredericksen: So that was the -- and SHPD letter?

Mr. Maly: Yes. Uh-huh.

Mr. Fredericksen: Yeah, that would be good to inform them too.

Mr. Maly: We did raise it at the Lanai Archaeological Committee meeting as well but they didn't make the change cause that was the August meeting. Thank you though.

Mr. Fredericksen: Yeah, thanks for bringing it up.

Mr. Kalalau: Okay, anymore questions or comments?

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

It has been moved by Mr. Hutaff, seconded by Mr. Fredericksen, then unanimously

VOTED: to approved the minutes as corrected.

Mr. Kalalau: Motion passed. Thank you, Commissioners. Our next item on the agenda is --

Mr. Stanley Solamillo: We were going to move up Banyan Tree Park, which is Item H, cause it's a report from the Parks Department on the confirmed users for Banyan Tree Park for the year 2009. Steve Ashfield, of the Parks Department, is here to present that to you.

H. BANYAN TREE PARK

1. Report from the Park Department of confirmed users for Banyan Tree Park for 2009

Mr. Steve Ashfield. Good morning.

Mr. Kalalau: Good morning.

Mr. Ashfield: Alright, what I have are a couple of things to do. First, right now we have Na Kupuna and Lahaina Arts Society as the people who are allowed under the Banyan Tree to have craft fairs and also art fairs. Every year the CRC has to okay whoever uses the Banyan Tree, so I'm guessing that it was last year they were okay, then the year before that, you're going to do the same people again. Also, there's special days that Lahaina Town Action Committee has taken, which the other two entities don't really wanna do because they're special events, such as the arts, the festival, the Banyan Tree birthday, lighting of the Banyan Tree, and the parade after King Kamehameha Day. They had also had the Festival of Canoes, which is canceled in 2009. There will be no Festival of Canoes. That's why if you look on the papers I gave you, on the 23rd and 24th, they asked -- Lahaina Town Action Committee asked to have something special but they didn't tell me what it was and so I -- it's up to you whether they have that or not because of the fact they can only have special things underneath the tree because they're not really entitled to be underneath the tree unless there's something special going on, such as the arts, Ocean Arts Festival.

Mr. Fredericksen: Excuse me? But they didn't say what it was?

Mr. Ashfield: They didn't say what it was, and Ron was supposed to be here but I don't think he's here to tell you.

Mr. Fredericksen: I'm sorry. I didn't hear when that date -- those dates.

Mr. Ashfield: The dates, if you look at your thing, it has LTAC with a question mark after it.

Mr. Fredericksen: Oh down, okay, in May then.

Mr. Ashfield: May.

Mr. Fredericksen: Yeah, okay. Thank you.

Mr. Ashfield: That's when the Canoe Festival was held and they have canceled that. The other thing is the last page are the closed dates. Sorry for my checkmarks but I was checking to make sure I had every date. The tree is open for weekends and holidays, and all the holidays are listed. If you say those two entities, Lahaina Town Action Committee -- I mean, excuse me, Lahaina Arts Society and the Na Kupuna, which is the -- which is run by Aloha First, are the people that -- the only ones that can go under the tree, except for Lahaina Town Action Committee for those special days, then I will give them this list, then they will divide up those days, and I will give you a further list at your next meeting when

they're underneath the tree, and they will have meeting and decide, 50-50, what days they wanna take. So what I need from you is an okay that those are the people that are underneath the tree and that this is the schedule, maybe less the May dates for Lahaina Town Action Committee.

Mr. Fredericksen: Chair, I just -- just as a comment, I think we should be informed well in advance what the special activity is that Lahaina Town Action Committee is proposing.

Mr. Kalalau: So wanna set a -- does the Park Department has a time limit as to when people can apply, I mean for those special openings or --

Mr. Ashfield: Well, right now, we do the whole year because you have to decide who goes underneath the tree, and once that -- this year is set, you decide those people are underneath the tree, that's what they get for that whole year, and then we do next year. As a matter of fact, I'm a little late. I tried to get to Lanai but they wouldn't let me off the island to get over there last month because they're supposed to pay 60 days in advance so now we're supposed to have January done already, but if those dates -- again, they didn't tell me what they were, and my feeling is, which really isn't that big, is they shouldn't get them because it isn't a special event if they didn't tell me what it was, and then I told them you would have to okay their special event and they would be here.

Mr. Kalalau: Okay, Ray.

Mr. Hutaff: I'd like to agree with you and put it in words here that other than Na Kupuna O Maui, cause we know exactly what they do and why they do it, okay, Lahaina Town Action Committee has various things that they do, some -- most we're in favor of but having an unknown is something I don't think that we can actually approve at this particular point in time. I would rather have them come and tell us what they're going to do and get approval that way.

Mr. Ashfield: As I said, I talked to Ron right after your meeting back there and said I'm putting this together if you wanna have this. He called me and says, "I wanna have those dates." I said, "If you wanna have them, you better come and talk to the CRC and get those dates approved." And I don't see him here so either he's busy or something or -- it's time to make the schedule and if he's not on the schedule, sorry.

Mr. Kalalau: Okay, Corporation Counsel, you have --

Mr. James Giroux: I just wanna make a comment cause I've also been struggling with this issue for about three years with you guys so I just wanna bring everybody back to Page 1 where I really wanna make it clear that the responsibility of the CRC is to -- to screen the user. You're going to screen the user. The administration of the park is Parks Department.

So I don't -- I appreciate the schedule because it does bring clarity to the users but, again, if somebody comes in and becomes a third user, just because we saw this doesn't mean we approved it. Parks has to go back to square one and say, oh-oh, we have three users now. Now, you know, we have to administrate that. Because we -- our purview is to say we approve of the use but it's the administration's job to -- to make it fair and balanced on how it's used and I think -- I mean this -- this brings clarity to us as far as we know the schedule but it's for the users -- I mean if the users change their use, then it doesn't mean they have a clear slate on these days, and if we don't know what the use is, that doesn't mean they have a date that they can do whatever they want. They still would need to come in, get their activity culturally reviewed and to see if it does meet the criteria of a cultural use, and then it's for the administration to then pick that date or okay that day.

Mr. Fredericksen: I've got a question for you, James. From what you said, it sounds - just so we don't jam-up the Parks Department - we could approve this minus the -- those two questionable dates pending them coming in, and so the rest of the schedule would be set so the Parks Department would know what was going on and --

Mr. Giroux: Yeah.

Mr. Fredericksen: You know, could deal with everything that they have to deal with.

Mr. Giroux: Yeah.

Mr. Fredericksen: And then if Lahaina Town Action Committee so chooses to come in about the 23rd and 24th of May, those two dates, and it's an, you know, it's an appropriate activity, then that could be granted if at that point, some point -- I mean between now and before May?

Mr. Giroux: Yeah, and again, we run into that reasonable amount of time we -- the users need to know that just because it's three days to their event, and they just made it onto our agenda, doesn't mean that we have to approve that. So it's in their best, you know, to be aware that the users need to understand that we are an approval process so we need -- if we don't get the information we need, and we don't understand what you're going to do, we can't -- just because there's a day open, we can't guarantee that your event's going to happen. And so I think as the users become more established to the process, we're just trying to be consistent, we're trying to bring clarity, and trying to allow people to know that there is a process in order to use the tree and we're part of that process, and we're working hand-in-hand with Parks, because I didn't want this Commission to be straddled with the decision-making of who gets to use what on what day because I don't feel that that's really the burden that should be placed on you, it's for a cultural review. And so the users, if they start popping up, they need to know that they need to come before us to get a full fair review of that use and then if they are approved, then the administration then goes and

sees, on a fair manner, how that distribution works, and I think the Parks is doing a really good job as far as trying to manage that so --

Mr. Ashfield: My only question is: That means anybody can come at anytime to one of your meetings and ask to be a user of the tree where your rules say, every year, you have to okay them once a year? So in the middle of the year, somebody else comes in and say I wanna use the tree --

Mr. Giroux: Yeah, and see that's the issue as far as when they come, that's part of the understanding that we have is that we need to know how many users there are, we need to know, you know, why, if they're wanting to use it on certain days, why that's, you know, why -- why because that's part of the cultural analysis to special days of special meetings, and so when you're looking -- we're looking at that, you know. And also too, you know, for Parks, it behooves you to show up and say, you know, here's our -- here's the schedule we have now, guys, and if you guys are going to put four more users on, this is where we're going to, you know, this isn't -- aren't going to be our problem. This is how our problem is amounting.

Mr. Ashfield: Well, there is a time limit that they have 60 days before they have to pay for anything so they have that time limit that they have to be under just regularly.

Mr. Giroux: Yeah, and that's why we want to leave the administration to, you know, because if we approve them and you don't have room on your calendar, then, you know, all we said is we're okay with the use. You administrate the use and --

Mr. Ashfield: Well, that's just what I came for, to find out that you okay their use and we'll take care the administration of it.

Mr. Giroux: Yeah. And what we're saying is although we okay'd this use, if it changes, then further use, expansion of the use, density of the use, frequency of the use, those kinds of things need to come again and we need to check on that. So just to bring clarity to how we want to be processing, you know, this.

Mr. Ashfield: The use is pretty clear. It's Saturdays, Sundays, and holidays less the last page, which is the closing page. That's the days that the tree is closed and nobody can use it. So that's down. The users are the only thing that we have to worry about, that you okay, and then we'll squeeze them in somehow and I'll have to have a meeting with the other users.

Mr. Kalei Moikeha: Question. This is an administrative question also. So if -- is there ever a time when you would okay usage under 60 days if somebody comes and has something say --

Mr. Ashfield: No.

Mr. Moikeha: Not at all?

Mr. Ashfield: Not unless they went to the Mayor or the special events coordinator went over my head, which happens a lot. It's 60 days but then the director or the Mayor can say, okay, you have to do it but, again, then they fall under your -- it'd have to be something cultural that would be in there.

Mr. Moikeha: Well, that's just my thought. If something cultural does come in, and they're under 60 days, I just wanna see who -- what we would have to do.

Mr. Ashfield: Yes --

Mr. Moikeha: Okay.

Mr. Ashfield: Director or the Mayor, and that has happened before at other venues, not that one.

Mr. Moikeha: Okay.

Mr. Kalalau: Okay, anymore questions?

Mr. Perry Artates: Yeah. Not a question but what days does Na Kupuna O Maui has access to the tree or to do what they're ...(inaudible)...

Mr. Ashfield: All those days that are open that says "user" on top will be divided between Na Kupuna O Maui and the Lahaina Arts Society. They have a meeting scheduled for, I think, Wednesday of next week and they will divide up those days. I don't know how they do it. I don't really care how they do it. They give me a list what days they got. I think there's about 84 so they'll get 42 each. And then we start making permits out for them and it's finished. That's why Lahaina Town Action Committee has those dates because those are broken out so they don't divide them out and they look for boats and whatever coming in, and I don't know when the boats come in.

Mr. Kalalau: Okay.

Mr. Artates: I just kinda wanna make sure that we take care of Na Kupuna O Maui, you know what I'm saying? Balance it out. Not weigh it one sided. And they have a fair share of the activities that --

Mr. Ashfield: They will get, if there's two users, they will get 50 percent of the days that are open.

Mr. Artates: Okay.

Mr. Kalalau: Okay, anymore questions? Because I think we have to actually open this thing up to anybody in the public that wants to comment on this too so --

Mr. Fredericksen: Yeah.

Mr. Kalalau: Okay, thank you. On this agenda item, is there anyone in the public that wants to come up and have any comments or concerns or wanna talk about this, the Parks' users calendar, activity calendar for the Banyan Tree? Please come forward and if you come forward, state your name. See that we have none, but there was some questions about Na Kupuna O Maui, since we have Aunty Patty here --

Ms. Patricia Nishiyama: Aloha.

Mr. Kalalau: Okay, good morning. My question to you was that you guys are going to work with Lahaina Arts Society in figuring out what dates that you guys are going to share?

Ms. Nishiyama: Yes, we have -- we have always done that and it's become -- it's balanced, and we're happy, and we have no problems. I've been paying for all our administration fees, and insurance, and everything is fine. Yeah.

Mr. Kalalau: Okay. Thank you. I just --

Ms. Nishiyama: And we, when he has a problem, the County, we work it out and we're in harmony.

Mr. Kalalau: Very good. That was my concern. Anybody else with --

Mr. Fredericksen: Just a quick one. Just for the record. Your name?

Ms. Nishiyama: Patty -- Patricia Nishiyama, aka Aunty Patty Nishiyama, Lahaina, Maui.

Mr. Kalalau: And what's your status with Na Kupuna O Maui?

Ms. Nishiyama: Well, they make me their po`o but I don't consider myself as being a po`o. I'm their kako`o of Na Kupuna. I've been with them for 25 years, and I started out as a kupuna in training, and I've learned a lot, really. I'm blessed to have them, to be fair, and

try to work things in harmony, and not only for 50 and 100 percent Hawaiian, it's for all Hawaiians and people who live here on Maui.

Mr. Kalalau: Okay, thank you.

Ms. Nishiyama: You're welcome. Mahalo.

Mr. Kalalau: Thank you. Anybody else from public that wants to comment on this agenda item? If not, we wanna thank the Parks Department for being -- I guess you guys are way ahead of schedule in presenting us with this activity -- users activity thing but I'm just hoping that it gets out to the public for those users that haven't, you know, is thinking about doing activities down there under the Banyan Tree that they do come in ahead of time. Okay, if it's alright with the Commissioners, we need to make sure that we acknowledge this users schedule for the Banyan Tree from the Parks Department. Are we okay with this?

Mr. Fredericksen: Sounds good.

Mr. Hutaff: Yeah, I think acknowledging it is fine but I think we need to put in the writing side of it that 5/23 and 5/24 where Lahaina Town Action Committee has not actually said what they're going to do with it --

Mr. Kalalau: Oh, the open dates, yeah?

Mr. Hutaff: Yeah, those two questionable, we don't know what they're going to do with it, and that as is we would approve it but those two dates we can't really approve at this point until we have more information. In other words, not disapprove it, but we can't approve it either.

Mr. Kalalau: Right --

Mr. Hutaff: Does that make any sense?

Mr. Kalalau: Yeah, you're right. This is why we're kinda just acknowledging this present -- this schedule here.

Mr. Artates: We're not taking any action on this, right? It's just for our common knowledge --

Mr. Kalalau: Yes.

Mr. Artates: Of what's coming up for 2009, right?

Mr. Kalalau: right.

Mr. Fredericksen: With the understanding that Parks Department will administer as they see fit unless they, the Lahaina Town Action Committee, does come back.

Mr. Giroux: Yeah, I mean if there's an extraordinary change to their -- their use or purpose, I think we would need to re-review that, and I think their permit say that.

Mr. Fredericksen: Thanks, James.

Mr. Moikeha: So, Mr. Chair, are we going to have like a reminder on a agenda item that it's coming up so that it just doesn't slide by? You know, I mean we're talking about it but if something just slides by, we're not going to even know, so would it be on March or April agenda so we can at least take a look and see if something is going to happen?

Mr. Kalalau: I think it should be sooner, you know, I -- you know, yeah.

Mr. Moikeha: Well, just a reminder.

Mr. Kalalau: Right. Right.

Mr. Moikeha: What in particular is going to happen so we can at least say nothing's happening or something is happening.

Mr. Kalalau: Right, it --

Mr. Ashfield: To maybe help answer that, they gotta be 60 days ahead, and they'd have to come to you. By Wednesday we're going to know how they're going to divide up those days. Now somebody's going to get those day, either the Na Kupuna or the Lahaina Arts Society. If your Commission says okay, Lahaina Town Action Committee can have those two days because they're putting on a hula festival or something, then they'd have to -- we'd have to go back and divide up the other days between -- whoever loses those two days would have to pick up one day some place because the other one would lose one day, but they have to do that at least two months ahead of time in order to pay for it, so we're talking some time in February, and it shouldn't be able to slide by because you people have to tell us, okay, they decided to do that, or anybody else that comes forward. We have a two-month time frame so anytime you pass anything on the first Thursday of the month, it's not going to happen for two months after.

Mr. Hutaff: So, basically, what you're saying is that on those two days, 5/23 and 5/24 that's in question to be held by the Lahaina Town Action Committee, we would still have to have the approval process or at least it come before us to finalize that?

Mr. Ashfield: That's -- yes.

Mr. Hutaff: So we don't have to worry about putting it on our agenda. You'll put it on our agenda.

Mr. Ashfield: Well, if they come to you and say, okay, we want those days, or anybody comes to you according to what the lawyer said, attorney said, comes to you and say, okay, we want to add this or do this, then you would say okay and say, okay, we said okay, but it would have to be a two-month lag time before us, so you're talking that one, February, if they come in April --

Mr. Kalalau: Too late.

Mr. Ashfield: Too bad. If they come in -- if a new person comes in June, they can't do anything for two months till August. So I don't think it could slide by because they have to come to you and then you would have to knock me in the head and say, hey, we gotta do something.

Mr. Kalalau: Okay, anymore -- thank you. Stan, the next agenda item?

D. PERMIT REVIEW

1. HISTORIC DISTRICT APPLICATIONS

- a. MR. THOMAS IZON on behalf of HONOLULU COOKIE FACTORY requesting review and comment on proposed signage for a storefront located at 659 Front Street in the Lahaina National Historic Landmark and Maui County Historic District No. 1, TMK 4-6-001: 005 (Por.), Lahaina, Maui. The CRC may comment and provide recommendations. Public testimony will be accepted. (S. Solamillo)**

Mr. Solamillo: Under Permit Review, Historic District Applications, instead of Thomas Izon is Mr. Scott Matsui on behalf of Honolulu Cookie Factory requesting review and comment on the proposed signage for a storefront located at 695 - not 659 - Front Street in the Lahaina National Historic Landmark and Maui County Historic District No. 1, TMK 4-6-001:005, a portion thereof, in Lahaina, Maui. The CRC may comment and provide recommendations. Public testimony will be accepted.

The storefront that we're talking about is one in a multi-colored row that's located in the 600 block of Front Street and these are one of the few buildings in Lahaina which are concrete.

The building is located in the Lahaina NHL, and the boundaries are shown here as they appear going out into the Pacific as well as back into town past Honoapiilani Highway. Historic Districts No. 1 and 2 are shown respectively as blue and purple. The arrow marks the spot of where the storefront is located and it's just on the inside of Historic District No. 1. This is a fragment of a Sanborn Map, which was probably done in 1919, with a photograph as the storefront appeared in the 19 -- early 1970's. It's a photograph as it appears today. In 1914, all those buildings located on this site were wood and they were typically Japanese fish markets and Japanese hotel. And this is a fragment of a Sanborn Map from 1914. What happened in 1916 was that there was fire. So by 1919, everything is rebuilt in concrete. These are views of the aftermath of the fire, at the corner of Market and Wharf Streets, as they were named at the time, looking northeast and showing that the fish markets were totally destroyed as well as the Japanese hotel. The second shot at the corner of Front and Market looking southwest indicates some more of the damage.

As I said, before the buildings were rebuilt in concrete, and actually Lahaina and Pioneer Mill did a lot of the first concrete buildings on Maui, in 1913 the Pioneer Mill Store was built on Front Street and this one follows and they all follow the Pioneer Mill office, which was built in 1910 also of concrete.

This is a shot that was taken recently and this is at 6:00 -- excuse me, the 7:00 sun, as it comes over the West Maui Mountains, it only lights up the top, throws the bottom of the storefront into deep shadow, but through Mr. Izon's talents at a W Photoshop, we lightened it up, so the storefront in question here is the turquoise storefront. The hanging sign, which is proposed for this storefront, is outline in a white dash line, it conforms with the sign guidelines for the historic district, and these are the dimensions of the sign. It's a double-faced plate sign, redwood carved panel, embraced painted edge and forest shade, the dimensional lettering, suspended from a metal chain.

The Planning Department recommends approval.

Mr. Kalalau: So, Stan, this sign is going to hang right where you have -- right there where that round circle is?

Mr. Solamillo: Yes.

Mr. Kalalau: It's going to be hanging facing -- is the signage on both sides of that sign board?

Mr. Solamillo: Yeah, the signage is both sides so it's actually oriented toward the pedestrians.

Mr. Kalalau: On the far left of that photo, is that another hanging sign?

Mr. Solamillo: That was but I believe that's been removed. Mr. Matsui could probably address that better than I cause this photograph was taken some time in I think it was August and the actual circumstances were that the sign had come up and the inspectors caught it and told the Honolulu Cookie Company to remove the sign and then come through the process and apply for a permit.

Mr. Kalalau: So the sign is actually a two-sided sign?

Mr. Solamillo: Yes, it is.

Mr. Kalalau: Okay. Questions? Comments?

Mr. Fredericksen: I got a question.

Mr. Kalalau: Erik?

Mr. Fredericksen: Stan, qualitatively, what is the state of compliance in the sign situation in Lahaina now? Qualitatively. Give me a grade.

Mr. Solamillo: I would grade it "D," and I will compliment this applicant because very -- oftentimes, very few applicants come in and we have this problem of proliferation of permanent as well as temporary signs. Temporary signs only during business hours and they miraculously vaporize overnight only to show up the next day.

Mr. Fredericksen: Next business day.

Mr. Solamillo: Yes.

Mr. Fredericksen: Thanks.

Mr. Kalalau: Anymore questions for Stan? Is the applicant here?

Mr. Solamillo: Yes, he is.

Mr. Kalalau: Okay, can we have the applicant come forward?

Mr. Scott Matsui: Hi. I'm Scott Matsui from Honolulu Cookie Company.

Mr. Fredericksen: Good morning.

Mr. Matsui: Good morning.

Mr. Kalalau: You guys been operating in there for?

Mr. Matsui: About a year-and-a-half.

Mr. Kalalau: A year-and-a-half.

Mr. Matsui: Yeah, and that sign, to the far left, it's still there.

Mr. Kalalau: Okay. It's for the other shop?

Mr. Matsui: Yeah.

Mr. Kalalau: Okay. Questions? Comments?

Mr. Hutaff: Thank you for taking it down and coming back and applying. I appreciate that. Just a question, not meaning to challenge you or anything, but how important do you believe that sign is to your business?

Mr. Matsui: I think it's very important. When people are walking down the street, I think for all businesses on Front Street, you know, people are walking down the sidewalk, they see the sign. If not, the sign on the -- if it's on the storefront itself, people won't see it.

Mr. Hutaff: Why the pineapple as far as your logo? Looks nice.

Mr. Matsui: It's actually an exclusive shape, our cookies, that we cut our cookies in. Nobody else can cut that pineapple shape cookies so it's exclusive.

Mr. Hutaff: I like that. Does that place do good business?

Mr. Matsui: We, like I was telling Stan, last month we were down about 18 percent. We also have a store at Whalers Village, which we were down 17 percent. So we're doing okay.

Mr. Hutaff: Good. Thank you.

Ms. Nani Watanabe: I have a comment.

Mr. Kalalau: Okay, Nani?

Ms. Watanabe: Aloha. I'd like to thank the cookie company cause I travel with the visitors bureau and you folks gave a lot of cookies for us to give out, and it was wonderful, and I was at Whalers Village last night so we saw your cookies being given out as well.

Mr. Matsui: Thank you.

Ms. Watanabe: Mahalo for supporting Maui Nui.

Mr. Matsui: Thank you. I'm from Kihei so --

Mr. Moikeha: Stan, can we see the sign again? Can you put it up?

Mr. Kalalau: Okay, Commissioners, if we don't have any more questions or comments for the cookie company, we will open this portion for anyone in the public that wanna make comments or testify on this agenda item.

Mr. Fredericksen: I just have another -- just a quick comment.

Mr. Kalalau: Okay.

Mr. Fredericksen: I appreciate this company being, you know, doing the right thing because they are in a historic district, and I'm glad that they're, you know, choosing to comply with the rules, and so that, you know, I'm happy to see that.

Mr. Artates: And I applaud that too.

Mr. Matsui: Thank you.

Mr. Artates: The good work as far as coming before the Commission because sometimes people just slip through the cracks and they don't come up front the board of what they're doing, yeah, and that's been repetitious. So, like I said, I applaud that you're coming up front and presenting this ...(inaudible)...

Mr. Kalalau: Okay. If not, we will now open this portion to anyone in the public that wants to comment on this agenda item. If you do, please come forward and state your name. See that we have noone coming forward, the floor is now closed for -- okay, Stan? Can you read the County recommendations?

Mr. Solamillo: Well, the County recommendations is that the proposed sign meets the sign guidelines of the historic districts and recommends approval.

Mr. Artates: Mr. Chair, I motion to approve.

Mr. Fredericksen: Second.

Mr. Kalalau: It has been moved and seconded. Any more discussions or comments before we take a vote. See that we have none.

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

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

VOTED: to approve the sign.

Mr. Kalalau: Motion passed. Thank you very much. Our next item.

Mr. Solamillo read item D.2.a. into the record.

2. ADVISORY REVIEW

- a. MR. BILL D. MILLS on behalf of MAUI LANI 100 LLC requesting review and comment on Proposed Maui Lani Village Mixed Use (VMX) District located at TMK: 3-8-007: 151 (Por.), 152, and 155 (Por.), Kahului, Maui. The CRC may comment and provide recommendations. Public testimony will be accepted. (A. Cua)**

Ms. Ann Cua: Mr. Chairman, members of the Commission, this request is coming before you as recommended by the Maui Planning Commission. The application that is before the Commission is a Project District Phase 2 application, and I'll just speak a little bit about the project district process.

There are project districts located all over the island and the process to establish a project district is a three-phase process. The first phase is establishment of the ordinance and that is where the uses and the standards are identified and to achieve that, one must go to the Planning Commission for a public hearing and then go to the County Council, and the County Council is the authority to approve Phase I Project District, so they create the ordinance and the ordinance is basically what governs that district. Then within the districts, so that's your box, if you will, and within the district there's all these different uses that are permitted and standards, and project districts normally are done phased, sometimes over 15 years, 10 years, 20 years, 30 years, and as they are phased, they have to go through subsequent project district phases. The Phase 2 phase, if you will, include submission of a preliminary site plan, which shows how the project district will be laid out, you know, how you're going to your lots, how you're going to do your building pads, and then conceptual plans for vertical construction. So what are your -- based on your site plan, what is the vertical construction going to look like? And then that goes to the Planning Commission. They hold the public hearing. And they either grant or does not grant

approval. And after that is done, the applicant prepares construction drawings and they have to come back to the Planning Department for the third time, for the third Project District Phase 3 approval for final construction plans. And what we do at that time, it's an administrative approval, it doesn't have to go back to Planning Commission, but we have to assure that the construction drawings are in accordance with the preliminary site plan that was approved at the Phase 2 level by the Planning Commission and the department.

So for this particular project in Maui Lani, they're coming in for the Phase 2 site plan approval with the Maui Planning Commission, and the Planning Commission conducted -- conducted a public hearing on August 12. And at that time, they discussed the project in quite a bit of detail, and the issue was raised as to if this project had come before the Cultural Resources Commission. And the department indicated that it had not. And the reason why it had not come before the Commission is because this project had gone through State Historic Preservation Division. We have a letter from State Historic Preservation Division dated May 14, 2008, which talks about two monitoring plans that have been approved for this project, and I transmitted copies of the monitoring plans as well as State Historic Preservation Division's letter, I believe, to you, and for those reasons, we did not submit to this committee, and this would be -- the same thing would occur if it was another project with the same set of facts. The commission, however, requested that it come before you and so that's why we're here today, but I did wanna give you all this background information so you have some reference for why we're here and the process.

So today, the applicant is going to do a short presentation to talk about the site plan a little bit, talk about the archaeological sites. The comments that you make at today's meeting I'll put in a letter and the project is scheduled to go back to the Planning Commission on December 9. So your comments, at that time, will be made a part of the record and will be part of their decision-making process. Now --

Mr. Fredericksen: Excuse me. Good morning, by the way. Qualitatively, how big is this overall Maui Lani project development?

Ms. Cua: This?

Mr. Fredericksen: No, the overall. The overall Maui Lani.

Ms. Cua: Oh, the entire Maui Lani?

Mr. Fredericksen: Yeah. And I understand it's phased and everything.

