

**CULTURAL RESOURCES COMMISSION
REGULAR MEETING
December 2, 2010**

** 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, Hawai'i. ***

A. CALL TO ORDER

The regular meeting of the Cultural Resources Commission (Commission) was called to order by Chairperson, Erik Fredericksen, at approximately 10:10 a.m., Thursday, December 2, 2010, 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).

Mr. Erik Fredericksen: I'd like to welcome everybody to the December 2, 2010 meeting of the Cultural Resources Commission. I hope everybody's having a safe holiday time and thank you for everybody who's here. And let's see, let's go ahead and check out Item B. Stanley?

Mr. Stanley Solamillo read the following item description into the record:

B. UNFINISHED BUSINESS

- 1. MS. SHARIANN SYLVA, requesting after-the-fact Historic District Approval for a 6 foot wooden wall adjoining Front Street and Holy Innocence Church, located at 545 Front Street, TMK (2) 4-7-002: 011, Historic District 1, Lahaina National Historic Landmark District, Lahaina, Hawai'i. *This item was deferred from the November 4, 2010 meeting.* (E. Wade)**

The Commission may take action on this request.

Ms. Erin Wade: Good morning, Commissioners. My name's Erin Wade. I'm the Small Town Planner. This project was assigned to me because it is in one of the historic districts. I'd like to start out by apologizing for sending this last month. I knew I wasn't going to be available for the presentation and I did want to get the applicant a resolution to the request as soon as possible. But the truth is, the property, while it seems simple at face value - it's just a request for a wall - the property itself is a bit of an anomaly. It's zoned Historic District 1, even though it's one of only six residences located in Historic District 1, which places especially strict restrictions on the residential property.

It's also community plan for park, so it is almost as restrictive as you can possibly get in terms of the County's regulatory system for this particular property, which poses some challenges. The applicant is able, through the ordinance, to come to you if they have a particular concern about a design guideline and seek relief from that design guidelines.

So while in the -- while the wall that is being proposed at the time does not meet the particular design guidelines that have been adopted, they do have the option of coming to the Cultural Resources Commission to request to do something different. So that's why this case is before you at this time.

It's my understanding that on November 4, when you deferred the request, you had four questions, specifically, and I provided you a letter that sent to the applicant clarifying the questions and asking them to confirm the answers that the Department was able to resolve.

The first question was: How is the property held? How is it owned? The property and -- wait. The property in question is right here. So this is the Holy Innocense Church. Here's Malu 'Ulu o Lele Park. And this neighborhood, right here, is the TMK in question. It's held as a condominium association. It's Hale Leilani. And this home is Unit No. 7. So the TMK number ends in 007, which is how we identify if it's a condominium. Adjacent to this TMK is Kamehameha Iki Park and it's related parking facilities and garage area. Here's 505 Front Street. Okay, is that aerial clear to everybody? Alright. So, as I said, it's held as a condominium association.

The second question was: What legally adopted requirements does the County have for walls in the historic districts? The answer for that was is in the staff report, and I will turn to that page for you -- well, I'm just going back quickly. This is actually the condominium association map. At the bottom, you see Front Street, and the parcel to the right, the bottom right, is the property in question. Okay. My apologies. You know what? I think I'll flip to -- does everyone have the staff report that I provided for you? Okay. I think it's in Exhibit 2 is where -- oh, no. That's the location map. Exhibit 3 is the Architectural Style Book page, and it looks like this. Okay. This is the legally adopted page that discusses fences and walls in the historic districts. At this time, this applies to all historic districts - Historic Districts 1, 2, and the National Register district, so it recommends that any type of fencing, railings, or walls accommodate or be built to look similar to the illustrations on this page. Since this was adopted, the Commission has worked to develop new Lahaina design guidelines, okay. That's on the next page shown as Exhibit 4, which has a lot more specific recommendations for fences. Now, these -- fences and walls, "site walls" as it's called. These recommendations have been approved by the Cultural Resources Commission; are currently being edited for -- the table of contents is being adjusted, there's some grammar errors that are being fixed, and punctuation, those things are being changed, and it will be sent up to Council within the year. So it is not, at this time, a recommended document in

the historic district ordinance. It is, at this point, just a supplemental informational document.

Ms. Rhiannon Chandler: And when you say "within the year," is that within the calendar year or within the fiscal year?

Ms. Wade: I apologize. Within the fiscal year.

Ms. Chandler: Okay.

Ms. Wade: Yep. So before the end of the June. Are there any questions about the design guidelines at this point and what is legally adopted and how it applies to the property?

Mr. Fredericksen: Thanks, Erin. I've got a - just to go back to number one, the ownership.

Ms. Wade: Okay.

Mr. Fredericksen: Because I know that was something that several Commission Members were -- expressed some interest in. So from my read of this, the property is managed by this Hale Leilani, the condominium association, so they manage the property itself. I'm assuming the people are responsible for cutting their grass and that sort of thing, but the overall property is managed by this condominium association.

Ms. Wade: From the real property tax information, what we were able to determine was that the common areas are managed, which is essentially the road and a single building, and then the rest of it is all privately held. So if -- you also have a copy actually of that condominium association map in the application, so that's towards the back of the application. It's right after this page which shows the fence, and it shows -- there's actually a handwritten -- it shows "August 20, 1997," and that is the date of the condominium as - if I can make up a word - "condominiumization" of that property. So as you can see, the common area of the road and what is attached to the road, my understanding is - and the easement that goes down to the water, is what is held in common by the association. Everything else is privately managed and maintained.

And let me note a sidebar because after I heard about what these four questions were, I also heard that maybe there was a concern about the site lines to the water from Front Street. At this time, there is no -- you cannot see the water as you're walking down Front Street adjacent to this parcel. There's -- at the end of this road where the easement comes up, it's very heavily vegetated so you can't see any sort of beach from Front Street at all. In fact, even as you kinda go down and get to the end of the walkway -- the easement that goes to the beach, it's difficult to see where it's leading to. Does that answer the property ownership question?

Mr. Fredericksen: Comments or questions, Commission Members? Brandis.

Ms. Brandis Sarich: I have a question about the second item. Oh, okay. So what this says is that the only thing that we have --

Mr. Fredericksen: Yeah, Brandis, please use the microphone.

Ms. Sarich: Sorry. This is Brandis. And just so I understand, there's nothing about walls in what's currently adopted?

Ms. Wade: Correct. And it's a little bit awkward, to be honest, because what we would normally assume to be a fence just in common everyday language, when -- if you would go to Home Depot and buy what the applicant has purchased, you would think you had bought a fence, right? But, per our definition in the zoning ordinance, it has to be at least 50% open so that light and air can transport between. If it does not, then it is defined as a wall. So at this point, it basically states that you can only have a fence in the historic district.

Mr. James Giroux: Erin, it seems like, looking at the two documents, there's an internal inconsistency. In one is looking at the zoning as far as what you are or not able to see through, as yet, when we look at the -- what's yet to be adopted, when it talks about walls, it separates it by material - being walls being rocks versus fences being wood.

Ms. Wade: I don't think -- well, here we are, just to clarify, now we're talking about the to-be adopted design guidelines, not the current design guidelines. In terms of the site wall and the fences, I don't think that they are inconsistent because if you apply the definition in the zoning ordinance to the thing that says "fences," then you assume, when you read "wood picket fences," you would assume it needs to be 50% open.

Mr. Fredericksen: And we, at this point, we have to operate with what is currently approved, not what's forthcoming.

Ms. Wade: And for me, when I