Ms. Cua: It's, I don't know, a thousand acres maybe. About a thousand acres. This particular project is about 91 acres and this project is -- it's called "VMX," village mixed use, and so part of the project is a commercial component, and the other part of the project is

a residential component. And I wanted to go over two site plans. I gave you two site plans. Again, this is part of just background information so you have pretty much as much information as everybody else.

The first site plan is dated September 10, 2007, and that's the plan that the Planning Commission reviewed. The second site plan, dated November 3, 2008, is going to be going to the Commission in December. It went to the Urban Design Review Board on Tuesday and received their support. And although this is not too much of an issue for you, but I just wanna kinda orient you to what happened, one of the things that the department had commented on when we looked at the first site plan, and now even to get this first site plan that went to the commission, it went through several iterations to even be able to receive the support from department to go before the Planning Commission, and one of the things that we commented on is that we really discourage the use of very large parking lot areas and we prefer that buildings be used, so you have building architecture and you have landscaping that line your streetscapes as opposed to hard surface asphalt parking lots. So the second plan, you can see, does a little bit more of that. It breaks up more of those large parking lot areas and it puts those buildings along the street. They also have design guidelines that have been reviewed and approved for this project that as each phase comes along, they're going to have to comply with the design guidelines. So, you know, with that, I wanna turn it over to the applicant and have them take you through the project very briefly and talk about the archaeological and cultural issues, and then I'll come back and get any comments that you may have, okay?

Mr. Kalalau: Okay, thank you, Ann.

Ms. Cua: I'm turning it over to Leiane Paci.

Ms. Leiane Paci: Good morning. My name is Leiane Paci with the Maui Lani Development. Before I get into a brief summary of our project, I did want to introduce our team that we brought with us today and we're hoping that we brought enough members that we are able to answer any questions that you have. But behind us we have Steve Miller in the corner there. He's our commercial development manager, and he's been the main one that's been coordinating and working on this project. Gary Kawano, he's our operations manager. He's our site guy making sure that all our site contractors are in compliance with grading ordinances, and dust control, and that type of thing. We have Uncle Les Kuloloio. He's been our cultural consultant since the mid-'90's, which is pretty much when we started development of our Maui Lani project and he has quite an extensive resume that some of you may know, including vice-chair of the burial council. And then we also have Lisa Rotunno-Hazuka, who is our archaeologist, and she's also been on our project for many years. With Munekiyo and Hiraga, we have Gwen Hiraga here also today, who has helped us through this process.

Now, the village mixed use project is located along Waiale Road. It's located along Waiale Road. Right here. This Waiale Road. This is Kuikahi Drive that goes up toward Wailuku Heights. And just to orient you, this Kuihelani Highway here; Kaahumanu Avenue is up here. This black heavy line is the project boundary for our village mixed use.

Some of our neighbors in the area include -- there's a low-income affordable housing project here. This is the Waiale Reservoir. There's a County of Maui water tank. The Kehalani Project District is right across the street from us. Kihei Gardens, and this is a County of Maui landfill that has since been closed.

The village mixed use project is divided into -- it's divided into two main zoning sub-districts. One is the village mixed use commercial/residential, which allows for a mix of retail, office, light-industrial as well as residential, so you can kinda envision what you see in Wailuku Town with the storefronts and some of the apartments above it, and that encompasses about 57 acres of our project. And then we have the village mixed use residential, which is -- allow us to do a mix of single-family and multi-family in the same area, and that's about 34 acres. Now, when we proposed this project, because it wasn't part of our original project district zoning, we revised our zoning several years ago to add the village mixed use to the Maui Lani Project District, we offered to provide 51 percent of the units, single-family -- or, excuse me, residential units built within the village mixed use as affordable, and that's in the range of starting below 80 percent of median and going up to 140 percent of median. The original project district area in Maui Lani has a 20 percent affordable housing condition and that's part of our original project district zoning that we received in 1990.

Now, as part of the process for developing in Maui Lani, we start with an inventory survey, which is where we go out onto the project, the area that we're looking at developing, and we do test trenching to see what is out on the site and to see if we can determine areas that may be archaeologically sensitive. Once we complete that test trenching, then we prepare a report and that is submitted to State Historic Preservation for review, comment, and approval. From there, we establish a construction monitoring plan, which we work with throughout the project, and that identifies how we are to work the construction from grading, when we encounter a sensitive area, how we protect areas during construction, and then also reporting, such as if we do inadvertently find something during construction, we have a reporting process that goes to State Historic Preservation as well as the burial council.

Mr. Fredericksen: Excuse me? Good morning. Could you, for just the record, indicate when the inventory survey was carried out that you referred to, please?

Ms. Paci: The original inventory survey date was --

Mr. Fredericksen: Just about.

Ms. Paci: For the village mixed use or --

Mr. Fredericksen: No, for the overall.

Ms. Paci: For overall?

Mr. Fredericksen: Overall.

Ms. Paci: Okay.

Mr. Fredericksen: The overall Maui Lani project.

Ms. Paci: Overall, it was in the mid-'90's. Now, we did an overall inventory survey that, basically, ran from one side of our project district to the other, but as we phase our projects, we are required to do --

Mr. Fredericksen: Additional.

Ms. Paci: Additional inventory survey for every project.

Mr. Fredericksen: And then this one was done more recently for this, the VMX area.

Ms. Paci: Correct.

Mr. Fredericksen: Okay, thanks.

Ms. Paci: Correct. As part of our request for change in zoning, we did do an inventory survey. Now, the process that we go through with our inadvertent finds, although it is under the jurisdiction of the State Historic Preservation department to determine what the final disposition of these burials are, we also involve the burial council so that we can get their recommendations. With, you know, some of our areas in the Maui Lani Project District, specifically some of the roads that run through the village mixed use project, we worked with the burial council and State Historic Preservation to try to redesign roads and projects in the area to preserve as many of the burials as possible. There were some burials that were at an elevation that they could not be preserved in place because of the elevation of the road and the tie-in to Waiale. In those cases, we identified preservation areas where those burials would be placed.

Now, what happens with preservation areas, and we have a number of them in Maui Lani, is typically we come up with a burial treatment plan, whether it's burials are preserved in place or sometimes it's a combination of also burials that are relocated and put into this preservation area. Our burial treatment plan includes landscaping, fencing or walls to

protect the area, and then typically what we do is we place the property under the homeowners association to assure that the landscape in the area is maintained. And so that's what you can see throughout Maui Lanai a lot in the residential areas. We have specific areas where we've given up a couple lots in order to accommodate burials that we've discovered.

Mr. Fredericksen: And this is all been in consultation and conjunction with presenting findings to the burial council?

Ms. Paci: Correct.

Mr. Fredericksen: Maui/Lanai Island Burial Council?

Ms. Paci: Correct. We work with them quite a bit.

Mr. Hutaff: These areas also that you've cordoned off, it's publicly identified, right, so people who drive by, walk by know that that's what that area is about? Signage?

Ms. Paci: They're -- typically there's not, you know, big signage. In some areas where rock platforms are built, there's a rock on the rock platform that indicates that it is an archaeological site and the State issues site numbers so that it is registered with the State.

Mr. Hutaff: So the ones that aren't marked, how does that really preserve the area even though you've maybe cordoned it off? How does it preserve the area if you don't mark it so people can go and go, oh, that's what that is? We'll honor it or whatever.

Mr. Fredericksen: Abuse.

Mr. Hutaff: Yeah.

Ms. Paci: Our earlier preservation sites, this is going back to the mid to late '90's, typically with -- if it's like a preservation lot, a residential lot that we've specifically designated for this use, we use a combination of walls of fences, so there is no -- we don't usually put a pedestrian gate or anything to it, but we make the fence low enough that people can go and visit the site, and visually see it, but we don't really encourage people to walk into the property. And the type of landscaping we use is all native Hawaiian plants. We use a lot of groundcover so it's not like a flat grassy area that people think they can go picnic on or anything like that.

Mr. Hutaff: I was just thinking 20 years from now, if somebody turned the water off and it became a desolate area, you know, what would prevent -- what would keep people informed of the significance of that area? I think that's important.

Ms. Paci: I think more we're putting site numbers on. You know, there's always the balance with wanting to keep some confidentiality of what is there, you know, just because of potential vandalism and, you know, there has been some history of, you know, cults on Maui doing odd things --

Mr. Hutaff: That's a good point.

Ms. Paci: And that type of thing so, you know, there is a balance there so -- now, let me switch this plan. Within our project itself, we have been working on grading - actually this site here has been under grading since the early 1990's. We've been working with Ameron. And during our grading, we have discovered several archaeological sites within our village mixed use project and this includes, this is the extension of Kuikahi Drive into our project district, we have several archaeological sites here, those sites we worked for a year-and-a-half with the burial council and State Historic Preservation to determine what we could do. There were a number of burials that we were able to preserve in place. There were other burials that were approximately 15 feet above the elevation, the finished grade of the road, and because we are so close to the intersection of Kuikahi and Waiale, we could not raise the grade anymore in this area to accommodate burials. In that case, what we were able to do is designate preservation areas on both sides of the road that will accommodate the relocation of the burials as well as preserve in place some of the burials on the side of the road. There are also some burials that were discovered here during grading. This is actually a slope bank between Kihei Gardens and our project. And there is another site over here in our village mixed use residential. So these have all been reported to the burial council and State Historic Preservation. Kuikahi, you know, we've determined a plan and we kinda have the final disposition of these burials determined. These, because our plans are still moving around, you know, these are conceptual layouts, we're still working with State Historic Preservation and the burial council to determine the final disposition of some of these burial sites.

Mr. Kalalau: Okay, anymore questions for Leiane?

Mr. Fredericksen: Yeah, I have a question. I'm not sure if for you or for Ann but I'm just trying to understand things. One, okay what the Planning Commission said. Two, does this have a permit for what's going on, so is there a permit to grade right now? Is that what it is?

Ms. Cua: Yes, they've received a permit for grading.

Mr. Fredericksen: Okay.

Ms. Cua: And in terms of the Planning Commission's direction is they just wanted the project to be presented to this Commission and get any possible comments that you may have, and it was as simple as that.

Mr. Fredericksen: Yeah, and here's another -- another question because I mean this has I know been going for a long time and it's just, you know, just a question that I have is why -- why now? Because how many -- this is what phase of a thousand acres? I mean what phase is this in the overall project? I mean it's been going on for some time, right?

Ms. Cua: This is, and that may be a better question for Leiane, but, you know, this is one of the newer areas in terms of zoning, correct?

Ms. Paci: Yes.

Ms. Cua: They came in for zoning later than the rest. I think part of it may have already been zoned. I didn't handle the zoning so I don't -- I'm not as well versed on that. But, you know, they had a very large areas that had gone through, not only the Project District Phase 1, but the Project District Phase 2 process and it had sat there for, I don't know, 15, 20 years. I don't know. A long time. And then I would say within the last 5 years or so, or maybe even longer, they started coming in with numerous Phase 3 applications, and you've seen a lot of development in Maui Lani, some of which did have to go through a Phase 2 process again, which was not residential, like different churches, Kaiser facility, the dialysis center, we have an application in for a proposed Safeway, so there's been a lot of stuff happening, but this is one of the newer residential and the first village mixed use concept for Maui Lani.

Mr. Fredericksen: Thanks.

Mr. Kalalau: Kepa?

Mr. Maly: Chair, may I please? I noticed that on your plans that you gave out to us there is no indication of preservation areas of any type, not necessarily identifying them as burial sites, but is there a reason why there's no indicator on like this I guess September 10, 2007 or the November 2, 2008, there's no indication of preservation areas I see on this map that you identified perhaps four or five sites where burials are known to occur. So there's no discussion of it yet in your plans and how that would be worked into. You briefly described potentially that something would be laid over to the community association but will they have the knowledge that's necessary too? And as Commissioner Hutaff was discussing, there are very good options for signage that, if nothing else, identifying site numbers and indicating that Chapter 6E penalty for, you know, damage or intrusion into. I'm just -- I am concerned that with the development, there's no indication of preservation areas anywhere in the plan right now that I see on this.

Ms. Paci: Well, the -- the more recent finds, which are in the lower part of our plan, we don't know what the final disposition of the burials will be, you know, because we need to work -- it's really a 3D puzzle. You've gotta look at the elevation and the location and, you know, whether we can preserve it or not. I mean we always look at, first, what we can do to preserve the burial in place, you know, that's always our priority. You know, the burials up at Kuikahi, there had to be a compromise there, like I said, because some of the burials were at a very high elevation and we looked at different versions of the road. We actually moved Kuikahi over to try to accommodate more of the burials in the landscape median. We have a fairly narrow street frontage on Waiale Road so we weren't able to completely relocate Kuikahi Drive, which is one of the options that we looked at, it would have offset the intersection at Waiale and Kuikahi, and when we met with the Public Works, the offset wasn't far enough away that you have I guess stacking problems with the cars because of the offset of the roads. So we look at it, you know, quite a bit on the engineering design side. We probably went, with Kuikahi, we probably went through, without exaggeration, you know, 10 or 15 versions of road designs trying to figure out a way, the best way possible, to work around the burials and it did end up being a compromise between preservation in place and creating landscape preservation easements on the side that will have some preserved in place but also some relocated burials. Now the final plan for those landscape easement areas as far as landscaping and fence boundaries, that type of thing, has not been finalized and that's something, again, we would go back to the State Historic Preservation and work out those details. We would need to go through a similar process with the burials that are in the lower half of this plan and we're just not that far along because some of these burials are fairly recently discovered in our recent grading activities.

Mr. Fredericksen: I share Commissioner Maly's concern about why -- why don't -- those sites should still be put on here. I understand what you're saying, it's because the development is in process right now, but still those -- those burial finds are part of the landscape, if you will, right now and that's -- I mean that figure that's there is the same thing we have except we -- it's absent the archaeological sites that are indicated on -- on that and it's just that this stage, for informational purposes, so in looking at the figure that we have, it makes it easier. I'm at a point where I need to start probably wearing glasses. That's a little too far away for me to see what, you know, where these particular sites are located on this plan. And just on a sidebar, the - I'm not sure how to describe it - but the revised plan for this area looks a lot -- it has lower density appeal to it anyway, you've broken up the parking lots and stuff, and that's not our purview per se, but I just -- you know, that's, I think, that's something that's good.

Ms. Paci: Yeah, I apologize as far as the difference with the plans. I wasn't aware until yesterday that we were actually producing handouts but if I -- we could have, you know, printed smaller copies of this because it does list, with the location of the burials, if you look at the legend at the left, those are the site number that have been given to the various

locations by State Historic Preservation Division. Do you want me to point out the sites and the numbers again?

Mr. Kalalau: That would be very important because, you know, as far as knowing where the burial locations are and the cultural sites are, for a Commission like this, it'll be very important that we know where the locations are. That map would be a very good -- just make a copy of that map and then -- because they have all the legends and, you know, the archaeological site on that map there. The one we have don't show us anything.

Ms. Paci: Okay, I'll point 'em out and if you guys wanna mark dots on your plan, you can do that. There is Site A right here and that's been given Site No. 6261. This is C, these two dots right here: one is in the median of the road, and then one's on the side there.

Mr. Kalalau: And both of them are C?

Ms. Paci: Both of them are C, yeah. Same Site No. 6261 - let's see where it is.

Mr. Kalalau: Right in the corner, I think.

Ms. Paci: B down here in this green area; B is Site No. 6060. And there's E up here, this is Waiale Road along here, E is Site No. 6573. And then over here in the residential area is D, which would be Site No. 6572.

Mr. Fredericksen: And I have another question. How many burials are known to exist at each of these sites at this point in time?

Ms. Paci: Okay, I would probably have to bring up Lisa our archaeologist and she can give you some numbers there.

Mr. Fredericksen: Okay, thanks.

Ms. Lisa Rotunno-Hazuka: Good morning, Commission members. Lisa Rotunno-Hazuka for Maui Lani. The Kuikahi area, within the Kuikahi roadway corridor, we had approximately 13 in situ burials and --

Mr. Fredericksen: That's Site 6261?

Ms. Rotunno-Hazuka: And five that were previously disturbed. And there is one burial that they represent here at D; that is a one in situ burial. In think that's 50 -- no, 6572. In this area where they have E, there is one in situ burial, and just recently we found some disturbed skeletor remains in the area that do belong to a second individual but we're still working on that burial feature.

Mr. Fredericksen: And then the one down in the corner?

Ms. Rotunno-Hazuka: B, there are approximately, in this B area, this is where we're grading now, I think it's approximately 13 in situ burials and 4 previously disturbed. This area had a nursery up here as well as cane fields and when we peeled off the road and all the nursery, there was skeletal remains within the disturbed layer.

Mr. Solamillo: What are the dates or the ages of the -- of the individuals?

Ms. Rotunno-Hazuka: We definitely believe they're pre-contact native Hawaiian burials.

Mr. Maly: And I'm sorry, were A and C combined together then with the 13 plus 5?

Ms. Rotunno-Hazuka: Yes. Yes.

Mr. Fredericksen: A, B, and C.

Ms. Rotunno-Hazuka: A was the first burial that was ever found in this area and that when the road was relocated to accommodate this A, then as we got into construction, started putting in the waterlines, we found the majority of the burials.

Mr. Fredericksen: So for this portion of Maui Lani, what have we got - 20, 30 or so individuals, not all of those are in situ burials?

Ms. Rotunno-Hazuka: Yes, I think --

Mr. Fredericksen: At least 30?

Ms. Rotunno-Hazuka: Yes, I think we have about 25, 26 partial in situ burials and about 8 previously disturbed somewhere around there.

Mr. Fredericksen: Qualitatively, for the overall project, how many burials would you say, just qualitatively? The overall Maui Lani project.

Ms. Rotunno-Hazuka: I don't know that I have a good number, Erik, on that but I do know that about 91 percent of the in situ burials have been kept in place. About a year ago, we were analyzing the data of seeing, you know, how do we deal with the in situ burials. I don't have a number.

Mr. Fredericksen: Well, 10, 20, 30, 40, 50, 100, 200 --

Ms. Rotunno-Hazuka: No, 150.

Mr. Fredericksen: 300?

Ms. Rotunno-Hazuka: 150.

Mr. Maly: Sorry, would you repeat - 150 equals what?

Ms. Rotunno-Hazuka: Is within the -- well what we've developed so far at Maui Lani, we've had over 150 burials.

Mr. Maly: Over the larger parcel?

Mr. Fredericksen: No, how much total area has been --

Ms. Rotunno-Hazuka: About 500, 600 acres? Or 500 acres? About 500 acres.

Mr. Kalalau: Okay, Commissioners, if not. Thank you, Lisa. We will now open this portion of the floor for people in the public that's wants to come forward and testify, and when you do, please state your name.

Ms. Joyclynn Costa: Aloha. My name is Joyclynn Costa. I come in representation of my family, my ohana. One of the comments made I guess was that they had given up at least two of their lots so that they can respectfully preserve our kupuna oiwi and I think what we need to -- what I'm hoping that you, as a Commission for our culture, is know that that is backwards. That our kupuna oiwi has given up their entire area for the project. I know of one conversation I had with a friend of mine that his son had ridden his bike in that area and had fallen into a pit of bones. And no medical doctor could cure him. He needed to have spiritual guidance to cure him. When he went back to go and find this pit of bones, it was gone. I like the question of -- of the whole. How many burials have they found to date? And compare it to the reports that say, in their inventory evaluation, study, survey, monitoring, they find no significance. They find no remains. They find nothing. Until they get that permit, and then it becomes an inadvertent find. They can conveniently be put on the side respectfully. Respectfully. How do you know? Have you gone to see the bones removed? Have you gone to see where they lay to rest? Is that where they want to be? I went in front of the Planning Commissioners. They did not take this lightly. It wasn't just a formality that you needed to be notified. There were requests of how come you were not notified. There was concerns. So much so that they had requested a site visit, which turned out to be a bus ride. We sat in the bus, I participated, there were cones with balloons floating so they could -- we could sit in the bus and they could point out that's the perimeter of the VMX but we're not going to go there because we just mulched the area and it's a little too soft for the bus and whatever have you. And I found that a little bit disheartening because we came there specifically for the visit. We walked the area. And some of the Commissioners were told: "Don't go there. It's sensitive." "What do you mean

sensitive?" "There's burials there." Time and time again, when the question is asked: How many burials? With the people on the ground, they have no answers. You're tied to the information the people on the ground have and the answer is: I'm not sure. The commission, the Planning Commissioners were also told that it's pretty much all graded already so we're probably not going to find anything else. Just like how in the beginning reports it says, "There are no remains found." We just recently found some they say. This statement is made after they've just told the Planning Commission they're not probably 99 percent they're not going to find anything else. It's all graded. They're telling you they're finding things that was previously from the plantation era. So if we're going to think that, well, there was something there already, we'll never find anything. Again, it has been proven that they will find. The kupuna cannot rest and they will come up time and time again. And you, as a Cultural Resource Commission, commissioned to protect our kupuna need to do the right thing. There will be a presentation after this of the Sandhills. We can include the name VMX. So I'm telling you now, when you listen to this story of the Sandhills, picture that. It is smack-dab in the middle of the story. Please picture that. I would ask them to just leave these designs up, these pretty pictures, while you listen to the true story and history of Hawaii, not plantation, not irrigations, not ditch mans, but of the kanaka maole who traveled through there even through this VMX. They're calling out to you folks to do the right thing; that's why they come up time and time again. They gave up no two lots. Our kupuna gave up their burial grounds for a matter of profit. That's not going to be worth a hill of beans by the time the United States gets through with their financial fiasco. In the meantime, our kupuna is being desecrated again and again - previously found; disturbed. They're going to preserve them. How do we know? Twenty years from now, how do we know when the next person sells it off? And how unfair for all of our workers that have to go through this day in and day out - not say nothing. Not say nothing. I talked to a construction worker in that area. Oh yeah, sister, you know the first kiawe tree I did huli over there, the po`o rolled right out of the roots. There's nothing there cause there's kiawe trees. We gotta move the kiawe trees in order to go and do our studies. Guess where they po`o went? With the kiawe tree. The roots root down and grab on and get moved away. How many more that's not counted? Mahalo.

Mr. Kalalau: Thank you. Questions anybody?

Mr. Fredericksen: I just have a comment. This whole development is located in what's called Puuone, the dune system, and of course, traditionally, was a very important burial area for Hawaiians and that's why, during the course of this development, there's more and more -- there are lots of burials there and there are more burials there.

Mr. Kalalau: Thank you, Erik. Anyone else from the public? Please come forward and state your name.

Mr. Kaleo (?): My name is Kaleo ...(inaudible)... I come from Waihee Valley. Excuse me. I'm a little hoarse today. I was just sitting back there listening to the comments that was being presented by those that are going on with the project and I found it interesting that I actually refer to the I guess those that were buried that they were at -- they happen to be at the wrong elevation. Because they were at the wrong elevation, their burial, not knowing this event will happen, they would be constructing these buildings and homes, that the person was buried at the wrong depth and was excused because they happened to be in the wrong place at the wrong time for the development to go on. And it was also -- and you know I mean she's a smart lady, you know, when you guys asked about where the sites were and why they weren't presented and she goes over there and she shows you on the map and, you know, knowing that, you know, wow, what a waste of time that is. But what I -- you know the thing that's interesting even the comment of affordable housing. It was percentages, not monetary. So even as I, as a local who wanted to buy there, it still doesn't tell me what the cost is going to be. You're just saying, oh, it's affordable, 80 to maybe 70 percent or whatever, going from mid-range, which I believe when they did these over here when they first started, I think mid-range was 700,000 and I remember telling Mr. Arakawa, I don't know any local that can afford 700,000 when just five years prior to his coming into office, the mid -- I think the range was about 150,000 and by the time he walked in, it went from 700,000 a million dollars or now it's a million-and-a-half. But what's really disturbing is to say that these people, because they're dead, have no say. They really don't have any matter to this situation. They are an obstacle. They become an obstacle. Not a person anymore. Cause as you listen to her as she refers to them, it's an obstacle. They're in the wrong place. We need to put this over here because this has to go there according to the plans and the permits that they have. Because they have those permits, they only -- they can only work within the permitted sites. They have to put those things where they. So the obstacle is in the way. So how would we feel, and I pose this to this sistah over here, how many funerals have we gone through, loved ones that we have missed, that we've cried over cause they've left us? Well these people that are there or this obstacle had loved ones and still have loved ones; that's still a concern, but because the circumstances of people losing touch or the Hawaiian people, the families to these people losing touch with their land, being taken off of their properties, they could no longer care for them. Money takes their place. These people have no concern with these objects because all they know is that I need to put this in to make money. I invested x-amount of dollars, I need to make back my money, and more. So when we go to the next funeral, let's put ourselves into that perspective. Someday we might become an obstacle cause I was buried at the wrong elevation. That means all these cemeteries here, one day these people are going to be detached from there. Nobody's going to know who's in there. Let's just mull it over and let's put another site on top. I understand that, my mother's told me that the majority of the Sandhills are burial sites. So, I don't know, after all these years, if my mother who's not a, you know, college graduate, knows these things, how come these guys with all this money don't have people smart enough to know where you're going to put your money in there's people buried there and you're going to run into this situation. I mean I

understand lots of money, you know, lots of money involved, but we have more than just money involved. We have a person that's involved that laid their bones there hoping to stay there until, you know, the great day comes along. These are not objects. These are people like you and I. They have connections to families. They have meanings. It's just that the families aren't present at the time to be there to recognize them and we know why those reasons are and it's not the families' fault. But to be just buried at the wrong elevation in the wrong area to be moved. Are we ready to be moved when we die and our kids can't find us anymore? They don't even wanna tell you that, like I think somebody mentioned, why not cordon off that place and have it preserved and let people know. Is that wrong to let people know that this is an ancient site, that we should respect it, and give it its significance because everybody's significant. Every person is significant. Whether you're alive or dead, somebody's significant in someone's life. That's your father, your mother, your grandmother, sister, brother, aunty, uncle, cousin, so we're all significant. Thank you.

Mr. Kalalau: Thank you. Questions? Comments?

Mr. Leslie Kuloloio: Aloha mai.

Mr. Kalalau: Aloha.

Mr. Kuloloio: My name is Leslie Kuloloio and I'm here, I'd like to kinda -- kinda come before this Cultural Resources Commission to kinda bring you up to date about the Maui Lani processes since I began. I believe if you look the history of the origin of the birthing of the Cultural Resources Commission, they preceded the birth before the burial commission and the jurisdiction of taking care among us as Hawaiian and kupuna goes back to kuleana that sometime today it's easy to say who has kuleana and who's going to come forward in regards to find a process with the highest honor given to our kupuna of the past history; the past wahi pana; the past legends; the past understanding of the ahupua`a systems; the past moku systems; the past ahupua`a within the moku systems. Who ran these systems, not only during the time of western contacts or the present general plan contacts, GPAC they call that, my time was the general plan advisory committee, the 701 plan, so forth in the '80's. The new constitution that came out in the ConCon in 1978 bringing forth the Office of Hawaiian Affairs. When we battled the understanding of native rights, land and water rights with the community counsel using the Legal Aid Society during my time to buck against legislators, the executive branch, to malama cultural understanding, to fight with the Maui County Council who had no idea about using the term "cultural resource." When the word "cultural resource" came about to be in the early '70's, when I was, my time, facing as an activist against trying to find out how to malama history, the very presence of the State legislators, yours and mine, and the County Council was so afraid and let me not mention those council people and the mayors and the governors, they was afraid and, oh, as a matter of fact, the attorneys for the counties, and the AG's office, yeah, before even

the birth of Department of Land and Natural Resources and the State Historic Preservation Office during my time. We have come a long way, we as native Hawaiians, to develop a process using signs. And I'm so glad I got two archaeologist here that I really respect to sit on this Cultural Resources Commission because you're the check and balances to help us do your work in the field to malama what we hope that we can bridge a differ of understanding. I've been involved with, and I'm going to -- this is so important, I've been involved with this process at Maui Lani because I knew at that time, as a Hawaiian activist, what is going to happen to this new term called the findings of the Honokoua Burials. It was during that time that me and others established and tried to establish and making and the birthing of burial councils in the State of Hawaii, like yourself, establishing cultural resources commission to handle the kuleana that processes through the County Planning, Public Works, infrastructure, development, future generational, construction to move forward, do we wait. So your presence mean a lot to me because you're the check and balance for a process that need to be done with the help of our County staff. So what I wanna say is that I have my heart tears when I see my people come forward and speak. They have all the right. But let's get the fact straight. Let's not create historical legends. Let's not create new stories that deal with inadvertent new finds that we're beginning to find.

The history of Maui Lani is beginning. It began in 1994 when I began to see, and I told myself I need to pay attention to this one after Honokoua, and you know what? I believe that the process of Maui Lani, and I told them: "If I'm going to get involved with you guys, I'm going to walk the talk." Yeah? Cause you know why? And I've dealt with bruddah folks here, construction, yeah, and I dealt with archaeologist here and it's been open and honest with this process. And you know what? I can speakfully say that Maui Lani is the only development in the State of Hawaii that is playing the rules. That's where I'm coming from. Playing with the rules. They're the only ones that is playing with the law. They're the only ones that is playing with the process because you know who told 'em? I told 'em. You know why? Because I'm the cultural person that care. I step up forward for these guys here and say, "You folks malama these sand dunes." Erik, you and I worked on plenty places. Kepa, we have your representative from Lanai, Aunty Pua, to sit with our council so these communications ...(inaudible)... I don't know what's happening with the burial council of Molokai. That law was made for them to take kuleana, us Hawaiians, and if they fall down, it's their fault for not been using the process. You know what I mean? Use the process. Use the law. That's why we fought hard for it. Oahu - bang, bang, bang. Different kind burial council over there, but we opened it up. Kauai have their own. And Niihau don't have one. Why? Different ownership. Not kuleana under the State. Kahoolawe has a process through the Kahoolawe Island Reserve Commission. So we've come a long way in protecting the past.

Now, all I'm asking here for today is to my bruddahs and sistahs here, I no mind coming up here and saying truth, but what I've heard up here about kiawe trees and the cranium

or the iwi falling down from the tree, it didn't happen on my watch. And whoever is telling that, I wanna be sure you settle me or my burial council. But it didn't happen. So whatever shame went appear, I'm here to put that to burial council. Now I wanna find out, we brought this process here because there was a asking and you know what happens with the relationship of the Cultural Resources Commission and the burial council? If the Cultural Resources Commission wants everything the burial council has on their agenda to come to you guys - dah. We need to straighten up the rules. We need to straighten the rules because we have a burials program and we had to run through the process with the burial council. We think -- I think we did everything accordingly with the archaeologist that we hired, check and balances, but if this is going to be a time when we're going to be coming to set the findings of history into a different category, I don't know, then it sets a new precedence to my time. A new precedence. Yeah? So if you folks going to handle this, forgive me, I wish I knew this or not I would have brought all the concerns of Maui Lani here from day one and, likewise, the other developers. Yeah? On Lanai. Likewise, the other developers in Makena. Likewise, the other developers that just touch an inch, oh, matter fact, historic districts, the Council started from the Historic District of Lahaina. You seen the plan up there, yeah? Went in the water. Are you folks handling things in the water? So we have a big work ahead of us to go forward and pa`a this. Forgive me, I just needed to come forward. Forgive me, kupuna and sistahs and bruddahs. I come with love. I'm just asking that's why I'm there and help me. If there's any questions, please I not here to buck our kupuna iwi but I'm the only one in a project like this, throughout the State of Hawaii, that has been successful. You know why? I walk the talk with Maui Lani and I tell them, "Be open. Be open and honest. Don't hide anything behind the shelves." That's why we're here. Now if this is your jurisdiction, tell me, cause this is very in good faith. That's why we came in good faith. Make sense? We came. But I going stand tall and I salute all of you cause you know why? One day, I want you all, you qualify now, to become burial council members and I going ask you to become burial council members you know why? You have the potential, you got the cultural resource training now, now you come to next level, yeah, amidst the banging, yeah, so I will put your names next time to become burial council members. Please, we need more of you. We need more of us as Hawaiian, developers, construction to make the bridging. That's all I ask. Forgive me. God forgive me if I said anything wrong but I just wanted to say my mana`o and e kala mai, yeah. But I thank you folks all and I hope that we can really see this. Thank you, Chair. Thank you, members.

Mr. Kalalau: Okay, I have a question.

Mr. Kuloloio: Yes, go for it.

Mr. Kalalau: Being that you're on the burial council and a lot of these issues here, especially the burial s, has gone through the burial council, have you guys established I guess buffer sites and protection and preservation with Maui Lani Developers?

Mr. Kuloloio: Chair, yes, Chair, I'm not anymore a member of the council. I've been out for two years. I've had a replacement by a well-chosen representative that was carefully picked to represent this district. And the question -- to answer your question about preservation, yes, we're on top of it. I'm on top of it because you know how it is. Sometimes we get some archaeologists go, well, might be we need one ti leaf over here. Oh we need the ilima to look real nice. Then one time we get one Hawaiian come from one other ahupua`a say, "Wait. I think we need the noni tree to match the landscape." And we go through all of this. Then the preservation process treatment plans has a -- has a timeframe, I think, and let me correlate that with the State Historic Preservation, you folks know, and everything has to be developed, turned in in time, yeah, so we have done a lot of burials that show the deepest respect, yeah, in preserving burials in place. The deepest respect in place. The burial treatment plans has been preserved in Maui Lani. I think we're the only one that show a wide variety model of different preservation sites to meet the growing times that no other developer has ever come forward with. But in the future, be open, I'll be willing as cultural person to have an education process with you guys, yeah, and to bring the burial council to help each in process like to know the process.

Mr. Kalalau: I get one more question.

Mr. Kuloloio: Yeah?

Mr. Kalalau: You know, people are concerned that this sites might get forget about or might get lost in the future. Being myself that I sat on the burial council, we were the co-founders, okay.

Mr. Kuloloio: Yeah, right. Yeah, I understand. Yeah.

Mr. Kalalau: And I know the State, once you record these sites, it's recorded with the State, so these sites, I don't think it'll be lost. Maybe on paper, it won't be lost. But in people's mind, it might get lost.

Mr. Kuloloio: Right.

Mr. Kalalau: But it's -- this is a question I ask you because you're a kupuna and would you think some of these sites would get lost forever?

Mr. Kuloloio: No, I think there's varied, different variations that, according to the developer, the applicants, they've come and certain burial treatment plans help me. Get plans on how the owner of such property, whether residential, commercial, or development, going have to comply with the memorandum of understanding or agreement with the developer cohesively with the burial council so that they come to a burial treatment preservation plan, yeah, and those plans we've really improved. I've seen the improvement of this plans in

taking care our kupuna. I've seen it. I'm not saying it's perfect. But I've seen it improved, yeah. Maui Lani has done all these requirements, yeah. Now, we, Maui Lani, have a future, yeah, concern that someday these plans, and I'm going to speak it, will be turned over to the schools, and to the State, so that our next generations can use it for educational purposes where the kupuna is buried. Now, tell me what other developer would like to do that? Yeah, or have the State brought that up? But I'm the cultural person and that's what I'm trying to say. Did I answer you question, Sam? I went little bit off, yeah.

Mr. Kalalau: Yeah. Yeah.

Mr. Kuloloio: Did I?

Mr. Kalalau: Yeah. You kinda --

Mr. Kuloloio: No, no --

Mr. Kalalau: I understand you because I've served on the burial council for a long time too.

Mr. Kuloloio: Yeah. No. Yeah.

Mr. Kalalau: And I walked this --

Mr. Kuloloio: Right.

Mr. Kalalau: Part of this Maui Lani projects before when we went -- when they were sand mining and stuff --

Mr. Kuloloio: Yeah. Remember? Yeah.

Mr. Kalalau: And all the iwi came up and, you know, I walked in some of these areas back then too. So far, what I've seen, is I guess the preservation plans that we set back then is working ...(inaudible)...

Mr. Kuloloio: For this project. I don't know about the ones, yeah. I'll make sure they will have documentation before I retire out of here, or before I go, yeah.

Mr. Kalalau: And my last question to you: Would you be willing to serve on this Cultural Resources Commission?

Mr. Kuloloio: I tell you why yes and no. Because you know who served on top this Commission, on the original Commission? My mom. And she taught me to read all the fine line rules that had to preserve Lahaina and that's how my mom set the footprint here

in your Commission, and then that's how I learned the rules then and what's been changed, the rules now, and the increase of your role, yeah. So I understand. I will someday but if I do come on this Commission, it ain't going to be like this. Going be little bit more tougher questions but -- but no, yes, I would one day perhaps.

Mr. Kalalau: Okay, thank you. Anymore questions?

Mr. Kuloloio: That's all I have.

Mr. Kalalau: Okay.

Mr. Kuloloio: Forgive me if I said anything wrong.

Mr. Hutaff: Hi, Les.

Mr. Kuloloio: Hi.

Mr. Hutaff: Aloha and mahalo for the things you said and I -- I'm more concerned about the preservation long term, okay. I have tons of questions about how big of a space around do you need to show respect and blah, blah, blah, but this question is only about preservation of your existing plan here. It was stated that it would be turned over to the association, okay, is there going to be any teeth in the fact that the association will be required by some law, whether there is a law --

Mr. Kuloloio: Right.

Mr. Hutaff: Or not, in order to perpetuate the preservation of these sites, is there a way, within the rules of the association that you've been thinking about, you've been thinking about, okay, that says we have to actually go out there and physically look at these sites every so often to make sure that they're not neglected?

Mr. Kuloloio: Yes.

Mr. Hutaff: And then is there a method to have checks and balances with the association so it's not just, well yeah, we went out there at lunch time and looked outside 500 miles away and it looks okay to me, is there a way a report's going to be written and given to a particular organization that an monitor the fact that 65 years, 650 years --

Mr. Kuloloio: Sure. Sure.

Mr. Hutaff: From now, is there something that you've started to work in that?

Mr. Kuloloio: Yes. Yes. I think, as an individual, I can only speak as an idea, a strategy, and new methodology in creating how to preserve, this my personal, yeah? It hasn't been brought up to the burial council yet. But I think it should be something that we already been doing. Number one is identification of the burial sites location through GPS. Secondly is to have them identified, not only in the State Historic Preservation office records. You know, the State falls back but I give them credit for at least we're moving in bridging out past - State Historic Preservation. Also, the County of Maui has responsibilities. The due process of everything that passes through Public Works, Planning Department, Cultural Resources Commission, where does the record go? Like bruddah said, once we get slip away, who knows. The association has been used, so far as I know, in many big developments to kinda be the first tiering, I think, to malama the iwi kupuna in this general area. Whatever the name it is. But it's the State's responsibility, under this law, to manage, I think, yeah, and the burials program, to manage, identify, locate, and check time to time. Let me throw this: How many of us check the works of the archaeologist? And so who checks that? Completion. During. After. During. Whatever. You know what I mean? So I think, to answer your question, we're on the right track but I think it is -- I feel good. What the State need to do is kinda get their record straight, put it together, so we have a good summary of to get this data base to be part of your process and say, hey, we have a cultural site and the Cultural Resources Commission, and then, State, give me records. Eh, we get something in here. Legend. History. Wahi pana. Past. History. Whatever. So, yeah, I hope I answering your -- it's the State's responsibility too and I think we getting there, and the County too, so that we can help.

Mr. Hutaff: Actually my question was to you is if you were looking in that direction to hold or to make sure because I'm assuming, by this white non-colored area here, that there's going to be another phase --

Mr. Kuloloio: Yeah.

Mr. Hutaff: In this Maui Lani and so we may be, whatever happens, visiting that phase and I certainly would have a little bit more comfort --

Mr. Kuloloio: Sure.

Mr. Hutaff: About the perpetuation issue so I'm comfortable with whether that's enough but at least with a preservation in long-term to know and see something in writing that this is what we're going to require the association to do. Like I said, I think all things are good, at least in the direction whether there are enough, that's debatable, but I think once we establish what is correct and the right thing to do is going to allow Maui Lani to move forward with this, which I assume is going to happen regardless, is that, again, 650 years --

Mr. Kuloloio: Sure.

Mr. Hutaff: Okay, I think that's part of our problem today is that when we move people away and stuff like that, and, you know, they didn't have a car back then, 100 years ago, it's not like you could walk down there everyday or every week like I used to do when I was growing up. My kupuna was in my backyard. Every morning I'd have to go out there and say good morning to my kupuna and then go ask my grandfather, my grandmother: How come they never answer? And they said that's because they're already meeting you where you're going.

Mr. Kuloloio: May I ask you -- answer your question in an entirety, and I think this should be my conclusion. Every developer have a general plan of the big scope, whatever it is. I'm sure that Maui Lani and other developers going to have to, at the final of their completion of total whatever, completion of their development, will show a big scale, total scale of where all these burials are located. That's the key.

Mr. Fredericksen: Oh, thanks, Les, that was my comment.

Mr. Kuloloio: That's the key. Yeah, that's the key. Show the total because we have not -- shopping centers, the harbor division, airport division -- Maui Lani is the only one that can come forward now, in true and honesty, forward and say this is what we're finding, this is what's going to happen in records, but at the final, we have a burial treatment plan. Every place that we development, we show where they're at, who's taking care of it, and letting -- hope that it will be transferred, Kepa, to the State so that they know it, and guess who? We plan to put'em to the County Planning Commission and Public Works because sometimes they fault too and, you know, they fault in their processes, yeah. So we need to help each other in bridging. I don't know. I'm just sharing. Make sense?

Mr. Fredericksen: Yeah.

Mr. Kalalau: Okay, Erik?

Mr. Fredericksen: Yeah, Les, I'm glad you brought that -- that point up because especially with this Maui Lani project cause it's, you know, ultimately, it's thousand acres or so, that's very large --

Mr. Kuloloio: And it's manini yet. I mean the whole picture.

Mr. Fredericksen: Yeah, it's just I guess where it's located because it is in a -- in a, you know, it is in a culturally sensitive area, the -- I think one of the things with preservation areas there's supposed to placed in deed with the metes and bounds and all of that, so that's, for one, some of the long-term stability, if you will, of the site, particularly preservation areas, that's one of the checks, but having the information in a -- in a summary form, if you will, for everything, for the whole development, or it goes as phases

are completed updating it so there is a way of updating and having that information available cause I think it's critical.

Mr. Kuloloio: Sure. I believe, and everybody should have one too, yeah, and Maui Lani's challenge and one day we come to that point where we can really justify historical properties and malama future generations to kinda see the history of the past Maui and Hawaii, yeah. I'm sorry for taking your folks time but, yeah, that's all.

Mr. Kalalau: Thank you.

Mr. Kuloloio: Thank you.

Mr. Kalalau: Thank you.

Mr. Kuloloio: Mahalo. We have anyone? Okay, please come forward and state your name.

Ms. Claire Apana: Good morning. My name is Claire Apana. And I thank you, Uncle Les, for all your wisdom and your efforts at bringing a way for our cultural to be preserved. I really have deepest appreciation for your efforts. And it's very difficult for me today because I so love Uncle Les and have -- he was the first person I turned to when something occurred in my home that let me know that I have something that I needed to do in this area. And I know that in a Hawaiian tradition, you don't always know who gets the information, who is the one who is finally given the knowledge about the genealogy, and I would be the last person that I would pick. I'm a physical therapist. I know nothing about archaeology. I know nothing about the -- even about the Hawaiian culture. I'm very, very shallow in that. But I know, in my heart, and I know what -- from what the signs have come to me that there is something that must be done in this area. And I appreciate Ms. Hazuka's sentiments in saying to me that she would do everything she could to do what's right for the burials, but still the signs come, and so here I stand before you to say it's not complete. The knowledge is not all known. The iwi, the kupuna, they're still speaking to us and, please, you are the last line of defense here. I would say that I totally agree with Uncle Les that we should use our science, and we should use our archaeology, and we should use everything we have to preserve our culture. And so in listening to the testimony of the developers today, I hear that there are these sites with numbers, like 6261, 6060, and from my research, I know that these sites are on the State Historic Register of - I'm sorry - on the Register of Historic Properties and that, I believe, would bring that maybe into your kuleana as a committee? And I wonder if you have looked at the sites that are actually on this area, in the whole area, and look at those sites because I believe it is something that you have kuleana over, this -- all those sites. They are already listed. And to look and see, I noticed that one site has something here and something here, with a B and a C, and is the site just here? Or here? Or is the site the whole site with the two

different letters? I would challenge you to please look and please investigate this. And I would say that, from what I have discovered about the research that has been done on this project, there was a grave error made very early on by an archaeologist in the employ of Maui Lani in which a very important piece of history was placed in the wrong area. He misstated and misquoted from his reference site, which was the book *Maui*, and placed a very important battle that occurred in this area somewhere else. And I hope that, Uncle Les, you know, that will have an open heart to hear what we have to say and because we have worked very hard and I feel that we've worked with a lot of signs and a lot of guidance to find this. I don't know a physical therapist and a florist could do this, you know. And so I would say, for you, I'm glad you asked the question about how many burials. But I saw one section of the property being reported upon and I wonder what happened...(inaudible)... all sand from sand mining?

Mr. Fredericksen: Could you use the microphone, please?

Ms. Apana: Is this all sand from sand mining? Is this all sand from sand mining? Is this still a forest? Is this a sand dune? What is still here that you're going to put this on? Have you walked the land? You don't have to believe me. I feel this is very important. Have you walked this land? Have you listened? Have you walked this land? I grew up here. I played in this area. I played in the sand dunes. I played by Waiale and all this area. I've walked this area, and I hear something, and I'm alerting you that you must walk this area and see. You know, what's left here is a big blight of sand and a scraping away of the earth which was once -- right here you see a beautiful sand dune that's still left, and to think that this, to the sand dune that is still left, what have we done to the land? I agree with Uncle Les that we looked at the ahupua`a system, we looked at the land, and the totality of it. I don't believe that we have truly respected the land as we should have, and I believe that's a cultural concern, and I believe that perhaps there's still some here left where we could save it. We could change it. You have the right, I believe, to change designs or make influence on design. I would urge you to look at the property and look at this design very carefully, and look at the land, see what the land says about what it should be. This mixed use, I don't know, the first time I looked at it, and I looked at it a lot, I didn't realize that the shopping center is going to be bigger than Dairy Road. And I don't know if you realized that too. But it's going to have lots -- the ability to have lots of big box shopping center -- big box stores in there.

Finally, I think you're right that you should look at the burial council notes to see -- to see that the discussions have been about -- especially about the burials that have not been decided upon. Perhaps you could work closely with SHPD, which I believe you have a relationship with, and find out how are we making the determination of what will happen to the iwi kupuna and I wondered, this piece was missing in my research, I didn't see the final reports from the sand mining. I believe that's already done and there's 180 days to turn them in. And so I would wonder, Ms. Hazuka, what were the reports were? I -- that's very

curious to me to know what has been sand mined out of this area so we might know if it was culturally significant or not. Okay so I think I have done with my notes now and thank you very much for listening to me and I ask you to keep open your minds and to hear the signs from within yourself. Thank you very much.

Mr. Fredericksen: Excuse me? Excuse me? Thank you for your testimony. I have a question for you, or not a question, but it's more of a comment but it's also a question that -- right here. Hi.

Ms. Apana: Okay.

Mr. Fredericksen: You brought the subject of, oh, I can't remember what, it's a part of the Maui Lani overall project area, and it's a, you know, it's a really -- it's an important question and it's -- it's one that it has to do with some of the questions that everybody's been asking, trying to get a big -- a bigger picture of what's going on, status of reports and -- especially in a project like this because it's been going on for a long time. Some of these areas still ongoing so there may not be a final report, per se, but other areas may have, you know, very well been completed but it's important to have reports turned in so you can get an idea as to what has been found, what -- where maybe burials are located, concentrated, etcetera, and that is -- that's a -- that is a valid point/concern that you brought up.

Ms. Apana: And I hope that you guys will be finding the answer.

Mr. Kalalau: Okay, anymore questions for her? Okay, thank you.

Ms. Apana: Thank you.

Mr. Moikeha: I just have a comment, Mr. Chair.

Mr. Kalalau: Okay.

Mr. Moikeha: And it partially goes back to what the public is saying also. A lot of times when I go through the agenda, and I look at it, this is what it says for us: It's requesting review and comments. That's all we're going to do. If you really want some impact on this, go back to December -- is it going to be -- when's the Planning Commission? You go back to them. You get in there and you ram them. They're going to set law. We don't. But I'm grateful for them for at least sending it back to us that we can make comments. That's all we can do. A lot of times I don't say nothing. There's nothing I can do. But my concern would have gone back to Leiane, basically, to make sure that whatever they say their going to do, that's going to happen. So after I heard Uncle Les, I feel pretty comfortable. There's people in here from the State, from the burial council, that will -- I'm sure will comment after I say some things too. But that's my main concern. Who's going to speak for the iwi? We

do. Okay? Who's going to speak for the sites? We do. That's what we do. And that's all we can do at this point. But we don't set no law or anything like that. We appreciate you coming down and things like that, but a lot of -- for me, sometimes when I look at it, that's what I do. There's nothing I can do. But I go: I'll make a comment and I'll say whatever I gotta say. But my concern is that what's happening now. Can you find it? I grew -- my mom lives in this area. I played in this whole -- I mean night and day. I've hiked it - straight from there, all the way to Kihei, Kihei to Hana - I mean I grew up in this area. I fought the spirits at night, age 14. I've done it. I've seen it. I know what Ms. Apana is saying. And so, yeah, I feel and I understand. But my concern is what is happening now - after you've found it, then what do you do? Are you going through proper protocol? What's happening to the iwi now? I would go right back to -- to Gary, I guess. He's the guy that's plowing it, or you're the one that's in charge, that's where ...(inaudible)... you know, it's just like I'm not going to talk to the boss, I would talk to the secretary. They know everything. I would rather go back to him, you know, if their men on the machine, well what are they seeing? You know, what's happening there? That's what I would -- that's where all my questions would go. The guys who's actually doing the work. I rather seen the men than all you guys. Sorry. That's the guys that are doing the work, you know. I mean they see it. They feel it. That's where my questions would -- I would rather question them and see what's happening there. But, yeah, you know my concern also is for Waiale has become a major thoroughfare. Try go there 3:00 in the afternoon. People are trying to go to Kihei and Lahaina and back, you know, it's just -- what's going to happen to that roadway too? The people that live there? I mean but the Planning Commission does all that. We just going make comments, so that's just how I look at it, but there's a lot of major concerns here. I mean, without a doubt, more will be found. There's no doubt in my mind. But the concern is what will happen and to make sure that what is on paper, that you say that's what's going to happen, that's what you folks are going to do. And so, Uncle Les, you made it pretty crystal clear that these things will occur and it is happening so -- and, in essence, we're saying we're putting a lot trust in you, you know. I mean you're the -- you're the maohi that's there so that's my comment.

Mr. Kalalau: Okay, we're going to take a short five-minute break and then reconvene this meeting.

<A recess was called at 11:20 a.m., and the meeting reconvened at 11:30 a.m.>

Mr. Kalalau: Your name?

Ms. Lucienne deNaie: Good morning, Commissioners. My name is Lucienne deNaie. Nice to see you all this morning. And I just want to make a quick comment on Commissioner Moikeha's comment about, oh gee, you know, we do the best we can but all the decisions are made at the Planning Commission. Having read a lot of your folks' recommendations, you know, over the years, and then what happens at the Planning

Commission, I just wanna say that, remember, you're given a lot of respect at the Planning Commission. When the Cultural Resources Commission makes a recommendation, it's very rare that it's ignored by the Planning Commission. So the recommendations you make, you know, are thoughtful and are based on the accumulated knowledge around this table, and I attended many Commission meetings over the years, and there's always a great amount of knowledge sitting around on the Cultural Resources Commission. So I think the point is is to make sure that you have the information you need to make good recommendations. And the point that was made about the homeowners association, you know, having responsibility for things and all like that, I've found it helpful, you know, sitting on a different sort of review boards, to ask for an actual copy, you know, what is going to be the contract between the homeowners association and the, you know, the provisions for taking care of the sites. I think that would really give you the information you need, is everything covered, or does your experience tell you that this is a bit of a slippery slope and you need to make it a little bit more firm. This is the way to go is to have the -- the actual information in front of you because a homeowners association can get, you know, kind of a little fast and loose sometimes; they're well-meaning people who are concerned about, you know, a lot of things about their own property and sometimes they can look at places, like these, that they may not have any, you know, real connection to through their family as being more of a burden than a sacred responsibility and I, personally, have seen preserved areas used for piling yard waste and trash and, you know, old tires, and this and that, and, you know, it happens, I'm not saying it happens in Maui Lani, but I'm just saying it happens so we wanna make sure that we know how the language is set up and make sure that that language is going to be enforceable by someone and that's the important part that someone has the ability to keep the accountability, you know, Uncle Les has done a great job, we all won't be here forever, so we need to look like Commissioner Hutaff said, you know, 650 years, you know, let's know that we've done a good, so I think those are some tools that you folks could use to do that.

And then my last point is is like, you know, as you all know, I'm an amateur researcher too and I just love to dig through this old books and texts and things, and, you know, so much of our history is still waiting to have all the parts put together, and that's pretty exciting, and I think that, you know, this Commission really has a part to play to make sure, when research is done by citizens, that if it is good sound research, that there's a place of honor for it where it can end up. So thank you. Aloha.

Mr. Kalalau: Thank you.

Daniel Kanahale: Aloha kakou, Commissioners. My name is Daniel Kanahale and, first of all, I want to thank all those who has spoken so far and shared their mana`o. I learned something of value from everybody who has participated today. Also, since this is my first time here before the Commission, I just felt that I should say to you that I feel that any convening of this committee, this Commission is a historic event, so anyone that has an

opportunity to participate, you know, it's truly a blessing to do so I feel at a blessing to be with you folks today.

Before I get into my comments, I just wanted to say that I did watch the Planning Commission meeting where discussion was regarding sending the agenda item before you, to the Cultural Resources Commission, and I know that there were commissioners, like Commission U`u and other, who were really interested in hearing your mana`o. They needed your mana`o to help them in their decision-making process so, you know, it was their choice, their recommendation that this come back to you folks, so I just want to second what Lucienne said that, you know, what you say has impact and will have impact on their decisions with regards to this particular agenda item.

Now, I wanna take just a couple of minutes to share a concern I have with Maui Lani and other projects like it for development that come before commissions, like yourself, for entitlements, land use entitlements. And I would like to use the ancient parable of the six blind men to help express my concerns. There's a story of the six blind men who were asked to describe, by touch only, something they have never experienced before, and that was an elephant. So each of the blind men went up in turn and touched a particular part of the elephant, and by touch only, they described what it was what an elephant is. The man that touched the tail said an elephant is a rope. The man who touched the leg said an elephant is a tree cause it felt like a tree trunk. The one who touched the torso said the elephant is a wall. The one who touched the ear said the elephant is a fan. The one who touched the tusk said the elephant is a spear. And the one who touched the trunk said an elephant is a snake. So, by what they grasped, they extrapolated their understanding of what the whole is. Now this parable illustrates the shortcoming of an extremely narrow focus. It's like the metaphor: You can't see the forest from the trees. They were not able to truly reveal the true nature of the whole by touching just the parts. They weren't able to really describe what an elephant is. And this brings me to my concern when it comes to cultural and historical sites and iwi kupuna. That oftentimes there is a very narrow focus when it comes to archaeological inventory surveys or other surveys or studies that are done in particular parcels or projects that focus specifically in just one narrow area. And in the Hawaiian culture, kanaka culture, relationships and connections were very, very important. Seldom would you find a cultural site isolated and by itself. More often than not, it was part of a much larger complex. Cause for the kanaka, we understood that we were a part of the whole that ola lokahi, there was a oneness, an inter-connectness of life.

Now with regards to projects like VMX, the concern that I have is that by looking at just the piece of a puzzle, we're not getting the true picture of what is perhaps really there. The studies may be excellent, you know, the descriptions may be very good, but is it a tail? Is it a snake? Is it a wall? Or is it something much, much more bigger than that? Are we really able to see the elephant by just looking at a piece of it? And I was happy to hear Uncle Les say that they plan, at some point in time, to have a comprehensive picture of the

iwi for the whole thousand acres, you know, and where they're located. I think that information would be invaluable in order to understand what we're really looking at in any particular parcel or lot or project that you're talking about. I know that -- I'm happy that Maui Lani is here. They have the documentation. They have their reports, the monitoring reports, and my request is why wait till later? Why can we not start the process now? Why can't we have that information now? What is the status of the monitoring report? Can we start putting together a comprehensive picture now of where all the iwi is and will not this information be useful to you folks so that you would understand the relationships and the connections so that you would see the whole elephant rather than just one piece or part of it? So I would like to ask Maui Lani and their archaeologist if they would be willing, voluntarily, to begin that process now? Know it's a huge undertaking, there's a lot of work to be done, but there are many, many people who would be willing to volunteer to help if they'd be willing to volunteer to start now cause a lot of people are concerned about the kupuna iwi. I'm grateful that Uncle Les is where he is. It's a blessing to have a man of his stature in the position he is in. But, you know, there's a lot of us who are willing to -- to put in the hours to make sure that something like this, this comprehensive idea, of where the burials are move forward so that is my mana`o and that is my hope and I hope something -- I hope Maui Lani would, today, would voluntarily say, yeah, we would be happy to do that. Let's get started. Mahalo.

Mr. Kalalau: Thank you. Questions? Comments?

Mr. Fredericksen: Yeah, I've got a comment. I just wanted to thank the testifier for putting that very eloquently. Yes, this project has evolved over a number of years and it's unique in a lot of different way and, on the balance, the developer has been, you know, they've been trying to -- they have been doing the right thing in terms of going through the process with the State Historic Preservation Division and the burial council. The thing with the, you know, the monitoring reports, getting monitoring reports out for areas that are pau is something that I think's very important and it would also provide a database for what -- what has been found. That information's very important. Also, beginning to understanding that this project is not complete but having part of the big picture start getting put into -- so it's -- there's a compilation of what has occurred, what all that information, if it's available, that's really not available but it's there but it's not in a format that can be accessed, and that I think is very important. So that's it for my comment.

Mr. Kalalau: Okay, can we have our next testifier?

Ms. Johanna Kamanu: My name is Johanna Kamanu from Waihee Valley, and I almost don't know where to begin about this -- this project. I'm going to talk about one of my favorite cases. It's a case that I discovered in the Law Library. It's called "Alo versus Smith." And in this case, Mr. Alo, a Chinese man, has come before the voters registration committee and saying that he would like to vote. He wants to register for vote. And you

have to understand, this is back in the early 1900's. And they tell him he can't. And he says, "But I voted in previous voting things that the Kingdom had, so why can't I vote now?" And they said, "Because we didn't make it alright for Asians to vote in this election." And he says, "I'm a subject of the Kingdom and I voted already. You can't take away my right to vote." And the Supreme Court comes back and explains Mr. Alo's situation and they say, "Mr. Alo never lost his right to vote as a subject of the Kingdom. But what's happening is that there is a new government and he does not have citizenship in that government. The only ones who could retain citizenship had to either be Hawaiian born, born in Hawaii, born in America, or born in Europe." And the only reason I bring that up is because that still exist today - he's right to vote. Now, we have the Apology Bill that came out in which the U.S. recognizes that Hawaii never gave up their rights. They never surrendered their sovereignty. They never gave up their lands. Things you know already. And then we have the Supreme Court coming in to say, "Ceded lands belong to the Hawaiians. You cannot sell them." So there's a hold on that. Now with all of these things coming up, and you're going to have to forgive me a little bit on this because I heard this said once, I really feel like the Hawaiian that's playing basketball with a volleyball cause I don't understand all the laws, all the rules, all these other needs that have come up, but I do understand one thing - that this doesn't feel right. And I also understand that, in my research, that kuleana is something that can never be extinguished. Kuleana can continue on even after I'm gone. It never ends just because someone has gone, has left this earth. It continues on in their descendants. And if that's the case, then what happens those people or those of us who don't know what our kuleana is? I hate to say how old I am but you have to understand that I really didn't come to a knowledge of who I am until recently, and I think that's the case for most of us. We really don't know who we are. Now the law says that all that's required of developers when they want to acquire a property is that they need to provide -- contact the heirs or assigns according to due diligence, right? And for them, that would mean a notice in the papers. Like Danny, this is my first visit here. How many more of us are still totally unaware of what it is that you're doing?

So, why do I bring this all up? I hope that, as a cultural commission, a resource commission, that even though you may be playing by a certain set of rules that you'll understand that there are some things that need to be addressed outside of that box. You need to look at them outside of the box. Now from what I've been reading about these laws, they're written so that they can address the needs of the people, laws change so that they address the changes and the needs of the people, whoever the people are at the time, whoever the people are that have a voice, and I would imagine that you are those people right now as far as the Planning Commission is concerned. And you have to understand that they deferred the decision. They deferred making a choice until they could hear from you. Now this is a chance for you to make a decision and it's in the hopes that you'll -- I understand that there's some rules that you have to follow but maybe the rules aren't the right rules for all of us right now. I guess I could go either way. But what about those Hawaiians who are still trying to find themselves? What about those of us who are working

two jobs everyday? We can't afford even an hour to come to this meeting. You folks aren't even televised. Or the Planning Commission - that gets televised. But how many people actually get to come and testify? Not a lot of us. I was at the Planning Commission meeting. I don't think there were more than a dozen of us in there to testify and I know there's a lot more people out there who wants to say something but they don't have that opportunity. I don't know exactly how you're going to remedy the situation but I would think that if the ball was put into your hands, which it is now, that this is the chance for you to make a statement on behalf of all of us, on behalf of those of us who don't have a voice.

And, you know, Uncle Les is right, Maui Lani has been trying to play by the rules, and it's fortunate that we have the process that we do because now we can participate, which we never did before, but again, if I don't know about it, if I don't know who I am, how can I come and participate? Somehow there has to be a way that we're able to discover who we are; that we're able to participate in the processes that be. For whatever reasons, I guess the time has come for us to try to work together but I'm just hear to speak on my behalf and my family and my children cause I know -- I don't even know if they'll be able to come and stand before you. I see my children trying to exist in this -- in this community, in Honolulu, and it's a struggle for them. They don't even have time to consider what mom's going through, or what mom's thinking about, or what dad's saying. So, for me right now and for you at this time, I would hope that you would take some time to think about us. And as you address the situation and as you prepare your comments to the commission, I would hope that each of you would have an independent voice to the commission. I've seen commissions that have voted unanimously and waited for a consensus before they made a decision. I'm not particularly happy with that kind of decision-making process. But as you folks are able to make your -- your comments heard, I hope you would do that individually and I hope you do it remembering, not just the kupuna, but the generations to come. What does the Hawaiian say? "Plan for a hundred years?" We need to do that. Thank you.

Mr. Kalalau: Thank you. Questions? Comments?

Mr. Hutaff: I have a comment for her.

Mr. Kalalau: Johanna?

Mr. Hutaff: Johanna. You know, thank you pointing out that this is your first time here and that you're just sort of finding yourself and that there are a lot of people out there that maybe haven't found themselves as yet. I kinda looked around over here and realized that most of us are kind of makule so maybe, you know, maybe it takes some time, yeah? But to be of assistance in those who can't come here to speak, we do understand that for every voice here, thousands more have the same or close to the same voice. So the fact that you took the time tells us that there's a thousand voices out there, and the person before you tells us there's a thousand voices with his. The other thing that can be done too to

address things in the Commission is also to write us. If you know that something's coming up and you wanna have your say but you can't be here cause you gotta work two jobs, it can be written to us. The second thing is on the Maui County Website, about two months after the meeting, you can actually read the notes and meeting notes to have a followup of what's been said. Just like the TV, it's delayed, it's late, you can't really help but you can understand so that when you do write your letters. The other thing is is that, you know, having a voice here is nice for us but for you to get more voices, to spread the work that they can write, they can do things, okay, to get the knowledge is also helpful to you and to the rest of the voices that are not always represented because remember, each letter, each voice, we know represents thousands. So thank you so much for sharing.

Ms. Kamanu: I appreciate that, especially knowing about the letter writing. But then again, like I said, this is totally new to me and it's the first time I've been to here. Shame on me. It won't happen again.

Mr. Hutaff: No, it's not shame on you. No, it's not shame on you. It's the most positive thing you can do. We all begin a path.

Mr. Kalalau: I think also I think the County has a mailing list for people that are interested in know what's on the agendas and stuff, so you can get information from there too.

Ms. Kamanu: Well, I've started to pay a little more attention to that. I've actually discovered the website. Thank you.

Mr. Hutaff: Thank you so much.

Mr. Kalalau: Thank you.

Mr. Maly: May I, please? Ms. Kamanu, I'm sorry to -- I was interested in your discussion of Alo versus Smith and, in a way, wondering were you alluding or asking us to consider that the analogy is that the kupuna who are in that Pu'uone also didn't abdicate or lose their right to that place?

Ms. Kamanu: Yes.

Mr. Maly: Cause you indicated that Alo, the decision was that he had not lost his right as a citizen or as a person to vote, and I think that that may be a very important discussion and I am concerned that we have a 150 now, is it a surprise? Not if you know the history of that place and the whole Kama`oma`o plains, you know, it's very important. Where are those 150 today? Will there be more? Are we looking at it piecemeal or, you know, do we need to understand the larger context? And so I'm just, you know, I wanna just confirm,

was your implication that those kupuna haven't given up their right to place under their system but maybe that their right to place today is being questioned?

Ms. Kamanu: Yes. And the other thing we need to realize too is that I really think you've only scratched the surface with the iwi that have been found. I mean is it intact iwi that is being found or -- or not? But like you said, we know that there must be thousands more, and we've only found these. I really believe there's a lot more but with all that's happened with the plantation coming in and, you know, all those changes to the land, I'm sure that there's thousands more. We're not even scratching the surface of this.

Mr. Maly: Yeah. Having done ethnography in other dunes, notably at Mokapu on Oahu, I know, for a fact, that where mining occurred, that those iwi are now a part of construction sites at other locations as well and so, you know, as you're saying, is that perhaps the case here where sand has been quarried and mined and taken to other locations? A lot to think about. What you're seeing are the fragments today.

Ms. Kamanu: And if there are fragments of the iwi left behind, are they not fragments that are as minuscule as sand? And if that's the case, then what are you taking away? How much are you taking away? How can we say?

Mr. Maly: Mahalo.

Mr. Kalalau: Okay, we got anymore people from the public that's going to come forward and testify?

Ms. Dawn Wasson: Aloha. My name Dawn Kahalamapuana Tautafa Wasson. I am from Oahu, from Laiewai. Aloha, Kepa. I am from Laie. Seventh generation. But I'm here today because of listening to this mo'olelo, the many mo'olelo that's been spoken this morning. To give you my background, I am presently a kupuna for an elementary school. I have 300 students that I teach. They're Hawaiian, Samoans, Filipino, Micronesian, people from Guam . . . and they're all learning Hawaiian history. I am also -- have been involved with the occupation of H-3. I led the occupation. We lived up there for 45 days. We were able to preserve only two sacred sites, out of 64, and then OHA and the Department of Transportation got a memorandum of agreement that these two sites were the only ones that's going to be preserved. After they said that there was nothing else there, the H-3 was built. The Department of Transportation and the Federal Government set aside 11 million dollars just in case they had made a mistake, which of course they did. I also was involved in suing the Mormon Church, Brigham Young University, and Land Security Corporation for the violation of the Clean Water Act. They were dumping sewage into a stream and into the ocean that polluted our ocean, killed our limu. And we also occupied Nioi Heiau, that's in Laie, to make sure that it was not a walk through by the archaeologist that was overlooking this work. The archaeologist said that there was no significant findings. We

disagreed. We hired our own archaeologist and found that there were. It was a sacred site. And it cost them to go back \$300,000, and I believe Kepa was involved in that.

I come before you this day, I'm a descendant from people of this aina, Maui No Ka Oi, Moku o Kahekili. My tutu came from Keanae. My husband's family came from Kaupo. I've been a genealogist since I was 16 years old in high school. I am 64 years old. And every morning, at 4:00, I do the mo`okuauhau and the mo`olelo of kupuna. I'm also familiar of the story of Kalaniopu`u and his constant fighting with Kahekili and the warriors of Kalaniopuu, I, Ahu, Palena, Luahine, Pa'ia and Mahi, and those two others was also Alapa and Pipi`i. My mother was a Nalapa. My father was a Keawemahi. So I always wondered why I was always battling. Then I found that no wonder, you know. You come from these guys, there's no way you going have a peaceful life.

So I come here out of concerns about iwi, kupuna, and I've heard the testimony and there was a term that kept coming back as I listened to the testimonies being given and the questions being asked by you, the Commissioners, and the word is called "perverted logic." Perverted logic is when a colonizer comes into another country, takes it over, and impose their -- their beliefs, their government, and they change all the laws, and they make -- impose the laws on the native culture and the people. What I hear this morning was the perverted logic that went on among our own people. That our people here today were not being transparent and being open with each other as to where they stand. Lots of misinformation has been shared this morning, sadly so, but it is part of this perverted logic that some of the people that have come in support of the project and those who do not who have strong spiritual beliefs that there is more there.

Maui has a lot of history because the seat of government was here, and there were more people here, and there were more battles here. Maui is also well known for its historians, Hawaiian historians, coming out of Lahaina Seminary, also known at Lahainaluna. My kupuna came from there. It was not as famous as the Hawaiian historians like Kamakau and John Papa li and Malo and Kepalino and all of these Hawaiian historians, but he also was a student at Lahainaluna and that's how he met our tutu from Keanae, and they married, and they converted into Mormonism, and they went to Palawai, Lanai, and then come to Laie. But we also had a kupuna, Kaleohano Kalili from Maui too and they came to Oahu. But if you look at the mo`o ku`auhau you will see that we came from Kohala, we came from Ka`u, and then we came to Maui and married some of your people here, and then we went to Oahu. There's a pattern there. A pattern that our families were coming with the arms of Kamehameha. We're coming to participate with the battles that occurred with Kalaniopu`u. So with all of the history, we are looking back at this history and yet some of us are not informed, some of us have a blind eye because we know it's there, but, at the same time, there are other factors pushing us to say like, well, it's a path. The history is gone. We are here today. Our people need housing. So let us imua and lets go

forward. But what about our responsibility? We have a responsibility about malama na iwi na kupuna. No matter how you cut it.

Now there was a term I read in one of the minutes that there was a -- the word was "burial crypt" that was changed to "inadvertent discovery." Very interesting term. Because if you say "burial crypt," people will go, "oh, somebody dead. They're right there right next to my window." That's not good. So the idea was, and that's part of the perverted logic that you use all of these terms that hides the truth that there are iwi there but we need to build this housing because people need housing. But if you tell them, "I build you house but, brah, you know inside your guys yard? Get about, you know, six burial sites. You no mind, huh?" Bruddah go, "There's no way I'm going to sleep in this house with those burials there." So it's -- it's preponderant on us to think deeply but to work responsibly. And now when I hear this, Mr. Moikeha is it? Yeah, Moikeha. Hmm, that's an interesting name too. When he says that like there's nothing we can do except, you know, make recommendations, I'm not sure if that's the correct term he used, but what you have is, you know, people saying, oh, we're just advisory. Well, advisory or whatever, you have a responsibility to these people, to your community, the voices of your community, and you have a responsibility to these people. If they are doing something wrong, you must inform them. You must instruct them to act responsibly. But what's important is that a plan was supposed to be in place before they had these permits. And the plan was that if you come into a discovery, then you should set aside a buffer zone, a buffer zone of 250 feet away from that sacred site or from those iwi until more information -- now, also, you gotta look at the archaeologist, they come with their own biases, and then you have our own people interpreting - from who's perspective? The developers perspective? Or their own perspective? Or the people's perspective? We have to look at all of those things.

So I think what's important here that you, as members of this committee, you have asked wonderful questions, what I am so surprised, and yet I am very touched, that is the non-Hawaiians, who sits on your committee, on your Commission, who I hear their voices but they get heart. That's what I hear and I'm touched by that. They not my own. They not my own. But you know what? It also tells me something. That you, who are my own, my own pilikoko, have done something to them, have influenced them, and said that you need to be sensitive to the things of our people. You need to be sensitive to the traditions. You need to be sensitive to the cultural practices. That is preponderant on us to take that responsibility and to you, Mr. Hutaff? I don't know. How do you pronounce that? And Mr. Chairperson, I can't see your name. Mr. Fredericksen. Maikai. I've heard about you. I not sure I like you, but I like you've said in public, but I don't know what you do in private but, you know, we going look at you, you know. We going look at you constantly. But, gentlemen and madam, I thank you for allowing me to speak but, please, it is important that Maui, that you do the right thing. Live up to your reputation - Maui no ka oi. You guys, that story comes from when Maui used to come to Oahu, and they go to the legislature, every time when finish the legislature, everybody gotta go and make the food and the guys don't

eat until late at night, so there's one time that Maui came, they prepared the imu right on top the canoe. They landed. The imu was still already in. They went to the legislature. They finished. As soon as they pau, they went open the imu and they ate. And all the island, and Oahu of course, was not even ready and they said, "Maui no ka oi." That's where that mo'olelo comes from. Maui no ka oi. Let me take the voices and the message back to Oahu that this Commission is Maui no ka oi and maikai. Mahalo.

Mr. Kalalau: Mahalo. Questions? Comments? Okay, is there anyone else? If not, Mr. Rodrigues, would you like to comment? We'd like to ask you questions.

Mr. Hinano Rodrigues: I forgot my lead suit. O wau no o Hinano Rodrigues, ke Cultural Historian o ka State Historic Preservation, o wau no ka Maui District Manager, no ke State Historic Preservation. Aloha mai kakou. I -- I've heard comments -- well I've heard questions from both sides and I think there might be a misunderstanding as to how the law works. So before you ask me questions, give me two minutes to explain how this process works.

Basically, there are two kinds of burials: The first one is previously identified, and the second one is inadvertent. The difference between both kinds of burials is the first one is found as a result of an archaeological inventory survey; the second one, inadvertent is found as a result of construction having started or the project having started. Now, I've been on the job only since January 2006, I've inherited quite a lot of burden prior to that, and I began to ask questions and I heard some of the questions or the inferences or the implications being asked this morning. Why do we have a difference? Well, Honokahua is what -- Honokahua was a catalyst with which these burial laws were passed. When the laws were first being debated, it was strictly burial council, but we all know that -- that, realistically speaking, those laws would not have passed. And so what happened was there was some kind of a compromise, a balancing act, whereby they came up with a second set of rules, it's not really second, but a subsumed set of rules that take into consideration the rights of the developers and the landowners, and I know that because I make these decisions every day. I'm the guy who has a prescription for Ambien. It's a difficult, difficult decision. It's a balance that's very, very difficult. And it's even more difficult for somebody like me who's half Hawaiian because I need to look at the Hawaiian side and I need to look at the side where I am a State employee. I am the spokesman for 1.2 million people. I represent the entire State and I need to make that decision and find the balance too.

The question was asked regarding preservation.

Mr. Hutaff: Yes.

Mr. Rodrigues: And I like you. Cause you ask very good questions. When a burial is found, again, was it previously identified? Oh, it goes to the Maui/Lanai Islands Burial Council. Is it inadvertent? Oh, it goes to SHPD. No matter what happens, the Maui Burial Council is going to request a BTP, a burial treatment plan. My office is going to request either a burial component of an archaeological data recovery plan. That infers the burials coming out. Or my office is going to require a burial component of a preservation plan. That implies that the burial's going to stay. So within those three plans, we address your concerns. What's going to happen short-term, and what's going to happen long-term, and all those designs that they were talking about, those are all a part of the plans. Unfortunately, we've found out that - and I think the questions was asked: Well who goes out there to check on it? Good question. Unfortunately, it was found out that we didn't have much enforcement teeth, and so in 2006, the legislature passed a new law where if a burial treatment plan is prepared, it's sort of like a contract, and so what happens is if there's a burial treatment plan and they say they're going to do this, this, and this, and they don't, the State can come in and say, "Wait a minute. You said you were going to do this, this, and this, and you didn't. Do it now." Prior to 2006, and this is hard to swallow, prior to 2006, an enforcement was not there. And just for the record, the enforcement is either 10,000 or 25,000, so everybody knows that they're going to have follow their burial treatment plan as of 2006. The only problem is those burial treatment plans had better been authored after 2006. So all your prior burial treatment plans, no enforcement. Fortunately, we do things different on Maui. We don't have to force the law on anybody, at least this is what I've seen since I've been there since January 2006, Maui knows what is pono. I don't have to tell you the law says you gotta do this. You are going to do what is right even though the law doesn't say you have to do it. So we've been pretty luck in that respect. Okay?

Mr. Kalalau: Anymore questions?

Mr. Maly: Sorry, there is one. You, just in your brief description, Hinano, I appreciate it, but you mentioned that previously identified and inadvertent, but you said previously identified by archaeological inventory, does that discredit traditional knowledge of place that knows, for an example, that the Kamaomao plains or dunes or the Mokapu or any other number of places that are known as burial sites, where do they fall in these two criteria?

Mr. Rodrigues: The labeling of previously identified and inadvertent has nothing to do with the history. What it has to do is it goes to the question of jurisdiction. Does this go in front of the burial council or does this go in front of SHPD?

Mr. Maly: So in that instance then, say these dunes here, they are now coming upon what are being called "inadvertent discoveries?"

Mr. Rodrigues: Yes.

Mr. Maly: Even though we knew or it has been known through this, and Honokahua is another classic example of it because, as an example, I went through the 1850's and translated the 1850's boundary commission testimonies that began to be recorded for their -- which actually identified it as a burial site but noone had translated those through this whole process in the '80's, as an example, so it known that these are traditional burial sites but they're still being identified as inadvertent discoveries today?

Mr. Rodrigues: Yes. The way the law was written, the process begins when a burial is discovered. So unless, even though you know and we all know that, I grew up on Maui, I grew up in Olowalu, Ukumehame, and Wailuku --

Mr. Maly: Sure.

Mr. Rodrigues: We all played in the sand dunes, we all knew that it was there. The law does not speculate. The law says you have to find a burial. And when you find the burial, then the process starts. So it's a fact for all of us that, oh, that's a burial ground, but the law doesn't start there. It starts with the actual discovery of a burial. And my, I'll probably get fired for saying this, but my -- my thing is that since the laws were -- were authored in, well, I think it's '89 - '90, we've learned a lot, like Uncle Les says, we have evolved. Well now we know what doesn't work and what works. So now it behooves us to go back to the legislature and rewrite, or what I say, fine tune those laws.

Mr. Maly: Thank you.

Mr. Kalalau: You know defining the law is, this is going back to what Dawn Wasson has said, you know, like the H-3 where there was 65 sites and they preserved on 3, and what Kepa had said that in some of the research the areas are known burial sites, and what you're saying is that only when an inadvertent burial comes up, then they do the process, but in the permitting process, they have to do an archaeological study and survey before -- before, you know, they can give any plans or any projects -- for the projects. I think defining the law is because it's a known site and because we're doing only the archaeological study goes only, you know, in different kind of trench testing or core testing and they only go certain elevation or so many meters down, this is where I think the laws that when the State does, you know, try to structure a better system on trying to preserve cultural sites, this is where I feel it's important that because we already know it's a burial site. You know, the laws gotta somehow speak for the iwi.

Mr. Fredericksen: Yeah, Sam? Sam? Kepa, that was a great comment/question that you brought up, and I think the thing, in the case of the Pu'uone area, I mean there's been so much evidence already that's come forward that it's a situation where the law does need to be changed, tweaked, to some extent, to recognize that, yeah, you know a 150 plus burials in this area plus who knows however many previously disturbed human remains as

well, but it is a significant, culturally significant area, and that's something that I think is kind of got put onto the -- not put necessarily put on, but just kind of gone by the wayside.

Mr. Maly: Thank you. And, sorry, if I may? Interestingly, you know going through here and just about your comment about, you know, past work and, you know, the laws is that in 2004, the report on this says that during a survey no historic sites were identified, and I think that that just shows us also something indifference about, you know, what was important and, apparently, after 2006, there's, you know, also some new guidelines or requirements are being set on it but, you know, it's interesting that how the initial archaeological work had said no sites were identified but everyone knew, if you based it on traditional knowledge, you knew the use of the area or circumstances of history in the area to now 150 sets of remains and more have been identified. So I think, clearly, I think your comment about, you know, looking again at the law and trying to streamline it, tweak it to improve it that it's reflective of the traditional cultural values of the place is a really important one.

Mr. Kalalau: It is important.

Mr. Rodrigues: And it's -- I'm sorry. And it's possible. And the reason why I say it's possible, and you can probably appreciate this, Kepa, because part of my job, 30 percent of my workload, is to go through people's genealogy and determine whether or not they have lineal or cultural descendancy to a burial find. There is a part in Hawaii Administrative Rules that say while I go through birth, death, and marriage certificates, I can use oral tradition and common knowledge. And there are some of us who know a lot of other people's genealogy and that's just something that's been passed on to us, though it doesn't meet Western standards of legality, it does meet Hawaiian standards. And so if we have that kind of flexibility for that, we can have flexibility for oral history for a specific place. It just needs to be codified into law.

Mr. Kalalau: Okay, Ray.

Mr. Hutaff: Yeah, kind of a comment to what you just pointed out and then with one of the statements, you know, he's saying -- he's reading from -- it says in 2001 that they had a survey. "During the survey, no historic sites were identified." And then back here, in 2004, a different company, Archaeological Services, probably one of the big companies that you like, the one good company, okay, he's really good, "Due to the number of subsurface native Hawaiian burials being identified within the surrounding -- the project area, the likelihood of recovering additional remains is high and all ground disturbing activities shall be monitored." So you've got a conflicting earlier report that said there was nothing and then, all of a sudden, say, well, all of a sudden there is. What I'd like to kinda comment on though is your statement, it's kind of a personal observation and, hopefully, it has the -- what I'm going to say has the ability to -- to encourage people. You know, with sadness,

we look at what's happened in the past and realized that there were no laws in order to protect this, and that's sad, that hurts. The good news is is that we're starting to create laws, like you said, 2006 that kind of points us in the right direction, and now the time has gone by, we realize there's still more to do that there needs to be more tweaking of the laws or additional laws, and that's kind of a good thing. I'd like to coin a phrase is "The law needs to catch up with culture." Okay? It really does need to catch up with the culture. And I think if we look at everything that we do from today on, because we can't really change the past, the past is only a good lesson, is that all of us should be actually doing that, to where we get these laws so we can go back a little bit further so we can be helpful with developers and say, "You might wanna sell that piece." Or, "How about donating it to somebody?" You know, just so that we don't be disrespectful cause we're in a dilemma. We're in a dilemma. So much has been done, you know, to destroy some of these things, inadvertently maybe or even maybe through time on it's own, which is what maybe it was meant to be - the sands of time. The bones go to sand, and they go to the ocean, and then continue on, okay? When I was growing up, the land that we lived on, okay, was first where our ancestors were buried, and then we built the home so we can be close, so I have no fear of being on with someone's iwi. I just gotta say my respect. You know what I mean? So that I don't get, whew, all kinds. But so we're in a dilemma here. It's like, okay, we wanna preserve these sites but, at the same time, we're preserving after-the-fact, okay. That's not a bad deal. It's sad that we're at this point today where we are and if we look back, we can -- you know, someone's going to say, "It should have never happened." Well it did. We cannot do nothing about that. Okay? But what we do in the future, and what future developments come up with and how we handle them, and how we respect the iwi, and how we respect the people who are alive, okay, because I got a lot of who I am from my ancestors and I hope, in the world, there's one or two people that respect me so that I can share that respect with my ancestors. So what I do in the future, what my kids do in the future, comes from them and it also shows them respect, and I think that it's important that we acknowledge that but how do we -- I don't think we can erase. Can we shred that one? You know, so I think we also need to be encouraged by the fact that we're going to change laws, okay, and that we need to make sure that the culture catches up -- that the law catches up with the culture now. Start now because it takes time, huh? You know, some of the legislatures, I don't know, they get kinda plenty to do, but thank you.

Mr. Rodrigues: Sure. And talking about time, you made the comment when you looked around and said, "wow, we're all kupuna." I have a classmate there, we're not going mention what year, okay, you said we're makua, and Dawn said she was a kupuna. Don't do the math, but I was Dawn's Olelo Hawaii teacher at the University of Hawaii, okay?

Ms. Wasson: And I still don't speak Hawaiian.

Mr. Rodrigues: She and I going talk about that after this.

Mr. Moikeha: Question. Question.

Mr. Kalalau: Okay.

Mr. Moikeha: Okay, so walk us through. In the case of development, when the iwi is found through archaeological find and through inadvertently, what is the rights of the iwi? What happens to it?

Mr. Rodrigues: With respect to the first one, where the burial council has jurisdiction because the discovery of the iwi was a consequence or subsequent to an AIS, the burial council decides what happens to the iwi and the question is one of two: relocate? Or preserve in place? If it's inadvertent, and we're only talking about Maui, and Lanai too actually, it comes to my office and I decide what happens. The process is that I will put it on the agenda for the burial council for consultation reasons only. They do not have jurisdiction; they do not make a decision; SHPD makes that decision, and I face the same two questions: Are they to be relocated? Or are they to be preserved in place? And when I do that, and I'm serious, that's why I take Ambien every night, it's a very difficult decision because I need to weigh everybody's mana`o. And I, as a native Hawaiian, and I'm proud to say this as a Cultural Historian for State Historic Preservation Division, I start with the premise that those are people, those are my kupuna, and then we move on from there. And, like I said, it's very difficult. As much as possible, I think iwi should stay where they are found. They were -- and that's not just because they were here first, I think they have a right to. When you look at iwi in the ground, what you're looking at is a -- it's some form of sovereignty. Because, really, nobody owns that iwi. I am only the konohiki until the true family appears and then I pass it on to them. But practically speaking, that will never happen. So that is my responsibility to assume, hey, you stay there. The iwi is you, that's your form of sovereignty, and the land around you go with the iwi, like Johanna said, you know what happens when the iwi breaks down, it turns into sand. Well, that's still you. That is sovereignty. And so when I make the decision, I always start there. Now there are going to be times when I'm going to say, "relocate," and I think, in this situation, let's all be up front, Kuikahi Extension, because it is a road for the entire island. It is a major artery to connect Wailuku with Kahului, okay? So now I gotta say, "Well, what is best for everybody?" And when I make that, I don't say, "Okay, well, never mind, kupuna, I going talk about everybody else who lives here today." My question is, when I face that problem, my question to the kupuna is: What would you do? If you were standing here and I asked you: Well, I have this pilikia. Do I move you or not move you because of the rest of the people? I am confident, and I know people are going to disagree with me, I am confident that the kupuna would say, "Ah, maybe you gotta move me. This is for everybody." And that's not something that's made up. If you look at our culture, it has every -- our whole culture is sacrifice for everybody else, and I really think they would agree with me. So that's the process.

Mr. Kalalau: You get anymore questions, comments? Erik.

Mr. Fredericksen: I just have a comment, and it goes back to what Hinano was speaking about a little bit earlier, and it's something that I've always had -- had some struggles with is when you -- when you go into an area, let's just say, you know, the Pu'uone Dune System, and try to test, I mean you do the best you can but, I mean, you're not testing a lot. You can't. And it's basically hit or miss. I mean, you know, you use your instinct, you know you try to get as much information as you can, but it's not surprising a lot of times when there's not much found, if you will. It doesn't mean there's not anything there - especially in this area. We found -- we've done work in Lahaina out in the cane fields and we've just been testing and have found burials, again, it's not a surprise, but the, you know, the surface over there has been completely obliterated by sugar cane for the last hundred years but there are still that -- down underneath the plow zone, there's still remnants of, you know, Hawaiian -- Hawaiian culture activity. But the problem that I've always had is, or not the problem, but the challenge is, okay, if you find, let's say in an inventory survey, you find one or two burials, and that's probably pretty, if you will, lucky because you do the best you can but it's just -- we've had instances where we've just located a burial by testing but, you know, if we did ten feet over, five feet over, a foot over, we would have missed the burial. It doesn't mean that there's no more burials there. But when you get into the once a project is approved, then it's this, you know the inadvertent phase and that's where -- and I think on Maui, and Lanai too, the system that is in place, I don't know if it's - you're saying informing, but it is almost informal because, technically, SHPD doesn't have to consult burial council necessarily on inadvertent finds.

Mr. Rodrigues: No, they do.

Mr. Fredericksen: Okay. But in terms of if -- does SHPD, I mean here I know they take the burial council's advice very seriously, which is really good. Some of the other islands, I'm not so sure about that. But, thankfully, here there is a good amount of respect. But still, it's a gray area.

Mr. Rodrigues: In terms of the process, technically, when a burial is discovered, I only have 24 hours to make a decision, or 48 hours, depending upon how many burials are found. Now, think now, in your mind, how can anybody make that decision? Maui has traditionally, and I hope it continues, said, oh, Hinano, never mind. No need. We wait. We see. We talk. We see what we going use that place for. We see if we can move this building and all that. That is how we do things on Maui. That is why Maui is not in court and the other islands are because it's traditionally Hawaiian to kukakuka e pili. . . pilikia. We all sit down, we talk to find the solution to this problem. And like Dawn said, O Maui no e ka koi. That is so true. And I hope that things, in the future, will not change that.

Mr. Perry Artates: You know, Hinano, me I like when you come up there talk. You know why? When you come up there talk, you for real. You know you not blowing smoke over nobody's head. And the reason why it kind of triggers, you know, to instill me to say what I like say, not the politically right thing, because I going say what I like say. The only reason why this came to this Commission cause I was innocently sitting in that position, yeah, out there just watching until Bruce U`u brought me up there and asked me: Did it go before the Cultural Resources Commission? And I said, "No." That's why we're here. But see, what I'm trying to get at and trying to bring this in one way to say good things is that here you have this developer doing something that is creating work for everybody. If they never go break ground or find iwi, we no more job. You no more job as an archaeologist. We no more job in construction. Maybe going be one less job for you, you know, because, you know, we only know that -- thought had bones there. But until they went go over there, and our guys went there, our construction contractors, went go move sand around. But you know something? That had there long time ago when we did the highway and the reason why I say that, when we did that long highway go to Maalaea, I was out there, as one labor, shoveling dirt when Fong Construction went make the road. So nothing new - get bones there. From way back then, that was in the '70's I think so was. And when we started doing Waikapu, had bones over there too. But you know what was so beautiful about it back then? You know our heavy equipment operators? All kanaka. All Hawaiians. And you know when we find bones, we stop. We no move the bones. And we go with our shovel, clean, clean, clean -- eh, the po`o fall down. And you know what happened? The old guys, they go like this, to go get the Foodland package, and we go pick up the bone and put'em in one package, and we put'em aside. You pick up the phone when you like help, nobody help. So you know what we do? We leave the bones in the package. But then the old school operators, they just tell you in one sentence, because they native Hawaiians, "Bumbye we go put'em back." Or, sometimes they inside that -- over here, yeah. Had plenty bones inside there.

Mr. Kalalau: The warehouse.

Mr. Artates: Yeah. And we did Leisure Estate, way back then, that's one sand dune. Get uka-pile bones used to get. Put'em in the package ...(inaudible)... what I see now is you get one developer that is trying their best to at least identify and not so much disturb the iwi that ...(inaudible)... and like I said, if never break ground, we only going talk "oh yeah, get bones over here. Yeah get bones. Get iwi over here." But now we know at least get something over there and now we do something over there. So our Commission, like bruddah said, the CRC may comment and provide recommendations. We may. The decision-maker and body going be the Planning Commission. I guess I was at the wrong place at the wrong time - that's why we're here. But they could have passed it back then. They could have take one vote that day and pass'em. So now we at least know what is in front of us ...(inaudible)... and you know what? I appreciate you guys, Leiane and the rest of the crew, Uncle Les, because they are abiding by the law.

Mr. Kalalau: Hinano?

Mr. Rodrigues: Ae No`u ka hau`oli. To make everybody feel good when we leave this place, I wanna let you know that all iwi that is found on this island has to come to me. And if there are iwi out here that somebody saw and somebody went hanaino and didn't come to me, you, who saw it, you come to me after 5:30 and you say, "I got something to tell you." And trust me, the next morning, at 8:30, I will be out there. I will stop construction. And I know sometimes Maui Lani get mad with me because I go po`opa`a kipi and I say, "No, no, no. The iwi stays." I know that. But that's my job, not just as a Cultural Historian, that's my job as a Hawaiian. It is my job. There is only one Cultural Historian in this entire State - that's me. I gotta make those decisions. You know that at SHPD we have problems with our turnover but, you know, and I take it seriously and, like you said, I'm not afraid to say, "I'm sorry, but they stay. You wrong." Yeah, and I know I get the flack, and we all know how politics work, and it all comes right back to me but, like you said, we gotta do'em because you gotta stand by yourself and say, "Sorry, but it stays." And it works the other way too, yeah? It's to be relocated - cause then I catch the wrath from the other side, yeah. But when sit down and you talk with people and you explain, they go: Oh, okay. Now I understand why you did that.

Mr. Artates: I make one more comment. You know why, Hinano? We live in Hawaiian homestead, right, get plenty archaeological sites there, and it's all -- it's inventory sites. It has a number. It's not a name site. The association worked together to build an -- well SCS did this book for us. We have an opportunity to name these sites. In all due respect, when -- when we cleared the lots, a lot of our people they no walk the lots, right, and they find things after the fact. But you know what's beautiful? When they do find'em, they take care of 'em, and they not going be people that: Oh, that's one burial. Going get all kine kahuna my house. No. They say, "You know what? We love that because we know we living with the past." Nothing spooky about one burial. Nothing spooky about one archaeological site. Only you, in your head, make'em spooky. Only you in your head.

Mr. Rodrigues: When I took this job, I went to the job interview, I wasn't quite sure what this job was all about. I didn't know the iwi part. And I went -- I moved back from the Mainland after living on the Mainland for 20 years and I came back, and I saw this job in the OHA newspaper, and I went to the job interview, not knowing this was an iwi job, I went home and I told parents and they said, "What? No. You not going work with iwi. That is no good. Blah, blah, blah, blah." And then I said, "Well, you know, if you feel like that, then every archaeologist, historically, should be dead or sick by now, you know." And I said, "You know what happens? When you go there, they know. They look at your heart and they know." So if you coming in with a good heart and good intentions, nothing. If you come sick or something, then you gotta ask: Oh, what did I do? What did I do to offend them? So, you know, I agree.

Mr. Artates: You know why too, Hinano? In the Leisure Estate job, me, personally, myself took one whole structure of one body out, piece by piece, and I still get'em. That was the right thing to do, not spread it all over the place and then no can find'em. And to this day, the old retirees that's still around, they still remember that - oh you the guy, yeah, you the boy? - cause I was one boy, I guess. Go get the bone. Go take the bones away. And you know what? Like I said, I still around because you know that you did the right thing to do.

Mr. Rodrigues: Pono.

Mr. Artates: Yeah, pono.

Mr. Rodrigues: You know, I said I was at this job since January of 2006, our contracts run annually, so our contracts end every June 30, and then they decide whether or not they'll pick you up July 1, and so from January 2006 to just about getting towards June 30, 2006, I said I going leave. There was just too much to do. But I went to go see somebody, I went to go see a good friend of mine, Keali'i Tau`a, and I said, "Oh, you know, Keali'i, I no think I going take this job. I think I going work for OHA, you know, I going do something little bit more administrative." And he looked -- and I said, "So what you think? Pehea kou mana`o?" You know, and he looked at me and said, "Which job can you do most for your people?" I looked at him, I was mad for that question cause you know Hawaiians, you ask question, they give question back, they no give you answer, and I was mad he went throw the question back to me, and I looked at him, and I smiled, and I said, "Thank you." And I was on July 1. You know, because nobody wants this job and so sometimes in life you gotta say: Wow, somebody -- somebody gotta do it. Somebody has got to do it.

Mr. Kalalau: Thank you. Thank you. Okay, before we -- just one more check before we close the floor. I guess we'll close the floor now and -- and ask the applicant to probably come back for final comments, or Ann.

Ms. Paci: Real quick. I just wanted to respond to the question about the long-term care and maintenance for these preservation areas, and, years ago, this was back in late '90's when Maui Lani was working on one of our first subdivisions and we did find our first burials when we were in construction, we proposed to create several lots that we would preserve these burials in place. At that time, when I met with the council, since this is a completely new experience for us, I suggested that maybe there was a community group that wanted to participate in creating this preservation or upkeeping it and there was no volunteers at that time. In looking at the project long-term, we decided that the homeowners association is the one entity that's going to be around long-term. Now, we are still -- the association is still developed and controlled with Maui Lani so we support and subsidize the association, so it's not like we're just passing it on, we are a participant in that process. And I think, you know, people mentioned that as part of the burial treatment plan, there's deed restrictions, there's easements that are created, the burial treatment plan is the

contract of what we are going to do with the property to preserve it long-term, but I think even beyond that, if you look at Maui Lani, it's the community pride that upkeeps that lot, you know, the maintenance is done by a landscaping company, but it's kept to a certain level of maintenance upkeep because that's what the community wants, you know, they have pride in their own properties, they wanna see the same pride in the common areas and the preservation areas in the community and that's why I have the confidence that, long-term, these properties will be taken care of. You know, another option that I had thrown out in past years was, you know, if the State wants the land, we will donate it to them. We'll just deed over the land to them, you know, they're the ones that keep the records as far as the site numbers and everything, and we were informed that the State does not have the funding to upkeep such properties. You know, so I would like to see it in a greater community effort in, you know, maintaining these properties, you know, access is always available to the properties so anyone who wants to come and visit -- visit the properties is welcome to, but to see more community effort and participation would be nice, but I just wanted to reassure you that I believe that long-term that the preservation lots will be cared for properly.

Mr. Hutaff: Want me to go first? You sure? Okay, I appreciate everything that you said, but, culturally, once you took on the land, you took on the responsibility, okay? Once you've taken the responsibility, whatever you find, is your responsibility - no if's, and's, or but's about it. Culturally, that's how we look at things. So for you to say, "Okay, you know, we wanted to give it to the State." Well, that's giving away your responsibilities to a non-entity that may not necessarily have the same understanding of their responsibilities. I think that you've shown that you care about your responsibilities and that you've kinda proved it in your efforts - whether it's enough or not, I don't know. But we certainly are going to commend you, I believe, for your efforts. Conversely, when you pass on responsibility, okay, you have to make the correct decision on who to give that to so that that individual, association, group, okay, perpetuates that. That's your responsibility because your responsibility is not just lifetime, it's an eternity in the Hawaiian culture.

Mr. Fredericksen: Yeah, that -- my comment was going to be -- Ray, of course, got it all into it. My comment was going to be what Ray was talking about is, you know, anytime a developer says: Hey, I'm going to develop this piece of property. It's their responsibility to deal with whatever's there, and Maui Lani, I believe, has been, you know, I would say, as far as developers goes, they have been responsible, but the, you know, as far as the long-term maintenance and everything else associated with these -- with these preservation areas, those agreements need to be very strong, and I was happy to hear that Maui Lani's participating in the nuts and bolts, if you will, of these preservation areas, and part of that participation is cash to help out, you know, to ensure that there is maintenance that's carried out.

Ms. Paci: And my comments wasn't so related to, you know, who pays for the upkeep or that type of thing, but just having this checks and balances as, you know, who's the one that goes and makes sure the follow through is there; that the contracts and agreements and responsibilities are being taken care of, and I just think, you know, like I said, community pride goes a long way, you know, whether it's like legislation, like Hinano said, we're very fortunate we didn't need legislation to tell us that we need to upkeep and follow our burial treatment plan - we've always just done it.

Mr. Fredericksen: And that's good, from a development side, it's good to be responsible because that's one of the -- that is the thing that sometimes is lacking is some developments will carry something out and then they'll cut and run and that's unacceptable in my view. But, you know, this is a very complicated project. I mean it is a culturally significant area and there's a lot of challenges. I mean you're plopping down something that's -- that obviously wasn't there before and it's going to be a long -- it'll be a long haul in dealing with everything, but that's -- that's all that can be done and I am glad that, you know, Maui Lani, as a developer, has been willing and -- to talk about things and to follow through with things and to be responsible.

Ms. Paci: Thank you.

Mr. Kalalau: Questions? Anymore questions and comments? Okay, if not, we'll have, Ann, with your -- thank you, Leiane.

Ms. Paci: Oh, you're welcome.

Ms. Cua: So, Mr. Chair and Commission, I guess we're at the point where I need to take some comments that you have and formulate it and put it in a letter on your behalf to send to the Commission. I thought a good place to start would be to share with you the -- part of the recommendation that the Planning Department had that was given to the Planning Commission, we haven't officially presented our recommendations cause we haven't gotten there yet, but they have a copy of it, and it was public information, and so what I did was I copied Page 5 of the recommendations because in Page 5 is a section that just deals with the recommended conditions on archaeological issues. So you could just take one and pass it down. And I think that would be a good place to start so you could know what's on the table already. And how the Planning Department came up with putting those conditions as part of our recommendation was largely due to the letter from State Historic Preservation Division, we have a letter from Office of Hawaiian Affairs, you know, I've had discussions with Hinano. I am very, very happy that Hinano is in the position he's in. He has been a Godsend to me. I can call him for anything and he'll come. I call him when I have questions because I -- I do not have the background that he has and so just as a -- as a professional, I really respect him as a professional and so I call him when I have questions, and I call his staff, and so we've had discussions on this particular project, again,

to be able to get Conditions No. 16 through 21 so, again, that's what's on the table right now so, knowing that, maybe your comments can be in addition to this. I think that might be a place you wanna start, and I don't wanna tell you how to provide comments, but I just -- I don't want you to say -- give a comment that is already on the floor, you know, you can know that this is already proposed for the commission to consider and maybe we can start from there.

Mr. Moikeha: Mr. Chair?

Mr. Kalalau: Yes?

Mr. Moikeha: I guess the one comment that I have pertains to what Perry had stated. If he wasn't at that meeting, this wouldn't have come to us. So somehow we need to at least let the Planning Commission know that anything that deals with development or with, you know, land and things like that, there might be a recommendation they come back to us just to -- if that's a possibility.

Ms. Cua: I can take that to the department. Again, it wasn't -- it wasn't the commission's decision why it didn't come to you in the first place. It was the department. I was me. I mean I didn't bring it to you because I felt that, based on the two approved monitoring plans from SHPD, and we have a letter from SHPD, and we have the letter from OHA, and nothing jumped out as being out of the ordinary or needing extra review, and that's why I stated from the very beginning, and that's just me being honest with you. If the facts were the same in another situation, I think my decision would have been the same. I mean we didn't -- we didn't not bring it to you for any -- I mean to avoid you in any way. We just felt that, you know, based on what you heard today, it's the same as what we knew then, you know, we had the same information then that you have before you now. So, you know, we might do things differently, you know, in the future, especially with Maui Lani; bringing it to you definitely wouldn't have hurt, but, you know, that was a decision the department made, I made, and --

Mr. Artates: Yeah but, Ann, this wasn't a new development. You know what I'm saying? If we have new development happening, I think so we should be aware of what's going to be coming down the pipe. This wasn't like a new development. You know what I'm saying? Anything that comes before us should be new development that we gotta investigate on.

Mr. Solamillo: As staff who supports this Commission, I'm going to make the caveat that should you want to begin reviewing development projects, at that level, that we don't have the staff currently and we'd have to double-up meetings, two meetings a month, there is no way you can handle. I mean you know how we've got stacked up on another island's cases right now, right? I mean if you added in the mix of having to deal with every single

development project, we would have to multiply myself four times or something like that, and that's impossible.

Mr. Fredericksen: Yeah, and that's -- I don't think it would be appropriate for us, as a Commission, to look at every single development ...(inaudible)...

Mr. Solamillo: A traditional cultural properties, like this place, yes.

Mr. Fredericksen: Yeah.

Mr. Kalalau: Okay, Ray?

Mr. Hutaff: As some of the specific conditions, one thing I don't see that they're already doing is protecting and recognizing places where iwi are either moved to or are in place. I don't see that as specific conditions. Maybe that would be something that I would recommend so that they continue doing what they're doing, I'm sure they will, but it's so much -- I feel so much better when I have something -- when I see something in writing.

Ms. Cua: Well --

Mr. Hutaff: It's also better just for some reason if the developer sells to another developer at least the conditions are already in place. Go ahead.

Ms. Cua: You know, the reason why a lot of the conditions dealing with archaeological issues are not as specific as you're speaking of is because there's monitoring plans, preservation plans in place that speak -- that are very specific in those issues. And the approval of monitoring plans and preservation plans and the compliance with those plans and the dialogue that goes on is pretty much with the applicant and the State Historic Preservation Division so -- and maybe Hinano can speak to this better than I. It's almost better that it's somewhat general because, again, there's other -- there's plans that are extremely specific that are referenced here, we referenced the monitoring plans, and that has gone through a lot of work to get approved by SHPD. So I'm not sure if --

Mr. Hutaff: Well, you know, my understanding is is that we get to recommend stuff and they get to apply it as needed or not as needed.

Ms. Cua: Okay.

Mr. Hutaff: So I think that us saying that then someone can look at it and say: Oh, that our fine young companion over from SHPD cause he already have that in place. Does it fit what they're recommending? Yes, it is. Okay, fine. It's already there. I would also like to see one of the conditions is to is a written plan for the protection and respect of the sites

that come up. He's indicated that those things are already in place. Les has indicated that those things are already in place. But I think that having a written plan so that the association gets that, has to follow it, because we don't know, again, where we're going to be 20 years from now. You said that there's a monitoring effort today. Well, we've seen budget cuts and we've seen things that were monitored, you know, water quality, ocean water quality that are no longer in place. You know, and if we make it a condition, then it kinda has to be in place. That's kind of what I would recommend as far as if we're going to recommend anything to the Planning Commission. Again, we're just making recommendations and if it's already in place or if it should be written better and more precisely by SHPD, then fine. But I'm just making that recommendation.

Ms. Cua: So noted.

Mr. Kalalau: Okay --

Mr. Maly: May I, please? Or are you --

Mr. Kalalau: No. Go ahead.

Mr. Maly: I think I just have maybe a few questions, hopefully, they relate, but one I guess is: Has there been some discussion about when will it be enough? Do they need to hit a thousand or, you know? What happens then if, at some point in the development, we start seeing so many burials, more burials being impacted, so when will it be enough? Is there any discussion, is there some way to set a -- and it's not even right but, you know, how are we going to know what to do when, you know, when it's 150, 200, 250, or 300 - you know what I mean? I'm just -- these are questions that I'm just wondering about, you know. Another, and should it continue, should we go through and be fortunate enough not to find anymore, I don't notice anything in here but maybe it's addressed, as you were saying, with Hinano with preservation plans, monitoring plans, you know, long-term care, one of things that's been a problem throughout the State over the years has been firms becoming the repositories of midden of just simple things but then -- of artifacts, of funerary items, for years sitting in basements or in storage areas elsewhere, is there a way of also integrating something that maybe this material comes back to the land rather than just throwing the dirt away, as an example, from test pits, from samples, you know, that it comes back to the land? Is there a way of integrating some condition into the whatever these requirements are going to be that would ensure that the material's also brought back to the land; that it goes back to a place on the project area, one of the preservation areas that's maybe set aside for burial sites or something? That, you know, that you don't just lose it somewhere - the box; the midden; the ash, you know, all of these things that may have come about. What's the disposition of artifacts? Is that addressed somewhere in here? And maybe it's in the monitoring plans? Do you know?

Ms. Cua: I'm sorry. I'm not quite sure. Maybe the archaeologist might know.

Mr. Maly: Okay.

Ms. Rotunno-Hazuka: The monitoring plan state where everything is curated and it's curated at my office.

Mr. Maly: Which is on Maui?

Ms. Rotunno-Hazuka: Which is in Wailuku.

Mr. Maly: And is there -- what's the disposition going to be when your office say is closed, or when the project is built out, and you're moving out somewhere? I'm sorry, it's just a question.

Ms. Rotunno-Hazuka: Sure.

Mr. Maly: What happens to your volumes of records, your field records, your photographs, the sketches, you know? How do we do we ensure that this stays a part of this community's heritage, it's legacy?

Ms. Rotunno-Hazuka: I suppose -- well, primarily for us, any artifacts that we have had have been burial goods and they have gone back in the ground.

Mr. Maly: Okay.

Ms. Rotunno-Hazuka: As far as the paper trail, old field notes, and what have you, I guess, at some point, if the office would close, it would maybe go to SHPD and be donated there besides --

Mr. Maly: And the midden soil samples and things like that, how are they handled?

Ms. Rotunno-Hazuka: As far as midden and remains, they're still curated until the report is completed. And soil samples usually are not kept but the midden is still kept indefinitely.

Mr. Maly: And what happens to the soil samples that aren't kept? And, again, I'm just curious.

Ms. Rotunno-Hazuka: They're just thrown away cause, primarily --

Mr. Maly: Where? In the dump or they're brought back to the land? I'm sorry to interrupt you.

Ms. Rotunno-Hazuka: It depends what it's for. If it's part of a burial, it goes back into the ground. If it's part of a cultural layer at a house site and we only used it to get the color and the consistency, it would go back -- it would be thrown away in the garbage or returned out to the land.

Mr. Maly: So that may be a recommendation, and I think this is a standard that people around the State are trying to start looking at now is that, you know, if it comes from the land, return it to the land. Don't throw it in the dump. And that may just be one additional recommendation in the process. It's very simple, you know, if you're already designating preservation areas, why not bring this material back. And, at some point, if you actually know where it is maybe 50 or 100 years from now, people are going to be doing further research and they're going to say, well, we know that this, if, again, not burial associated, this material is here, maybe we're going to reevaluate it rather than have to dig it up in the dump.

Ms. Rotunno-Hazuka: Oh, yeah well, and again, a soil sample would not have any of the cultural materials in it. It was strictly a small baggy full to get the color.

Mr. Maly: Sure.

Ms. Rotunno-Hazuka: But if there is cultural materials, we do save those.

Mr. Maly: And, you know, I guess the point is is that it's as easy to put it back on the land where it came from and, in some ways, perhaps a little more pono than taking it to the dump.

Mr. Kuloloio: I'd just like to support our archaeologist. Most of the material middens, when it process to me and to the burial council, we try to put everything back. Everything. Sometime we have rodents. I separate the rodents from the screening process so that it doesn't haumia, you know, rodents sometimes right next to the burial, the screening process, but everything is put back. In the inventory process, you brought up a good fact, and, please, this is one of the questions I always ask, this processes should be run through the Hawaii Archaeologist Association being the archaeologist that deal with Hawaii, yeah? They, in turn, should approach the State, yeah, in battering the criteria and rules to support what they believe should or should not in their processes of doing archaeological work. I think both of you should bring that up with your association. Bring it to the State for new methodologist, you know, new work so that we can improve the system, yeah, cause I hear this, Kepa, all the time from different archaeologist asking the same questions, yeah, to developers but nothing been changed for the past 20 years. I've been through this already before. So lets get together, implement change, bring it to the SHOPO. bring it to the burial councils, write a recommendation that the burial councils have this intact, and apply to SHOPO, apply to the legislatures, and do this rule changes so that everybody has the

same umbrella how to criteriarize the processes. That's all I'm asking. So thank you, Kepa, for bring that. Very good. The numbers, in fact, how much is numbers? Numbers. Well, Maui Lani is just a part of a big whole. Even if we gave you numbers, hundred years from now if we're still existing at that time, it's just a little dot on this whole Paia sand dunes, the Maalaea sand dunes, the Kihei sand dunes, the Waiehu sand dunes, the Kahului sand dunes, the Wailuku sand dunes - it's all the same Pu`uone. We're just a dot. So I hope I'm making sense, yeah. So what is the whole? Thank you for the question and I hope I've helped, Kepa.

Mr. Kalalau: Okay.

Ms. Cua: So I have -- I have two comments already that I've heard and I'll just keeping taking notes as you make comments, and then I can read it back to you before you actually vote that that will be your official comments.

Mr. Kalalau: Ann, is the long-term preservation plans already been submitted with the State, with SHPD, or are they doing the long-term preservation plans now?

Ms. Rotunno-Hazuka: For Kuikahi -- Kuikahi, the preservation plan has been submitted and I believe it's been accepted. I have to look back up on that one.

Mr. Kalalau: Okay, on that map, where is Kuikahi?

Ms. Rotunno-Hazuka: Okay, Kuikahi burial site are here, near the water tank, and so we set preservation areas on either side of road, which also includes areas on the left -- it also encompasses the burials that were left in place. So on either side of the road, burials were left in place; in the center of the road, burials were relocated and they would be relocated to these preservation areas. That preservation plan that has short-term and long-term preservation measures has been submitted to SHPD. Other burials in the property, there has not been a preservation plan yet because we are not finished with some grading activities and they have to go back to their engineering designs. A interim monitoring report for this area is being prepared and should be submitted, I believe, next week to SHPD.

Mr. Kalalau: Okay, that's the -- that's the monitoring report --

Ms. Rotunno-Hazuka: Yes.

Mr. Kalalau: From present day to -- I mean to now?

Ms. Rotunno-Hazuka: Yes, from the activity that we've monitored here since 1990 when Ameron first came in, and then Maui Lani came in, and we're still actually working in this area as we speak.

Mr. Kalalau: Okay. The other question I have, this was for Leiane, you know as far as the homeowners association, under what laws are they going to be liable to, you know, be responsible for the archaeological sites or the burial sites? You know, are you going to establish the laws for the homeowners association or are they gonna establish their own laws in -- for some kind of preservation and maintenance of the sites?

Ms. Paci: Well we do have maintenance guidelines for our common areas, and that includes the preservation, the deed restrictions of the property, and then the burial treatment plan also would govern the management of the properties. We could probably look at further -- amending some of our association documents to -- to add something about the maintenance of the preservation areas. I mean it talks about common areas, in general, and that would include preservation areas. I mean the association documents talks about the responsibility of the association with those areas.

Mr. Fredericksen: Sam?

Mr. Kalalau: Okay.

Mr. Fredericksen: I have a comment and I guess it would be a recommendation too is as these preservation areas that have been set aside already, defacto these are burial preservation areas, there should be some language in there, in this community association document, that indicates what the State penalties are for messing around with disrespecting the site. Is that in the community association rules? The reason I ask cause it's just another level of getting -- making sure the information doesn't get kinda like, oh, but we didn't know about -- that there -- you know, we weren't supposed to do x, y, or z in here.

Ms. Paci: It is not specifically in our homeowners association documents for the existing properties we have. The village mixed use area will have its own association documents also. So it is easy to put that into the draft documents.

Mr. Fredericksen: It's just another way of ensuring the long-term integrity of the preservation area.

Mr. Kalalau: So --

Ms. Paci: So we could do something whether it's stating the State laws --

Mr. Fredericksen: The State, yeah, what the State laws are.

Ms. Paci: Or even referencing the, you know, that they comply with the burial treatment plan and the long-term care and preservation.

Mr. Fredericksen: I think having some, you know, references what the State law says very succinctly then that -- that's something that lay folk can look at and go, oh yeah, well we gotta do this otherwise, you know, this is the consequence if we don't take care of the place or if we mess around with it.

Ms. Paci: So I think having the consequence but also referencing the document so that if they don't have it readily available, they know what they're looking for so they know what the responsibility is.

Mr. Fredericksen: But having, as I said a little earlier, a way of -- this is another way of ensuring the long-term integrity of these preservation areas.

Ms. Paci: I agree.

Mr. Kalalau: Okay, you know on that map right there, can you point out the areas that has already been developed, you know, like the fairway homes and lots?

Ms. Paci: You can see the Islands subdivision here that's been developed. This Grand Fairways area, which is near Maui Waena School. Maui Waena School is also in our project district. The Greens Subdivision, which is our original -- the first subdivision that we worked on. Kamehameha Avenue is extended out here to the new Pomaika'i Elementary School. And then, of course, we have The Dunes Golf Course that goes from one end of the project to the other. We have The Legends Subdivision here along the Maui Lani Parkway as you enter in from Kuihelani Highway. The Na Hoku Subdivision, adjacent to The Legends, is under construction right now. The Traditions project has been graded. Our subdivision approval's there. We have a portion of this regional park that's graded. And then we also we've done probably about 80 to 90 percent of the grading in the VMX area. Kuikahi Drive in this section of the Maui Lani Parkway is under construction with the utilities going in now. And then up here at the other end we've got the Kaiser facility and the dialysis center and that's completed.

Mr. Fredericksen: So what we have up there that's the entire Maui Lani project area?

Ms. Paci: Correct. Correct. So the future development area, as you can see, would be this area around The Dune Golf Course, you know, the clubhouse, along Kuihelani Highway is undeveloped, this project here actually, The Parkways, which is our Phase 6 project, has been graded. We're waiting for subdivision approval to start utilities there. And then we have some future phases here near the Waiale Reservoir that's undeveloped right now.

Mr. Kalalau: Okay, and then now in the area that is in question right now, does some of the burial sites -- would it be located on people's property, home properties?

Ms. Paci: With the information that we have now, in the residential area, probably not. We would create a green preservation area for that. It is possible, in the village mixed use area, that if preserved in place, that some of those preservation areas may be part of a commercial lot.

Mr. Kalalau: Because I'm just concerned with site D because it seems to be in a lot.

Ms. Paci: Oh, D, that's in the residential area.

Mr. Kalalau: Right.

Ms. Paci: We're showing that as creating a preservation lot, so that would be green space within a subdivision. So that wouldn't be in a residential lot. Now there are some instances within the developed areas of Maui Lani where we do have burials preserved on residential lots. I can think of one that's in The Bluffs, and I think there's several in the Sand Hills Subdivision.

Mr. Kalalau: Okay, thank you. Anymore questions? I just have one for Lisa. Lisa, you know on Site C and A, what are the -- the preservation plan calls for the setback from the highway?

Ms. Rotunno-Hazuka: A --

Mr. Kalalau: Yeah, A and C.

Ms. Rotunno-Hazuka: Okay, A is in the median, that was ...(inaudible)... A was the first burial that was found in the -- the way they rerouted it was to make the median area larger and preserve the burial in place in the median. The setback I think is ten -- five feet -- five or ten feet cause it's a two-lane road right now - eventually it may be four. C is right by the sidewalk that goes along the road so there is, you know, maybe one or two feet. That was the only way that that burial could be kept in place.

Mr. Kalalau: And you're talking about this is the one to two feet setback from the sidewalk?

Ms. Rotunno-Hazuka: No, it's within the sidewalk. Actually, what's probably going to happen is the sidewalk would be rerouted around the burial so it's probably one to two feet from the edge of the road - C.

Mr. Kalalau: So the burial is going to be one to two feet from the edge of the road, and then the sidewalk is going to be rerouted another one to two feet around the burial?

Ms. Rotunno-Hazuka: I'm not sure yet how much it will be but it would have to be rerouted. You can't put the sidewalk over the burial so it'd have to be brought -- it follows the road as far as I know ...(inaudible)... okay, so it's just -- so it's just right next to the curb then.

Mr. Kalalau: Okay, both of them? Because you have two sites in that area.

Ms. Rotunno-Hazuka: Yeah, this one here, the other C that they showed, is away from the road.

Mr. Steve Miller: Steve Miller with Maui Lani. The one on this side close to the water tank is right next to the right-of-way, and there is no sidewalk on that side. This one is maybe 15 feet from the edge of the right-of-way and we're in the process for both of these, as well as this, doing landscape design, which we will present to the burial council to, basically, get their feedback as to what works for them in terms of what those preservation easements look like. The one that is closest to the water tank is also about five feet above grade of the elevation of the road so it's going to require some very special treatment - probably a wall as well as some berming - and, at the same time, we have to get feedback from the Department of Public Works that it doesn't become a safety hazard because of its proximity to the road.

Mr. Kalalau: And then if you run into that situation?

Mr. Miller: Yeah, it goes to the burial council and they decide.

Ms. Rotunno-Hazuka: And SHPD.

Mr. Kalalau: Okay, yeah, let's have Hinano come, please.

Mr. Rodrigues: I appreciate your concern with the burial because I'm looking for a pattern as to your questioning and it's obvious that you guys are really concerned as to what happens to the burials. So let me explain the process. The disposition of any kind of discovery, whether it be previously identified or inadvertent, is a two-step process. The first step is somebody makes a decision, whether it be burial council or SHPD. Once that decision is made, we ask the question: So now what happens? What is the treatment? And that comes in a form of a burial treatment plan. If it's previously identified, that comes in the form of a burial component of a archaeological data recovery plan. If it's inadvertent and it's going to be relocated, that comes in the form of a burial component of a preservation plan if it's found inadvertently and it'll be preserved. So we go through whichever plan we're going to look at, it states exactly what is to happen, and it's not an arbitrary standard. It is set by Hawaii Administrative Rules that says you're going to have this, you're going to have this, you're going to have this. That is my job to go to what they submit to me and I go: You missing this. You missing this. You missing this. Rejected.

Redo your whole plan again. One of the provisions is that that burial treatment plan or whatever plan is to be recorded in the Bureau of Conveyances. That is our way of trying to -- trying to mitigate the risk of we forgetting about what's out there.

With respect to Kuikahi Extension where we have more burials than the other spots, I kind of flex my muscle with Maui Lani. Normally, all Maui Lani needed to do is give me a burial component of blank and a burial component of blank. In my disposition as to preserve in place or relocated, I said, and I hope this is what I said, I don't know which letter I really said it in, but I pretty much said, "I expect to see a BTP," which I don't really have to ask for. In other words, I set the standards high for that, the treatment of Kuikahi Extension because it was a very, very difficult decision to make so -- and pretty much in layman's language, I told Maui Lani: I want the best burial treatment plan there ever is for Kuikahi Extension because you have more burials than the other place. So, you know, your concerns, they're being addressed and they're addressed by Hawaii Administrative Rules. Maui Lani has no choice but to address those concerns.

Mr. Kalalau: Okay, but concern in that area is because they're going to do at least five feet grading, so that means they're going to go down five feet, and because there's already a known burial site there, what plans do they have if they run into three or four more upon the grading?

Mr. Rodrigues: First of all, with respect to what already exist, Maui Lani presented -- Maui Lani would have to have given me their plans before I made my decision. Because my decision does take into consideration what they do -- what they're going to do with the existing burial. We always run the risk of finding more burials let's say when we go in and we let -- even a simple thing as putting in a sidewalk or even a water lateral, which is, you know, we always run that risk and when we get there, it's another bridge that we're going to have to cross. If, and I don't know what the -- the decision is based on the fact pattern as to what happens when it does happen. We don't know what's going to happen but if four more burials come up next to a burial that I said stays, chances are, for the four, I'm going to say stay. Another factor in making a decision is: What is the condition of the burial? If it's in situ, in situ means the burial is there, in place, where it came from, it pretty -- you're going on the left side saying it stays, yeah. Now if it's a previously disturbed and it consist of one iwi, we don't know where it came from. So now the decision becomes even more difficult.

Mr. Kalalau: Okay --

Ms. Rotunno-Hazuka: Sam?

Mr. Kalalau: Okay, Lisa, yes, go ahead.

Ms. Rotunno-Hazuka: I just wanted to clarify for you because we have -- we have done all of the grading for Kuikahi. What Steve was trying to say to you is that all of the grading and sub-grading has been done for Kuikahi. This burial, in particular, was already at five feet above proposed grade.

Mr. Kalalau: Oh, so you're done with grade already?

Ms. Rotunno-Hazuka: We are already done.

Mr. Kalalau: Oh, okay.

Ms. Rotunno-Hazuka: We've already put in the pipe and what have you. So what he was trying to explain was that we have a five-foot difference so, therefore, we're going to have to do extra special type of treatment for -- to keep that slope in place.

Mr. Kalalau: Okay. Okay, I see.

Mr. Solamillo: I have a question.

Mr. Kalalau: Okay.

Mr. Solamillo: And this is probably best answered by Hinano. As many of you know, I spent a long time on the Mainland, probably 30 years, and when I look on the surface of this plan, it could be in Grapevine, Texas, or, you know, anywhere on the Mainland, and we've had this ongoing debate, this year particularly, but it went back into last year about traditional cultural properties and how you have places which are sacred, and burial grounds ...(inaudible)... traditional or sacred, and then I see this beautiful rendered development, and it is beautifully rendered and it's beautifully planned, but it tends to obliterate what this place is. And I get absolutely no sense whether, you know, as a designer, as a historian, as anything I get no sense of this place, you know, and later on we'll be getting testimony from research which suggest, you know, much importance to this place, and I guess that's the biggest question for me: How do I know that I am in Hawaii? How do I know that I am in this ahupua'a? That I am in this moku? That I am in these lands where hundreds or more, maybe thousands of people were buried? We don't know whether they're from a battle or from the o`ku`u, you know. And that's the biggest question I have for Maui Lani. How do I know? I'm going to get Bob from San Diego, Martha from Berlin, you know, moving here and, all of a sudden, you know, where are we? We could be on the Mainland, you know, could Grapevine, Texas, and that's my biggest question. So my question to Hinano, in all the burial treatment plans, is there something that is culturally appropriate to memorialize kanaka who have been historically buried here and will that be implemented and should it be implemented in this development and those ...(inaudible)...

Mr. Rodrigues: It's really two questions. One is that the bigger picture question as to exactly what's going on with Maui, and the second one is, in a specific situation, that is to say in a burial treatment plan. Let me answer the bigger question, and I feel exactly the way you feel, and I'm hoping that my tenure at SHPD would bring about changes, and I think it has. Prior to 2006, you had your archaeologists and you had the cultural historians. And this person did this thing, and this person did this thing. We've managed to merge that. And because it is one of the same. I don't know whose idea it was to separate it, but it is one of the same. And in doing that, I always try to keep in my mind a cultural landscape, and that is not a new concept. It's a new concept for Hawaii. But it's not a new concept for the rest of our nation. In the past, if it wasn't a heiau, it wasn't saved. There are still people today who believe in that practice. Since I came onboard, I said everything is significant, not just a heiau, and what I'm trying to do is implement the concept of a cultural landscape. What we have, because of our past practices, is these itty-bitty spots, and I call them "mini ghettos" in people's yards where we will never ever see that burial. We will never ever see that cultural site because it's in somebody's yard behind a locked gate, behind an electric gate. So we all need to change our attitude and behavior and say: No, we want a cultural landscape. I don't want to look at 400 square feet. I want to look at 4,000 acres. Because if we don't -- if we don't take that approach, exactly what you're saying is happening will continue. We will not see Hawaii because you're going to see somebody's green lawn and you're going to see their hacienda style home but you're not going to see what is in their backyard, and that's a difficult thing to do because people do not change. It takes three generations for people to change and I'm hoping that at least we're starting that.

With respect to a burial treatment plan, and this issue came up before, as much as possible, we try to keep it confidential. We don't want anybody to know. If there's a plaque and the purpose of a plaque and a concrete cap over a burial is to protect it. It's not to inform people that it's there. And we're taking that approach.

Mr. Kalalau: Okay, thank you. Questions, Commissioners? Anymore -- Ann?

Ms. Cua: If you're ready, I can read back the comments that I've heard. I don't know if -- I don't speak the same language so you might have to help me with some of the wording but, hopefully, I get the idea. I've gotten three comments that I just need confirmation from you are shared by the Commission and that's what you want in your letter. And then if you feel I need to correct some of the statement, please correct me.

So the first comment I heard was something to the effect that a written plan addressing the protection and respect of archaeological and cultural sites shall be developed and submitted to the community association charged with the maintenance of these sites.

Mr. Hutaff: The perpetuation of that, you know they're already going to do it, the protection and respect today, the perpetuation of that protection and respect.

Ms. Cua: Okay, the second comment I got was that any materials of cultural significance uncovered as part of project construction shall be returned to the land.

Mr. Maly: Yes, although, as Hinano mentioned, the way archaeology, in Hawaii at least, has been done for a long time, it was the biggest pile of stones and bones was significant, everything else wasn't. Ultimately, everything is significant. So to say culturally significant may be -- well, someone's going to say: Well, this little baggy of dirt isn't. But what we're saying is is that all these materials from a place should return to the land, someplace onto the property, you know, so I think the word was -- I think you said "culturally" significant?

Ms. Cua: I can take that out.

Mr. Maly: Yeah.

Ms. Cua: You just want --

Mr. Maly: That cultural remains.

Ms. Cua: Any materials --

Mr. Maly: Material associated with the archaeological investigations - something like that.

Ms. Cua: And the final comment that I have that the community association rules shall identify the financial penalties pursuant to State law associated with noncompliance with burial treatment plans?

Mr. Fredericksen: Not necessarily financial. It's not only financial.

Ms. Cua: Okay. Just penalties?

Mr. Fredericksen: Yeah.

Ms. Cua: Okay. Is that alright?

Mr. Hutaff: What about penalties and obligations?

Mr. Fredericksen: Obligations.

Mr. Hutaff: And again, if it's already written in the ...(inaudible)...

Ms. Cua: So that's what I've heard.

Mr. Fredericksen: And this is, let's see, do you have the project specific conditions that the Planning Department --

Ms. Cua: Yes.

Mr. Fredericksen: Page -- okay, it's that No. 18.

Ms. Cua: Yes.

Mr. Fredericksen: That phased archaeological monitoring report shall be submitted to SHPD for review and approval within 180 days after the completion of the construction project. I would, and I don't know what the rest of the Commission feels like, but I would put in there for -- and to also to encourage that all outstanding monitoring reports for other portions of the project be completed so that database is available.

Mr. Kalalau: So what you're asking is for access?

Mr. Fredericksen: No. That the reports themselves, if there are any outstanding reports for other areas, I think there were couple of the folks that came up and testified said there weren't some monitoring reports --

Mr. Kalalau: Monitoring reports.

Mr. Fredericksen: That were completed for some, I'm not sure which sections they were talking about, but that whatever monitoring reports that are outstanding from areas that have been completed that those be completed.

Ms. Cua: Okay, so I have to ask the question. The conditions that -- that I passed out to you and the comments so far that we've received is based on this project here.

Mr. Fredericksen: Yeah, I understand.

Ms. Cua: So my question is: When you say "other areas," are you meaning other areas within this project site?

Mr. Fredericksen: Within the development itself, the overall development, just to get -- to bring the database up to -- to current, if you will. If those areas have been completed. Some aren't.

Ms. Cua: I think I would, again, we would have -- if that gets to be a condition and we would have to assure compliance, I need to know that that's something the applicant can even comply with as part of this project.

Mr. Fredericksen: Or, maybe another way of putting it would be: To encourage the applicant to, you know, make sure that they follow through with SHPD conditions for other portions of the project in terms of the -- just making sure that if there are any outstanding reports, that those are -- those are, you know, the results are written up and submitted so that that database is available cause there's an awful lot of information in this area I know, I don't know how much of it's readily available, but for information that does -- that's there that can be produced that -- that's -- I feel that should happen.

Ms. Cua: Okay, and maybe I need some help from Corp. Counsel on this because, again, I'm assuming that all of these comments here are going to become conditions, that's the intent, at least from the department, and -- but once they become conditions, then the department is going to need to be able to, through compliance reports, make sure that these conditions are complied with. And before they can get a building permit for this project or whether it gets put before the building permit or a certificate of occupancy, a condition that would have to -- they would have to -- we would have to assure that they have met all other -- all other outstanding monitoring plans for a 1,000-acre property, I don't know if that's something that we could do.

Mr. Fredericksen: Yeah, I guess I'm not trying to necessarily tie that to this -- to this project, per se, but that information does need to get out.

Mr. Miller: Can I comment? Steve Miller again.

Mr. Kalalau: Okay.

Mr. Miller: Just to clarify, the project district's 1,023 acres, but our company doesn't own or control the development for that whole 1,023 acres. There are several sites in there and large pieces of land that have been sold to other developers. So the -- I think we already heard this coming and I know that Lisa's already working on an interim monitoring report to bring this area up to date. So that's something we are doing anyway. But we wouldn't be able to comply with anything other than property that we have control over.

Mr. Fredericksen: I have a question. The properties that have been sold, that you folks -- you owned them at some point though, correct?

Mr. Miller: Yes.

Mr. Fredericksen: Yeah, were those properties sold in -- in ungraded condition --

Mr. Miller: Yes.

Mr. Fredericksen: Or in a graded condition?

Mr. Miller: No, no. They're sold as raw land.

Mr. Fredericksen: Okay. Thanks.

Mr. Miller: Those developers would have to go through the same procedures and processes.

Mr. Kalalau: Okay, thank you.

Ms. Cua: So are we still at the three comments, I think? Erik, are you satisfied with --

Mr. Fredericksen: Not especially but it's just -- I know it's a really complicated project, and a lot of it has been going on for a long time, and some of these -- some aspects of it, like if it's a road or something, it's -- it can be a real long time, so there needs to be a way for that information can get out and that -- I mean that's stated here in No. 18: That phased archaeological monitoring reports be submitted. And I'm assuming that's project specific in this instance.

Ms. Cua: Correct.

Mr. Fredericksen: Yeah.

Ms. Cua: Okay, any other comments?

Mr. Maly: Just one last thought was, you know, was there any discussion or any thought on the part of the Commission of, you know, when is it enough?

Mr. Fredericksen: Yeah, Kepa, that and also you comment on cultural landscape, and maybe that's something you can try flush out a little bit or talk story a little bit more, but those could just be statements.

Mr. Maly: Yeah, I guess, yeah, that's right a statement so that the Planning Commission knows that this body is --

Mr. Fredericksen: To start thinking about that too.

Mr. Maly: Concerned or thinking, yeah.

Mr. Fredericksen: To start thinking about that.

Mr. Hutaff: I kind of have a question for Kepa.

Mr. Kalalau: Okay, Ray?

Mr. Hutaff: What you're kind of saying is that if there is a threshold, a number, that somehow we come to, what is it that happens after you reach that number? I'm not real -- I think I understand what you're saying and if I do understand what you're saying, then I don't know how that works ...(inaudible)...

Mr. Maly: Yeah, well, it's really difficult, and it just goes back, so noone knows but, at some point, the company or, excuse me, the County is going to need to -- if the numbers keep growing, what's the County going to do? You know and --

Ms. Cua: And I think in response to that, we would defer to State Historic Preservation Division and the burial council because, again, the County doesn't have the expertise to -- to say when is when. That's just my opinion.

Mr. Maly: And this, in part, goes back to Erik's question too then, you know, sort of the cumulative, you know, how do we know about the thousand acres and then, as Uncle Les was saying, you know, this is not only a part of here but they're all connected, these dunes that have been built over eons of time, you know, across that whole plain there, you know, I mean it's all a part of a contiguous landscape, you know, and one that we know has traditional and customary value in their properties, you know, so somehow getting it in there that, you know, that someday -- cause, you know, is a burial site one person? Is it two people? Does it have to have markers? You know, these are all questions that have been asked for a long time but, you know, clearly you also see that there's, you know, some continuity of use I think over generations. It's not all from one period of time. I'm just concerned that, you know, if we let it go without saying something about this so that the Planning Commission knows that it's a concern, we've in a way maybe not addressed some of the concerns that the public is testifying about today also.

Mr. Fredericksen: Yeah.

Ms. Cua: And is that a comment you want for the commission or is that a comment you want to the State because the State is the one that's actually charged with, I would think, deciding when?

Mr. Maly: I don't know. Does the Commission want to, you know, just express it as a red flag or something that, you know, you're thinking of, you know, that --

Mr. Fredericksen: Or a concern.

Mr. Maly: Yeah, a concern.

Mr. Fredericksen: I mean not necessarily saying, oh, you know, this project has to be halted or anything --

Mr. Maly: Yeah.

Mr. Fredericksen: But just the -- it's something, you know, it's something that we're going to have to continue grappling with. It's not -- I mean -- maybe if -- maybe if we could ask Hinano to come back up. I've got a question for him.

Mr. Hutaff: You should just give him a chair and a mike.

Mr. Rodrigues: I might as well be one member of this Commission.

Mr. Kalalau: Yeah.

Mr. Hutaff: You're welcome.

Mr. Fredericksen: Hinano, how would you characterize the Pu`uone system? Is that -- I think it certainly qualifies as a traditional cultural property. I mean but does it have that recognition or not?

Mr. Rodrigues: As far as I know, it doesn't have that recognition. And with reference to your question as to how I would, I don't have enough knowledge of TCP to determine. I think the standards are a Federal -- it's a Federal standard. Jennie Picket might be the one who would have been able to answer that question cause that's more archaeological.

Mr. Fredericksen: Yeah, but in this instance, I mean it's not -- it's a little bit different because there's the -- the area is just -- I think, at this point, you can't -- you cannot say, oh, there's not enough evidence that I mean it was used as a burial -- a burial area. There's not -- it's just something that has kind of been going around in my mind for a long time, but I feel it would certainly be -- it could be referred to as a traditional cultural property.

Mr. Rodrigues: One of the most irritating things about me, as far as Lisa might be concerned, is that when I first took this job, as soon as I show up at the burial site, I go: What year? What's the position? Do we know when we might have stopped burying from the flex position to the laid out position? Do we know when we stopped taking iwi to take home to keep underneath the sleeping house? All these questions I keep asking. But you

gotta understand that unless there's some kind of a cultural midden or some kind of a cultural matrix that we can test, we cannot get these answers because Hawaii Administrative Rules say: You shall not -- what's that word? Not treat. But -- what was it? Yeah. No, not you shall not date, you shall not -- there's another word. Desecrate. Or you can't intrude upon iwi.

Mr. Fredericksen: Yeah.

Mr. Rodrigues: So because of that law, and I agree with that law 100 percent, because of that law, we can't, and these are questions that I used to ask Lisa all the time cause I want answers. I want to know when our burial practices changed. It's a fact that these sand dunes are for burials. From when? And until when? We don't know that. And I, as a kanaka maoli and someone who has studied Hawaiian studies for 31 years, want answers to these questions cause by having answers to these questions, we know what we can anticipate and expect in further development. If everybody expected me to go out there and say, "stop." Yeah, let's say if I had that right by law to go out there and stop all development in the Pu'uone, what would happen? We need to look at that too. What would happen? Because guess what? There's also another ...(inaudible)... Hawaiians did not necessarily bury in what we think are cemeteries. So that means every inch of this island is susceptible to that new law, and then now nobody can do anything. So, you know, we gotta think -- we gotta think big picture as to what's going to happen.

Mr. Kalalau: Okay, anymore questions?

Mr. Fredericksen: Thanks, Hinano.

Mr. Kalalau: Anymore questions? I know we have really deep concerns but we're kinda, you know, in a situation to where I think it's best for this Commission that if we're going to address the Planning Commission, I think we should make our points really strong and just that where we're coming from and what we expect. So, based on some of the recommendations that we had Ann written down, would we like her to go over it one more time?

Mr. Hutaff: She wants to.

Ms. Cua: Oh, you're so mean. Okay, the first comment is that a written plan addressing the perpetuation and protection - wait - perpetuation of the protection and respect of archaeological and cultural sites shall be developed and submitted to the community association charged with the maintenance of these sites. That any -- I cannot even read my notes -- that any materials associated with archaeological --

Mr. Maly: Investigations.

Ms. Cua: Thank you. Investigations uncovered as part of project construction shall be returned to the land. That the community association rules shall identify the penalties and obligations pursuant to State law associated with noncompliance with burial treatment plans. And then, I'm sorry, I don't know -- I don't know how you want me to phrase that for the commission to consider a threshold or have they considered -- okay.

Mr. Maly: I would hate to have it go without some acknowledgment that it's a concern. When will it be enough? Or you know -- or --

Ms. Cua: So the CRC's concerned with --

Mr. Maly: And that is if it's something that it's felt by the Commission, you know, that it's something they'd agree with, you know.

Ms. Wasson: ...(inaudible)... the recommendation that was made by you folks through her, I would like to see something put in a enforceable agreement, that with these three recommendations, that if they do not comply, that you have an enforceable agreement in place that, you know, you can put a stop or whatever you want them to do so that every time they reach the point that they do not comply to these recommendations, that you have this enforceable agreement and that it can be stopped and it can be enforceable by law.

(Commissioner Artates was excused from the meeting at 2:00 p.m.)

Ms. Cua: I mean I can comment on any condition that is imposed by an board or commission. The County is your enforcement arm and, just to give you more background information, for any project that gets approved that has a set of conditions, before the applicant can get a building permit, they have to do a preliminary compliance report that comes to the department where they address every single condition, and the ones that need to be complied with before they get a building permit, we need proof of compliance before we approve the compliance report, which allows our zoning division to sign off on the building permit. Secondly, before projects are able to occupy, they have to do a second compliance report, a final compliance report, that not only says how they intend to comply, but they have had to comply with all the conditions before they can get a certificate of occupancy, and we do not approve a final compliance report until we have proof from them on how they have complied with every condition. And at that point, and only at that point, when our zoning division gets our approval, the current division's approval of a compliance report, do they sign off on the certificate of occupancy. So that is your checks and balances.

Ms. Wasson: ...(inaudible - was not speaking in the microphone)...

Mr. Kalalau: I just want some clarification from Corporation Counsel on that enforcement of recommendations. As a Commission here, we basically -- because the Planning Department gives all the final permitting and planning process, as the Commissioners, our recommendation or what we want to have an enforcement recommendation, how does that apply, or how does that -- would affect this Commission or what powers that this Commission would have?

Mr. James Giroux: I think you're still in the structure right now of recommending recommendations because the condition is going to be tied into the permitting process so that's, you know, at this level, you are, again, asking the Planning Commission to include these types of recommendations or enforcement issues into the permit.

Mr. Kalalau: Maybe, Kepa, would you like to also, you know, recommend recommendation on our -- you know with traditional burial I guess protocols and also about the, you know, the --

Mr. Solamillo: ...(inaudible)... try to give language to Kepa's concerns, so I'll read this I guess to the Commission members: CRC wishes to express its concern with the continued development on traditional burial grounds and ask that the Planning Commission exercise due care in considering future development in this area. Is that --

Ms. Cua: Did Hinano say that it was identified as a traditional -- is it a traditional burial ground by --

Mr. Solamillo: That's -- we'll ask Hinano right now.

Ms. Cua: I think you did ask. I thought he said no.

Mr. Hutaff: I think the problem you have writing it that way is you have to establish what due care is.

Mr. Solamillo: Well, you can suggest anything you want.

Mr. Hutaff: But you have to establish that.

Mr. Solamillo: And if you don't want to say "traditional burial grounds," you have another suggestion, that's fine.

Mr. Maly: Known, you know, because the dunes, you know, the Kamaomao, the plain across there is all -- it's a known place by native lore and family experiencing childhood growing up, you know, so if traditional is to --

Mr. Fredericksen: Traditional burial area maybe.

Mr. Solamillo: I mean whatever you would like to define it as. It's just the way a verbalizing the Commission's concern and the fact that the Planning Commission sent it to this body.

Ms. Cua: And a comment like that, my understanding, would be put as, as opposed to a recommended condition, just a general comment, yeah?

Mr. Solamillo: Just a comment.

Mr. Hutaff: And maybe even on a separate letter so it's not confused.

Mr. Fredericksen: Or it could be a comment.

Mr. Solamillo: Just be a comment.

Ms. Cua: It could be a comment as part of the same letter. I'll get that language from Stan.

Mr. Kalalau: And, Ann, because the Planning Commission sent it back here to the Cultural Resources Commission, when it goes back, I guess it's going back to the Planning Commission --

Ms. Cua: December 9.

Mr. Kalalau: I believe that we talked about it earlier that, you know, plans that, we don't want like every plan, like Stan was saying, but plans like this that is known areas and areas of great concern by many people I think it should be brought to us prior to any kind of --

Mr. Hutaff: As soon as possible.

Mr. Kalalau: Yeah, as soon as possible.

Ms. Cua: And, again, this would be a comment, correct? As early as practical in the process, yeah? Okay.

Mr. Kalalau: Okay, Commissioners? Okay, Ann?

Ms. Cua: So we'll have -- I was just going to say that we would have three comments that would be proposed conditions, and two general comments just on, you know, the process as identified: the one that Stan indicated, and the one that you just mentioned. Okay.

Mr. Kalalau: Okay, and that is how many -- how many recommendations and how many statements?

Ms. Cua: Three statements of proposed conditions, and two general statements.

Mr. Kalalau: Okay, if we don't have anymore questions for Ann -- oh, Ann, the County recommendation?

Ms. Cua: What's that?

Mr. Kalalau: Do they have a recommendation for this Commission?

Ms. Cua: Does who have? Do we?

Mr. Kalalau: Yeah.

Ms. Cua: Oh, no, we were just -- we were just getting your comments. That's all.

Mr. Kalalau: Okay, Commissioners, I know you guys all read your guys' agenda and, like Mr. Moikeha was saying, this is application is here before us and we are to provide comments and recommendations and which we have to Ann.

Ms. Cua: Yeah.

Mr. Giroux: Yeah, you should vote to adopt --

Mr. Moikeha: I make a motion that we adopt the recommendations.

Ms. Cua: And comments.

Mr. Moikeha: And comments.

Mr. Hutaff: I second both.

Mr. Kalalau: It has moved and second. Any discussion? I know it's a very I guess emotional decision that we gotta make today, you know, dealing with our kupuna iwi. And if we don't have -- we need to -- you know, there's a lot of concern and, right now, we haven't really, to me, addressed the core issues for the future.

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

It has been moved by Mr. Moikeha, seconded Mr. Hutaff, then

VOTED: to adopt the recommendations and comments.

***(Assenting: R. Hutaff; K. Maly; N. Watanabe; E. Fredericksen;
K. Moikeha)***

(Dissenting: S. Kalalau)

(Excused: P. Artates; V. Marquez; A. Romanchak)

Mr. Kalalau: The Chair will vote against this motion. My reason is that I just buried my dad last Saturday. Actually we spread his ashes outside of Hana Bay. My dad always told me that, you know, he watched the news a lot, and he goes, "Look at Honolulu, they going build that H-3 over there, they going remove how many -- how many Hawaiians going be moved out of this one place." You know, Honokahua, how many concrete buildings went up all on the Hawaiians. Wailea. How many concrete buildings all went up on the Hawaiians. My father says, "Cremate me. Put me in the ocean." And that's what we did. You know, I believe in the State system. I believe we can work out a lot of the misunderstandings. But it's the, you know Uncle Les talk about kuleana, it's everybody's kuleana. I mean it's -- this is the kind of things my dad decided to get cremated. You know, when he decided his burial plans, it was going to go coffin, the whole thing. He's also a veteran and he wanted to be buried at Makawao Veterans Park, but then he decided that someday they might be building a super highway through that veterans cemetery over there and then what? "They going move me? You guys going bring me back home?" He tell me, "No. Put me out there in Hana Bay. From my house, I can see myself right out there, and nobody going come put one hotel on me, nobody going come drive one train over me, and you know what? I going be real happy." And when we spread his ashes out in Hana Bay, it was a really, really wonderful experience. You know there was special significance. There was a big sea bird that flew over. And there was also a whole flock of little sparrows flying way out in the ocean around. Anyways, that's my decision why I'm not voting in -- supporting this recommendations and statements. Okay, so I guess it's been passed. We have majority of the Commissioners voted in recommendation of the thing. My feeling's that if I didn't, you know, buried my dad this weekend, I would support this project big time too because the Maui Lani people has, you know I was on the burial council, and our relationship with them was really good, you know. I wish all the other companies that develop on Maui would be as honest as them and that we can work to preserve this, a lot of the burial sites and the historical sites. I give them great, you know, recommendations, I mean that they have come forward and have worked closely with the County and other community groups. I know the burial council is a tough one. I sat on 'em for seven years. And now I'm on this one for five years. My term ends next year. That is why I asked Mr. Kuloloio if he wanted to sit on this Commission. It's -- we've been kind of playing a lot of things with the Planning Commission, you know, us sending things to them;

them sending -- but this was one of the first ones and I'm glad that Mr. Artates, Perry here, was there. It just gave the public, the people another time and another day to come forward and voice your concerns. I think the more public input we get, the better the working relations going to be with the -- with the people of Maui County. We need that, you know. Maui no ka oi. And I believe we've tried real hard in this project to try to address a lot of the concerns with the cultural sites and the historical sites. I can go on and on but, anyway, we need to get back to our business right. So, Stan? Commissioners, we're going to ask you guys if you guys wanna break for lunch or if you just wanna keep on going?

Mr. Moikeha: We need a break.

Mr. Kalalau: Okay, let's take a five-minute break and reconvene after the break.

(A recess was called at 2:10 p.m. The meeting reconvened at 2:27 p.m. Commissioner Maly was excused from the meeting during the break.)

Mr. Kalalau: Okay, Commissioners, let us reconvene now.

3. DEMOLITION PERMITS - none

E. COMMUNICATIONS

1. CORRESPONDENCE - none

2. PRESENTATIONS - MS. ANNETTE HEU presenting research findings and comments on Sand Hills.

Mr. Solamillo: Under Demolition Permits, no items are being brought to you today. Under Communications, Item E, no correspondence beyond what has been provided in your packet is being brought you. Under 2, Presentations, Ms. Annette Heu presenting research findings and comments on Sand Hills. Is Annette here?

Ms. Claire Apana: Annette is here. Okay, could we start?

Mr. Solamillo: You can begin now, yes.

Ms. Apana: Hi. Good afternoon. Thank you for being here. I know everybody's -- I hope everybody got some sugar in them because we have a great presentation to show you today and I thank you for staying. Okay, well, I should introduce everyone who will be coming up today. This is Lucienne deNaie; Jocelyn Costa; this is Annette Heu; and Daniel Kanahale; and Dawn Wasson. And we're just a scruffy bunch of volunteer, researchers,

and people who really care about the culture. So very aptly, more aptly would be to say this is about taking care of Kakanilua. As you know, this is a historic battle that occurred in the area of the Sand Hills, just below it. As it turns out, I live up in Sand Hills, on Halenani Drive. Annette Heu lives on Palama Drive. And we live pretty much in the district of Kalua, and this battle is said to have happened in the southeast of the Kalua. And so we have a lot of interest in this in the place that we live but in the whole history of Hawaii, and I don't know if you are familiar with the stories, with the historical references, but there are many.

And in this -- in finding this history, there are many things that have been pointed out, and I'm sure that you know of, of the failings of our system. And I will just start with we depend pretty much in these projects on the developer to bring the history forth. We actually are letting the developers rewrite our history. In this project in this area, there is a lot of history. A lot of history. All the most noted historians have written about this battle, about this area, about the burial ground, and somehow it has been turned as nothing significant in its first application. And first of all, we would ask you, as a cultural commission, to be very vigilant and active in getting into these projects and I think you're going to have to find the history somehow because it's not going to be presented to you, necessarily.

So today, we are interested in showing you this history because we feel that this -- this area, and especially the undeveloped areas of this region, should be designated as a historical property, and I hope that you will concur with us when we finish showing you our presentation. Thank you very much. And we'll now go to Annette Heu, who will give you her mana`o.

Ms. Annette Heu. Hi. Thank you. And my name is Annette Heu and I guess you could call me partially responsible for today. I'm a Maui girl and this place means a lot to me so I going read this for me to the best of my ability.

In the old days, the inheritance of the family burial place, the caves, and secret burial places of ancestors was handed down from these to their decedents so that whenever the death occurred, the body was conveyed to its inheritance. These immovable barriers belong to burial rights for all time. The rule of kings and chiefs and their land agents might change, but the burial rights of families survived on their lands, and here is one proof of the people's right to the land.

I would like to welcome our new Commissioners seen - been there, done that. And thank you all for allowing us to present this history today. The Wailuku -- the district of Wailuku contains the ahupua`a of Waiehu, Waihee, and Kahakaloa to the north, and Waikapu, and Pulehunui to the south. It includes the norther half of the Kahului isthmus with Iao Valley and extends across the isthmus between east and west Maui from Kahului to Maalaea Harbor.

The Hawaiian society that evolved was both sophisticated and successful. Food flourished in the valleys as well as on the mountain slopes. Specific to Wailuku are many important and legendary accounts. Hawaiian tradition taught people and their aina or land were one. This spiritual parents: papa, the earth, and wakea, the sky, gave birth to the island of Maui as well as the high chiefs who ruled it.

I feel the same way about respecting the land, and the culture, and the people who first lived on Maui. I began my research project two years ago due to the destruction of an ancient sand stone platform that rested in the kiawe forest across from my house. In 2005, a bulldozer came and just simply leveled the area. And having had lived there for 40 years, we knew that the platform existed and when I asked, there were no answers. No reports. No replies. And I decided to find the history myself because I wanted to know and because I knew that it was there. That is the situation that moved me to learn the history of where I really lived. I have since realized the painfully clear reasons for the fenced parcel called "preservation lots."

Since the advent of contract archaeology, in the early 1970's, numerous archaeological studies have been conducted in the Wailuku ahupua`a and the Maui Lani development area. In 1990, Bishop Museum conducted archaeological monitoring of sand mining operations. The Ameron sandpit, TMK: 3-8-07:131, grants 3152, is located within Maui Lani development. Excavation and screening took place on a 24-hour rotation basis without notifying the archaeological contractor. Thus, there was no conclusive record for the collected, displaced human skeletal remains. It has since been assigned a State Inventory of Historic Places Number. Another very significant feature was discovered in 2003. Many other remains have been discovered while sand mining and along Kuihelani Extension, which is within the sand mining area. Inventory procedures for the proposed Phase 1 residential subdivision and golf course revealed six previously identified burials were found and four newly identified burial features were located. Due to the discovery of additional burials disturbed at the three-acre preserved site, SIHP 2797 archaeological -- I loss -- hold on just one second. I don't know. Yeah, they do. They do have it. You have a folded -- it's a little folded map that is within the book. You can kinda tell. It's right in the back of that. It's folded. Okay. Got it? Okay, so an archaeological monitoring of all ground altering activities was recommended. Further research has shown, since then, 99 find spots, some containing more than one individual, have been identified. Currently, 13 permanent burial preservation areas have been assigned State Historic Inventory Property Numbers. In residential Phase 1 increments, 56 burial features were identified and condensed to 2 burial preserves. At The Islands and Bluff Subdivision, 15 historic property locations were identified and condensed to 4 burial preserves. Within the current 2006 Phase 5 burial preservation areas are present and continue to grow. At HRT Commercial, inadvertent burial sites have been again discovered. In 2003, an archaeological survey was conducted and no human burials or subsurface cultural remains were located during testing. During monitoring, over 37 features were documented. This area now contains

10 burial preservation areas. As archaeologists conducted an archaeological survey The Legends Subdivision, within TMK: 3-8-07:131, again, a surface survey and subsurface sampling resulted in negative findings. No historic properties were discovered here. Archaeological studies report findings along Waiale, Mahalani, Kuihelani, and Waiko Roads. On the eastern side of Onehee Street, human remains were encountered during development. The burials have either been preserved or reinterred in both project areas. From 1999 to present, at a sand burial site adjacent and southwest of another operation, human remains are present within the project area. Human remains were encountered during the sand mining operation at the Waikapu site to the south. Sand was transported to Lahaina for use at a sewer plant and found to contain human remains. From November 1994 to March 1995, a mechanical sifter was used and recovered remains. A minimum of 22 individuals were disturbed. Sand has been transported inter-island for many years. I think it's already enough.

And, you know, I didn't -- I looked at a few reports but I've read many, many burial council minutes and the numbers and situations are staggering, and I know that you volunteer as commissioners and everybody is busy, I don't know how to give you an accurate number but I think that map can show you maybe a little bit of a pattern and that doesn't even include the sand mining, which borders the project.

I'll just take a little more of your time and then I hope you enjoy the slide show and photographs that you will probably be the first persons to see today, but please enjoy it.

Your Commission determines the cultural boundaries by which permits and approvals within Maui County are deemed appropriate. Throughout the years of this area's development, we have witnessed the sacred traditions as well as true undying history of our host culture being neglected. This desecration is simply unacceptable. We hope you take advantage of this opportunity to reevaluate as well as reassess what I believe is a gross error in judgement. We have put schools atop burial grounds and expected workers to face sometimes really bothersome situations when they have to put sewer lines through burial grounds and they know that it's a cemetery. It can't be easy to go home from work knowing that you've done that and I know that we will find ourselves in this kind situations but I think that it doesn't mean we have to go there. And in this situation, we did. You know, I read so many of the reports that say to our lawmakers that this type -- this project or this place will have no significant impact. These things -- the sand dunes, the people contained in them, they cannot be replaced. And in the case of a lot of our archaeological reports, the history that is being edited to make things convenient. This area, within the sand dunes, has been stripped of its identity and allows a roadway that plans a development process that runs right through a pre-contact burial ground. The continuation of approvals of this nature and further elimination of ancient sand dunes that embrace the bloodlines of old Hawaii should be carefully assessed. This is a non-renewable resources.

If all these facts were presented to the people who judged Maui as being the best island in the world, would we still meet the criteria? Would you be proud to show the world how we've treated the history and ancestors of the Hawaiian people? As I view these maps and documents, it seems quite clear, in this area of historical significance, not just by mini parcels, but as an entire project district, the State Inventory of Historic Places already defines it. The evidence available to you here already proves the extent of this situation. The immediate implementation of actions necessary to protect this area from further destruction is warranted. Burial council notes state: "When the trees are dislodged, so are the burials. Unfortunately, those are simply missed. It's part of the process." Please read the reports and know the history. It's your history. It's being done on your watch. It's never too late to start doing the right thing. I hope and I pray that the depths of my research will soon allow you to seize this opportunity as well as fulfill the duties of the CRC. We are grateful for your services as well as allowing us, those here today, the time to provide you with this compilation of historical references. Today's actions are presented to you today with the hope that it will result in the immediate action on your part so that we can all be proud citizens of Maui County instead of feeling ashamed. I am a child of Hawaii. I stand with her. She is part of me and I her. These legends, stories, and sites are very sacred and significant in every sense of the word to all of us. It's not too late to do what is right. Please, help us accomplish and now Mr. Daniel Kanahale will read for all of you and Lucienne will provide a slide show that tells you just a little bit more about Kakanilua. Thank you.

Mr. Kalalau: Thank you.

Mr. Daniel Kanahale: Aloha kakou, Commissioners. Daniel Kanahale here. My role in this presentation will be to read excerpts from the book titled *Hawaiian Historical Legends*, written by William Westervelt, and I will be reading from the chapter entitled *Alapa Regiment*, and by sharing this with you, we hope to paint with broad strokes a picture of the historical events and characters that participate in these events over 200 years ago on the Island of Maui. So it'll take me a ten minutes to read through this so --

Kalaniopu`u was the Moi, or king of Hawaii, at whose feet Captain Cook was slain in 1779. He had been the ruling chief since 1754. He was a restless warrior and signalized his reign by bloody battles with the chiefs of the neighboring island of Maui.

About 1760, Kalaniopu`u attacked the southern coast of Maui and captured the famous fort of Kauwiki.

For 15 years, the Maui chiefs were not able to recapture it. During these years, Kalaniopu`u had frequently gathered his best company of warriors and attacked the Maui seacoast. From each invasion, he had returned laden with captives and spoil. At last, in

1775, the king was a victim of his own ambition. His supreme desire was to rule two islands instead of one, and he was willing to fight for it.

He carried the war close to the home of Kahekili, king of Maui. A battle was fought. There was a great destruction of life and property. This raide received the name Kalaehohoa, which means pounded on the forehead, because, as the records say, "The captives were unmercifully beaten on their heads with war clubs." For a time, victory was with the invaders; the Maui forces were not prepared for the onset, but warriors were hastily assembled from all part of the island. There was a bloody hand to hand struggle in which thrusting with spears and striking with clubs meant almost certain death to those who were not able to get in the first blow. The old king had been taken to the coast and placed in his royal double canoe ready to escape if his army could not win the day.

This was the sore defeat for the king of Hawaii. He was humiliated and angry. His self love and ambition were sorely stricken but he did not pour out his wrath upon his followers; he cheered them and encouraged them to prepare for new endeavors. He called upon the high chiefs of various districts of his island for more thorough preparation of men and war supplies that with new and larger army, he might complete the subjugation of Maui. The chiefs devoted all the energies of their districts to the preparation for that new war.

A large number of young chiefs throughout the islands was organized into three bands. The young men of royal blood, the king's sons and their cousins were set apart as the bodyguard of the old king. They were the Keawe, or the bearers. They were the supporters of the king in whatever move he might make. They were personally responsible for his safety.

The chiefs were separated into two regiments: the Alapa, the slender, and Pi`ipi`i, the furious.

The Alapa chiefs were the flower of Hawaiian nobility next to the highest chiefs. Eight hundred warriors were in its ranks. They were of almost equal stature, averaging nearly six feet in height. Their spears were of equal length. The bird-hunters of each chief had scoured the forests for the rich crimson feathers of the i`iwi, which were woven into glistening war capes. The regimental uniform, light bamboo helmets, feather-coated and crested with brilliant plumes, added to the majestic appearance of these stalwart chiefs.

Such preparations, on so large a scale, could not be concealed from Kahekili, king of Maui. He also gathered warriors and weapons as far as possible from his subjects. But felt his weakness and sent an embassy to Oahu. He must have a large body of reinforcements and the only available army must come from Oahu.

At last, the Maui priest informed his king that he was assured by the gods of final victory. He told his king, "The warriors of Hawaii should come like fish into a bay and should be caught in a net." From this suggestion came the plan of battle afterward carried out.

When the new year dawned, Kalaniopu`u set sail with a cloud of boats. Hundreds of canoes crossed the channel between the two islands and then coasted western Maui.

Early one morning, a part of the king's army landed at Maalaea Bay, near the spot where they had been defeated. The chiefs looked over the sandy isthmus lying between the two great mountains, Mount Haleakala and Mount Iao. On the other side of some sand hills in this isthmus lay Wailuku, the home of the Maui king. The warriors cried: "On to Wailuku. On to Wailuku." No strong force had offered opposition so far in the invasion. It seemed fair to presume that they had completely surprised the Maui warriors.

Through the Wailuku lands dashes a swiftly flowing stream of clear cold water breaking through the foothills of Mount Iao. The banks of this stream had already been the scene of many a bloody battle, hence the name "Wailuku - water of destruction." It was nearly eight miles away but that would be only a short morning's race for the hearty chiefs. The Alapa shouted: "Let us drink of the waters of Wailuku this day." The king, surrounded by his bodyguard of royal chiefs, watched the splendid array of warriors as they hastened to surprise the Maui warriors.

Over the long desert isthmus sped the stalwart chiefs on up the divide between the two great mountains until they saw the valley of the Wailuku and the ocean waters of the eastern coast. On sped the eight hundred bronzed and sinewed athletes. It was to them an easy race for victory. Below Wailuku lies a sand tract through which the winds sweep with great power. It has long been a tangled group of large rounded sand hills. As they entered this rough region, the first serious show of force met the exultant Hawaiians. There was obstinate resistance. But the onset of the Hawaiian chiefs was irresistible. They literally trampled the warriors of Maui beneath their feet. On into the sand hills they rushed, chanting their song of victory. Suddenly, their Maui foe disappeared, and in front and rear and on every side rose up hundreds of warriors from Oahu - strangers to the Alapa chiefs.

The scouts of Maui had faithfully reported the movements of Kalaniopu`u and the coming of the Alapa high chiefs, giving the Maui king time to select and place his allies from Oahu could take position there. The wily king had made thorough preparation to catch his enemies in a net.

This battle of the Alapa regiment was unlike the ordinary contests. The brave warriors massed their strength and expected to override all opposition. But when they drawn into conflict into the sand hills, their ranks were broken. They were forced to pass around the obstacles or climb over them

From every wind-raised hill the Oahu men hurled heavy stones upon the plumed helmets beneath them, and thrust long spears into those who were storming the hillsides.

Sill up the loose sand the Alapa warriors struggled, putting to death every foe, as they took possession of one hill after another, while their comrades forced the Oahu warriors back through the winding sandy valleys.

The conflict continued hour after hour. The blazing tropical sun filled the struggling warriors with raging thirst, and the waters of Wailuku was still nearly a mile away.

Then the struggle toward the stream was checked. The Oahu warriors were continually reinforced by fresh, unwearied men. The broken ranks of the Alapa regiment were met by a constantly increasing host of enemies. Soon the larger bodies were separated into small bands, each one hopelessly surrounded by picked warriors.

Broken helmets and tattered feather cloaks lay crushed and trampled into the sand. Fragments of broken spears, javelins and war clubs lay in splinters under the feet. Naked and bleeding, the chiefs raised broken arms to ward off descending blows. They died bravely, avenging themselves to the utmost in their death.

Two other valiant chiefs, side by side, fought their way through their enemies and escaped. The evidently left before the regiment had been annihilated. For they were unnoticed until they had gone so far that pursuant was useless. They reached the camp of Kalaniopu`u at sunset. The last of the Alapa regiment.

Great was the wailing among the royal chiefs of Hawaii and throughout the army. Sore was the heart of the disappointed king. He called a war council, the powerful chiefs of his bodyguard, it was a night council. The old king seemed to have a secret feeling that the gods were fighting against him. Apparently, he desired to give up the invasion. He was surrounded by turbulent band of fighting chiefs. They raged war among themselves when they could not attack the neighboring islands.

They decided to press on the next day and defeat Kahekili and its allies. Before day began to dawn, the camp was roused for action. The majestic masses of clouds almost always hanging over Mount Iao were glorious in the morning light as the great army drew near the sand hills.

The Hawaii army crowded up towards the steep side of the mountain as if to avoid the scene of the battle of preceding day. The debris of battle, the mutilated bodies of hundreds of warriors inspired the great army to endeavor to avenge the recent defeat.

But the Maui army had the advantage of a well chosen position. The Hawaiians had to fight uphill or else drift down to the sand hills. In either case, advance was difficult. Each step forward was fully earned. Each sand hill passed was almost as much of a defeat as a victory. There was a full day of savage fighting marked by inhumane acts of awful brutality.

At last, the Hawaiian warriors were forced to retreat to the camp of their king where Kalaniopu`u and his guard had waited for the result of the battle. Kahekili evidently suffered almost as severely as the invaders for there was scarcely any attempt at pursuit.

Kalaniopu`u had brought part of his household with him. His chief queen, Kalola, was the sister of Kahekili. She had come to share in the victory over her brother and assist in the pacification of her former friends. The attack had been made and the ragged remnants of a vanquished army had come back.

Kalaniopu`u proposed that they sue for peace, that his wife, Kalola, be the messenger to her brother. The queen utterly refused to face her brother. There had been too many passed personalities between them and she had evidently been a vigorous endorser of her husband's invasions into her old homeland. Life was too precious to be risked in that brother's presence. She proposed that the royal prince, Kiwalao, her son, be sent as ambassador.

Kiwalao was robed with all the royal elegance of the king. He was attended by high chiefs carrying the royal kahili and the royal calabash. These chiefs preceded the young prince as his heralds. When his name and position were announced to the outpost of the Maui army, they fell flat on their face in the sand while he passed by. It was death to stand before a prince or a taboo chief. Kiwalao was one of the highest sacred taboo chiefs in all of the islands. Runners carried the news of the coming of this prince to the Maui king, who was lying on a mat at his royal grass house at Wailuku, Kalanihale, the heaven house, was the name of this home of the king.

As Kiwalao drew near the door, all the Maui chiefs prostrated themselves before him. Kiwalao with low -- slow and dignified tread, crossed the room and seated himself in his uncle's lap. Then both wailed over the troubles which had been brought -- which had brought them together and over the deaths among their followers.

The embassy was successful. The terms of peace between the two kings were arranged. Kalaniopu`u returned to Hawaii to begin at once a new crusade against Kahekili. During the ensuing two years, the war degenerated into a series of petty raids by which he kept his wife's brother busy marching warriors from one end of Maui to the other to repel his attacks.

In 1779, the coming of Captain Cook changed the course of action and gave the people new things to think about until Kamehameha secured white men's arms, and conquered all the islands. Mahalo.

Mr. Kalalau: Mahalo.

Ms. Apana: Just to tell you that these artwork is a creation of Brooke Parker and they are -- have not yet been put in the collection yet so you're the first to see these. And now we'll go on to Lucienne deNaie.

Ms. deNaie: Thank you. What you're going to see here is just a modern day landscape with this story overlaid. Now, you know, none of us has gone out and dug and seen what we could see here, but if you look at the descriptions on how this battle was fought, and if you look at the terrain, and you look at the topographical features, you will see that there's really just one area that would really fit this description. And the area is where modern day Maui Lani is being built. I took heart when Stan was talking about the sense of place and where is our sense of place. As many of you know, I serve on your General Plan Advisory Committee and we're real concern that as we develop, we have towns and villages that actually feel like Maui, that feel like you are someplace that has history, that has a connection to people, and our future can be built upon the past. And I would think that one thing that the Cultural Resources Commission would do, if you find this information useful, is go back, even if these are old projects, it's never too late to make them better. As Uncle Les said, "Well, some mistakes were made in the past but it doesn't mean we're going to do it that way in the future." And I think that we all need to take that heart because if you even go to sand hills, the old sand hills, like there Claire lives, it was built on the sand dunes but it -- it's shaped to the land. It has a sense of place. If you go to Maui Lani, it could be anyplace in Texas, you know. Stan is absolutely right. And my feeling is that land forms are part of our culture as well, especially ones like this. These are very, very unique land forms, these sand dunes. They were formed around 30,000 years ago. They are only found in this particular part of Maui. I know I, personally, worked very hard to see the sand dunes in Waihee as part of the -- the dune preserve area and cultural preserve area there the Coastal Land Trust is managing right now because God isn't making anything else like this and they are very, very special places. And the fact that they were chosen to contain the iwi of our kupuna is even another factor. So we're building in the middle of a cemetery and, very likely, we're building in the middle of a battle field as well. And I believe under Chapter 6E of our State Historic Preservation laws, that there is a condition that says a place significant to the history of the Hawaiian people is to have a level of identification and protection. So we need to find a way, in spite of the fact that much of this area has been developed, one of the key parts has not been developed, and that is surrounding Waiale Reservoir, and that reservoir is right in -- right there, and many of you probably have driven by it or seen it. It is proposed to be a future water source and is proposed for expansion, so I don't know how it's going to work out with Maui Lani's plans to actually develop in that

area adjacent to the golf course because I would think the public need for a water supply might come first from additional housing.

At any rate, the story in this slide show is when the forces of Kalaniopu`u landed, they landed all along the south coast, but one particular segment landed here around Kealia Pond, and they set off across the isthmus with their goal being Kahekili's stronghold in Wailuku. They passed the Waikapu Stream, which at that time flowed into Kealia Pond, and it was pretty flat as they proceeded, but as they came more towards Wailuku, we had the sand dunes up here. So you can see the march route was right across the isthmus and this is the area where two large systems of sand dunes come together, and this is where present day Maui Lani is located, and this is the Honoapiilani Highway, this here is the Kuihelani Highway, and there's various other, you know, roads that we'll see as we go on.

Pardon me, I had these set for about six seconds. So as they proceeded, they could see that there were hills in the distances but I think folks didn't really realize, until they got nearer, what it was going to be like to deal with them. Waikapu Stream had to be forwarded at that time. This is Kuihelani Highway as it is today presently. But as they go into this area where the dune started, they probably had to make a choice of whether to head this way for Wailuku, or this way around towards Kanaha Pond, or to go straight through. And as the story tells, faith intervened, and a group of the defenders from Maui and Oahu met them out in the sand plains and lured them into this trap.

But if you look at this area, and you hear that story and the description, it's like it doesn't make sense that they were way over here to try to get to Wailuku. And we know from the story that only after the first regiment had been wiped out, did they then go more towards the hills and more directly to Wailuku. So we know that in this area, at some way, a portion of the battle took place. Now Waiale Reservoir wasn't here at that time. This was a sand dune. It was created in the 1870's or 1880's as part of the plantation. And this is all one sand dune system here. This was all one sand dune system here. And as this army came in, this is actually right below Maui Lani Parkway here and Waiinu Street is actually a very high bluff and, you know, as the story said, they had to struggle to go up these bluffs. So it's a perfect like little box canyon in here. This is slated for future development. So if these projects come before you, this is your chance to say: Wait a second. We'd like to see something different here. We would like to see the complete knowledge of whether this was a battle field or not. We would like to see an appropriate memorial and education center. And we would like to see a sense of place from anything that is developed here further. Those are all things that your Commission could ask for.

But the research deserves to be done. We've been pouring over old maps; reading the account; piecing together the old place names, and the description says, "Southeast of Kalua." Now, Kalua is right in here. It's right above Waiale Reservoir where the old part of sand hills is, where the hospital is; that's all the district of Kalua. The ahupua`a of Kalua.

And this is immediately south and east of that area. So there had to be something that went on here, whether all the bodies that all the iwi that we're finding there have to do with this battle is, you know, unknown, but some of them were and, actually, some of the individuals that were found were also found to have implements and so forth associated with battle with them. This has not really been brought out very well in the archeological reports that have been done, and this is unfortunate. This is kind of like back to Daniel Kanahele's story that we're only looking at the parts of this and not the whole.

So this is the area as it is today. This is The Island Subdivision. This is a corridor of the golf course. This is a wooded area that's still natural. And this is Waiale Reservoir and there's like paths along and hiking trails and so forth in here. I've hiked in here, years ago, just like, you know, lots of other folks have. And then, of course, the other increments of Maui Lani are over in this area and, you know, the new Safeway and everything is like up in here, so there's, you know, many other parts of this that actually have burials that may have also been involved in the battle because it did say folks went on, with the second regiment, and that there was more taking place. But these are our neighborhoods and this the likely place for this whole battle to have taken place, not over here, not near Pu`unene. In fact, it says it was between Pu`unene and the -- and Wailuku and the historic seat of Wailuku, Kahekili's compound, is where our State and County buildings are today; that's why they are public land because they were kingdom lands at that time.

So this is what we believe to be important and we would really urge this Commission to get the information they need to get the facts. Don't believe us. Make sure that the research is done, you know, we're amateurs, but it makes so much sense that this general area is where the battle took place. It was one mile from Wailuku Town, it was in an area where the forces could be entrapped, and the spears and the sling stones could rain down upon them, and this fits it to a T. So that is the end of my presentation.

Mr. Kalalau: So, Lucienne, have you guys presented this presentation here to the GPAC people?

Ms. deNaie. No. This just got created two days ago, inspired by Annette. Now Annette brought all of her papers and maps into GPAC, and we were fascinated, and we came up with kind of a rough policy statement that we would like to see a preservation corridor in Central Maui that roughly aligned to some of the burial areas and some of the historic areas. She took up a whole table at our Central Maui meeting with books and literature, and it was fascinating, and virtually all of the GPAC members went back there and browsed the materials, but it took really taking these things and superimposing them on a modern day map to make them make a little bit more sense. So I don't know if she has her map here but if you see her map, you go: Oh my God, what's all this? There's all these little pieces of paper stuck on it, you know, an ancient map of -- from the 1880's. So, yeah, GPAC really needs to take this into consideration and I am on the subcommittee that is

looking at these maps, I'm going to try to bring this knowledge forward, and, you know, we all have a part to play. The landowner has a part to play. Uncles Les has a part to play. Let's find out what happened and how we can take care of this area. There are going to be plenty houses for people to live there, you know, so --

Mr. Fredericksen: I think it would also be very appropriate to take this presentation to the Maui Planning Commission so they have this information as well.

Ms. deNaie: We would be very, very grateful to do that. You know, you folks are so liberal. I have asked to be on the Planning Commission agenda to make presentations about Makena and other places I've researched, and it's always like: Oh no. We're really busy. We don't have time for that, you know. You have your three minutes and that's it. So I, personally, am very, very grateful for the fact that you folks are giving up your lunch and you're sitting here and you're doing your duty. And I would hope that the Planning Commission might consider the same thing. We could make this a lot shorter, I think, but if people were willing, it could be a printed out book, you know, if we could get some money together to do that. But I think the information deserves to be considered.

Mr. Kalalau: Thank you.

Ms. Apana: Now we have some word from Jocelyn Costa.

Ms. Joyclynn Costa: Thank you again, Commissioners, for being here this afternoon, after your long hours in the morning, not even stopping to eat. I'm surprised that you didn't break for lunch. But we really appreciate this. And, you know, we really appreciate the comments made of the development that's before -- that was before us and their due diligence. We're not here to -- to chastise or victimize anybody; what we're trying to do is -- is spread that word that it is not too late to do the right thing - never ever too late to do the right thing. And that goes for everyone that's affected.

I come today scheduled to speak to Commissioners of the Cultural Resources Commission. I am a mere human being kanaka maoli humbly asking to reach the ears of my fellow human beings and not speak to your title. I pray what is shared to your human ears of which will affect your decisions, your decision-making in your function as a Commissioner. The cultural commission is fortunate to have terms that you give you authority; these terms such as burials, sensitive area, finds, previous finds, native Hawaiian rights, and cultural significance. I would like to quote the dedication from LLW: *"To the great people who are beaten down. To the weak people who never stood up. To those who have lived and died enduring. There are many ways to starve in this world: lack of food; lack of love; lack of words. Here is some nourishment. Mahalo to all who share their aloha."*

It is disturbing when we hear these terms used in the beginning of a development project giving rise to the illusion that a sincere effort is being made to preserve Hawaiian culture and burial sites. These very same terms only become an obstacle to preservation of these very sites once construction is underway, for instance, the developer's archaeologist may warn this is a sensitive area leading the Commission and SHPD to believe they are wary of disturbing the area. They get the stamp of approval to go forward, knowing it is a sensitive area, now the developer can find discoveries as inadvertent. These inadvertent burials, slated for residence, parks, and roads, can be built over to relocate -- can be built over or relocated to enable the project to shave sand dunes down until there is only a scar upon the land.

I come with nothing new but instead just reiterate for the sake of our iwi kupuna to spread the message that it is never too late to do the right thing. For whatever reason, economics or even ignorance, I am guilty too. I have to learn my olelo, my language. It does not come second nature to me and that is criminal.

When I read such reports pertaining to burials and the efforts to protect them, as in the letter from SHPD, a search of our records indicate an archaeological inventory survey has not been conducted for the subject property. Although portions of the general project have undergone archaeological work, including survey and various mitigation actions, the area of the proposed subdivision does not appear to have been included in these prior actions. The USDA Soils Survey indicates the project is located in the Pu`unene Sand Dunes known to contain both isolated and clustered human burials. Response to such letters was: "During the surface inspection, each encompassed the total project area. No surface cultural remains were encountered. Areas of previous disturbance were noted, as well as localities, with the potential subsurface cultural sensitivity. No cultural remains were encountered during archeological monitoring for mechanical grubbing and clearing of the future drive. A total 20 backhoe trenches were excavated, Figure 4. No cultural remains were identified in any of the trenches." To date, over 300 burials have been discovered, and counting. This does not include the unknown number shipped off and mined in the same area. Statements does not include the -- I'm sorry. Statements are made to try and validate the lack of find in various reports, such as: "Father worked for HC&S maintaining the irrigation ditch in Central Maui and would often take his son out into the field with him when he inspected the ditches. Through this early experience, and having lived in Kahului all my life, I am familiar with the area before it grew and modernized. This modernization that they speak about has already occurred when the ditch and the road was placed on our ancestral sacred lands." Response further says -- goes on to say, "Believes the sand dune and area around the present project site were uninhabited. The sand dunes were too hot and lack water and, therefore, not suitable for settlement. As well, he believes that the area was not a very good area for warfare since the dune did not provide a visual vantage point to see oncoming invaders." Let remind the Commissioners of the story just read to you. Also quoted, "The area would not be a place where native Hawaiians hunted since the sand

dunes were not a suitable habitat for pigs - the traditional game for native Hawaiians.” Provided for you is a document, and article from Lee Altenberg disputing that, that this place was of a forested area. Moreover, a student of this person quoted, “The population of the Hawaiian Islands was estimated to be about 1,200,000 at the time of Captain Cook’s arrival.” Mentions that, “With such an abundant population, settlement sites would be large and their evidence would be obvious.” Would over 300 burials constitute evidence? He was also not aware of any folklore or songs which identified areas or features in or around the project site. Yet, today, you are audience of the Alapa Warriors in the Battle of Kakanilua.

In the book of Kekuhaupio it phrases, and I quote, “Some of the people who died in the battle of the sand dune had been accompanied by their wives because, in that type of battle in Hawaii, the wives followed, and thus they found women as well as men.” I’ve also included a letter quoted in the Bishop Museum, and I quote, “We have a report from Mrs. E. Sterling that burials are still being exposed by the shifting sands in the dunes on your land.” This is June 17, 1968. How can anyone in good conscience deny that something great with cultural value and significance did not happen here. Is a profit -- is profit more important? Where do we draw the line - that line in that sand?

This major large tract of land believe to have been patented to Mr. Cornwell, and then later sold off in portions by way of warranty deed to Clause Sprekels may be viewed -- may possibly be viewed as fraudulent. In accordance to the case in 1879, the boundaries of Pulehu, it notes the administer of interior had no authority to issue royal patent and no boundary, once set, could be altered. No legal force was given to Mr. Cornwell and was considered government lands, known, in current times, as ceded lands, which is covered by a permanent injunction by the Supreme Court of the State of Hawaii.

In closing, is it not enough to know who I am and where I descend from? Must I be subject to prove my lineage to perfect strangers foreign of this land, Hawaii Nei? Was the story not told to us long ago, we’re all children of Papa and Wakea? Have we forgotten or convinced it all a myth and should be merely considered as folklore? Shall I call myself an American? Shall I deny my kupuna and cast them from existence? How will I be remembered 100 years from now when all that is left is the dust of my bones? Why do the great family of England still hold reverence to the lineage recognized by the world? How is it that Napoleon, with all his great strategy of war, is remembered? If I told you my last name was Lincoln, would you ask me: Is that the Lincoln? Why is there no bed and breakfast on Gettysburg? What a selling point that would be -- that would make and the money you could generate from that killing field? My point is, which I’m sure you know by now, is the type of governmental decision and recommendation as well as the presentation from foreign investors to be understood as correct in the handling of the history of this great land you know of Hawaii? The sand hill, as you refer to -- to it, had names identified every slope and feature, features not as you define it today, but depictive of the significance to the

people of the land. When our kupuna passed on the kuleana to me as well as you, it was not superficial. It was deep and rooted like no other culture on earth. For even if one thousand years go by, we still have strong interconnections to the iwi kupuna found on these islands. It is of lesser importance to identify sites as burial -- is it of lesser importance to identify sites as burials or heiaus instead of cemeteries and churches? Our stain glass was the sky itself freely given by Ke Akua. My lineal tie to all iwi found anywhere in the kingdom of Hawaii is my direct descent to Papa and Wakea. Who in this room can deny me that right? Who in this room with the koko, the pili koko, would be so brainwashed as to deny their connection as well? We make claim to cling and limit ourselves to specific names to put ourselves in that box but that would not be Hawaii. No child in a village would be abandoned. The village would raise the child. They did not wait for permission or ask: Who are you? The kuleana was clear and never denied. Mahalo.

Mr. Kalalau: Thank you.

Ms. Apana: Thank you very much. We have one person to present some different kind of information to you, and this is Dawn Wasson, and she comes to us from Oahu, as you know.

Ms. Wasson: Aloha again. My name again is Dawn Wasson. I'm from Oahu. You know it's -- listening to someone read and recite about a regiment named "Alapa," to have a family who carries that name for generations, it is something that my family have had to deal with for a long time, and that is we keep researching and looking for our genealogy, and all we read about is this regiment called the "Alapa." George Alapa was my grandfather. Well, Matilda Alapa was my mother. George Alapa was my grandfather. Oliwa Alapa was my great-grandfather, who was married to Emily Pahuaniani Makakao. I plan to file a lineal descent to people here on the Island of Maui to make claims to these iwi as a lineal descendent. But what I keep hearing is, again, the plea for the people who have great love and respect for the cultural sacredness of this place. It is sad. I really say this sad that we have to go through this process all because that the respect, the sacredness of our culture, our religious practices, and all our kupuna are held sacred, has to come before a committee like this and all because other people reinterpreted what was our people's culture. We sit here, we talk about it, we argue, we plea, we speak with mo'olelo, mo'okuauhau, and yet still the process is still western, the interpretation is still western. You hear the cultural stories being presented and also you are members of the committee who also come from this background and you're caught in a dilemma. A dilemma that where do you go? What does the current people today - they need housing; they need jobs; they need all of these things - but, you know, you heard other people say, "But who speak for those who are gone? Who speaks for those whose bones are there? Who speaks for them?" Well, you've heard the voices, some very strong and emotional, and, you know, still you keep asking yourself: There's gotta be something of substance. And there is substance because we're looking at two different cultures coming from two

different perspectives. We have our own ethnography; our own interpretation of our culture and our beliefs and our practices. Then you have western - Christianity; western education; western thinking. All of that is part of acculturation, assimilation, and at the same time, the native people, the kanaka maoli, indigenous people, are trying to straddle and be okay with who they are as Hawaiians. And we have a hard time doing that because, within ourselves, spiritually, we choose to live in harmony with who we are. We do. We make that choice. Those choices as preserve the history, the culture, the language. Those are the priorities we have.

Now . . . they look at the tree, the ulu trees, and the ulu tree produces this fruit, this ulu, they thank that akua who gave them that ulu. Same thing with the mai`a, the banana, whatever akua presented that, they said "mahalo." They didn't have any, you know, organized or institutionalized religion. That was their spirituality that spoke. Spirituality is whatever akua presented to them; that's why they were so knowledgeable about all things. They were not just carpenters or plumbers or electricians. They were holistic. Their knowledge was holistic. They knew all things. They had to because by learning all things they knew astronomy; they knew signs; they knew oceanography; they knew the land. They're agronomist. They knew everything. They knew la`aulapa`au. So by all that knowledge, it taught them how to survive. With all of that, you have a new group of people coming into the islands and they pose their beliefs on us. And in that imposition, our people have to survive whatever it is that's necessary to them to survive, but the problem has come up is: What about those things that are sacred to us? That are spiritual to us? People say, "Oh, no, no, no, you know, you're heathen. You're pagan. Everybody Christian." Well, what happened to that? How come all of these things became imposed on us? And when we stand up and we speak about iwi, well iwi is okay, you know, and all these rules are made to protect iwi, but the protection of this iwi, there is no substance. It was given -- you were given an opportunity to take a stand, one person took that stand, and that's your Chair. He had the courage to say, "I will have to vote against this" because he just buried his father, yes, it might appear emotional, but his father said something to him that was very important and that is he knew, his father knew, in his lifetime what happened to other people, and he knew people would not be respectful. So we are right now looking at the same thing - a development; thousands of acres; wait till you unearth bones; have archaeologists saying, okay, let me interpret this. There is no monitor that comes from the community or from kupuna who are independent of this cultural group, independent of State historical commission, independent, everybody else but people. Even people who don't support it, maybe they could be part of a monitoring group to make sure that they were there, and they can speak, and saying that this was treated properly. There is nothing there.

So you, as an advisory, as was stated earlier, you're only advisory. You don't have any authority or all you can do is make recommendations, comments that was beside -- sent to the planning division, but developer cannot get an approval until your Commission make

some recommendations. You had an opportunity to do that and you failed. What you have done is you have given the people choices, your community people. People who are not supposed to be even concerned about that. They're busy trying to survive. But this is important to them. These are your people in your community. The choices you gave them was they're not going to give up, that's for sure. They can sue you folks. They can protest and occupy these lands. But they must go back and they must decide what to do and what ways to be successful in their efforts to preserve this sacred place.

So I say to you, it is not an easy job you have, but it's also important that you -- you have to do the right thing, and the right thing is you gotta listen to the voices because if you don't, your children will one day say: Where were you when this happened? You on the Commission, your grandchildren are going to say: Papa, you were on the Commission? You allowed this to happen? And now my friends are going to hold me accountable for your action. That's what happens. In the cultural context of Hawaiian, they will speak your name. They will say: Not that family. No ways. You know, so it's accountability. We're all accountable. And if we don't do what we're doing here today, we'll be held accountable, and the same thing for you. So not only today were we told about responsibility, now we're held to accountability. So I say to all of you on the Commission, thank you for allowing us to speak, to share our concerns, so mahalo.

Mr. Kalalau: Thank you very much for coming here from Oahu and sharing your mana`o with, I guess, with this Commission and wherever this information will get out to. Thank you.

Ms. deNaie: Thank you. So, in closing, we just wanna ask you to envision what would be of more benefit to future generations. You don't have power except to suggest except in a historic district. Now, we have a historic district in Wailuku. This is part of Wailuku. This area that we're talking about. Its history is connected with Wailuku. One of the things that I think we all would like to see this Commission look at is a robust discussion of adding appropriate parts of the dunes area to the Wailuku Historic District; then there would be jurisdiction, then there would be an avenue for protection, and then history would be more complete because this area was where probably a lot of folks who lived and died in Wailuku ended up. It was the burial area as well as Waiehu. But these are important parts of our history so the question remains: What would serve future generations? A few nice little burial plots in the middle of a subdivision that no one knows what they relate to or why they are unless their grandfather happen to tell them? Or a place that is honored for its past that has an interpretive center; that has a place where school children can go; that has a place where the folks who gave their lives in these battles can be remembered; a place where the folks who just died of natural causes and were consigned to the sand dunes because it was the place where they were thought to be protected, where they can be remembered; where we can learn about our history? What would be better for future generations? And I feel that the Cultural Resources Commission does have a role to play. One of the things

that you could consider doing is saying any future development in the sand dune area would not allow extensive grading; that it's an affront to the cultural integrity of the land forms themselves. There's nothing unreasonable about that. Sand hills was built and -- and it works out just fine. It's a lovely place to live. So you don't have to bulldoze the heck out of these places in order to create a house on them. In any rate, just a few suggestions and thank you for your time. Aloha.

Mr. Kalalau: Thank you. Commissioners?

Mr. Fredericksen: I just have a comment. It's unfortunate that it looks like the Maui Lani, the developers, left because there's some -- some very interesting, well of course the information, but also some of the suggestions. I really like the one just about -- here's the shape of the dune, build on the dune so that the -- part of that landscape is maintained. Yeah, there'll be houses there, but the landscape is maintained. I think one other -- just one other comment. One of the, and this happened on more on Main Street as well as Waiale, sand was or has been for a long time was viewed as -- was treated as a commodity and a lot of this development I think that's occurred in this Maui Lani project area, and it's unfortunate that it came to us at this juncture because it's been -- I mean this has been going on a long time, but a lot of these areas have been -- the sand's basically have been removed, gone, it's gone, to make concrete wherever.

Mr. Kalalau: Kalei, you had --

Mr. Moikeha: I think there was a lot of good suggestions made and things and such. If we can maybe make it another agenda item and we can talk about these things as far as even making it a historic district that has things that we can take a look at.

Mr. Fredericksen: I also, just one more thing, I also appreciated the comments/suggestion about having an interpretive center so it becomes a, you know, way for the information can be passed on; that the knowledge can be passed on; the area can be afforded some level of respect and recognition.

Mr. Kalalau: Okay, Stan, you have --

Mr. Solamillo: I wanna thank all the presenters.

F. UNFINISHED BUSINESS - none

G. NEW BUSINESS - none

I. DIRECTOR'S REPORT

- 1. December 4 CRC Meeting Agenda**
- 2. Administrative Permit Reports -**
 - a. Demolition Permits - HC&S Central Power Plant, Kahului, Maui**
 - b. Maui High School - Quonset Huts**
 - c. Historic District Approvals Report - none**
 - d. NRHP Photo Assessments, Maui, County**

J. COMMISSIONER'S ANNOUNCEMENTS

Mr. Solamillo: Under Unfinished Business, there are no items coming to this Commission; none are coming under New Business as well. We will defer, because of the late hour, the Director's Report until the next meeting. We will ask, Commissioners, if you have agenda items to -- or that you want on the December 4 CRC meeting agenda, please let me know now. Okay, under Commissioner's Announcements, are there any announcements. This is Nani's last meeting. Is it? Correct?

Mr. Kalalau: Oh, this is Nani's last?

Mr. Solamillo: We wanna thank her for her years of attendance and dutiful comments.

Ms. Watanabe: Mahalo.

Mr. Kalalau: Thank you, Nani, for serving with us.

Ms. Watanabe: You're welcome.

K. NEXT MEETING DATE: December 4, 2008

Mr. Solamillo: Next meeting date is December 4, on a Thursday.

Mr. Kalalau: Okay, first of all, I just wanna thank all of you out there for your presentation and for being patient with us too and -- and for Hinano, you know, everybody, you know, went ask a lot out of you but I think we got a lot out of you. Thank you for coming. If we don't have anything to say, Commissioners, will someone make a motion that we adjourn this meeting.

Mr. Fredericksen: Just before we back away from this, is the Commission -- I think it would be good to revisit this -- this area, not necessarily the specific VMX project, but this --

Mr. Kalalau: The overall.

Mr. Fredericksen: Yeah, this Maui Lani area and whatever the other areas that are --

Mr. Kalalau: The dune complex.

Mr. Fredericksen: Yeah, that are bordering it, yeah, part of the -- just the Pu`uone dune complex.

Mr. Kalalau: Would you like it on the next agenda?

Mr. Fredericksen: I think it -- I don't know how the other Commission members feel, but I think we should -- we should discuss it some more.

Mr. Moikeha: I agree. I think we should. I mean that's basically what I was talking about, really to take a look at it and see what historical events we need to take a look at to see exactly what we gotta do to make it a historical site - recognized.

Mr. Fredericksen: And this is -- I mean one of the problems or the challenges is this is -- the whole area has sort of taken on, or not the area, but the development of the area has kind of taken on its own life, if you will, and evolved into this kind of -- I mean it's just an enormous amount of activity that's occurring and there are a lot of burials there and there's other significance that should, I think, should be looked at too.

Mr. Hutaff: Too bad we couldn't have done this like 20 years ago. It'd be much easier.

Mr. Kalalau: Okay, meeting's over. Everybody agree?

Mr. Fredericksen: This will be on next month's agenda?

Mr. Solamillo: I will place it on the December agenda.

Mr. Kalalau: Okay.

Mr. Hutaff: Also, if we haven't ended yet, kind of as a food for thought, there was something that happened to me when we were in Kailua and they built on this place, and they built this place, and it was the saddest story I heard at nine years old, and I remember sitting there with tears and my grandmother asked me what was going on and I said, "Well, it's sad that what was here before is gone, and what's here now is not good." And she says, "Do you realize you're looking at your teacher?" The mistakes we make, things that happen, should be viewed as a problem because they've already happened; they should

be viewed as our teacher so we remember. So if we didn't do too good today but we can do better tomorrow, yeah?

Mr. Kalalau: Very good, Ray.

Mr. Hutaff: So will we adjourn? That's what we're waiting for?

Mr. Kalalau: It is -- it's adjourned.

Mr. Fredericksen: Second.

L. ADJOURNMENT

There being no further business brought before the Commission, the meeting was adjourned at 3:48 p.m.

Respectfully submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards and Commissions

RECORD OF ATTENDANCE

Present

Samuel Kalalau, III, Chairperson
Erik Fredericksen, Vice-Chairperson
Perry Artates
Raymond Hutaff
Kepa Maly
Kalei Moikeha
Nani Watanabe

Excused

Veronica Marquez
Alika Romanchak

Others

Stanley Solamillo, Cultural Resources Planner
Ann Cua, Staff Planner
James Giroux, Deputy Corporation Counsel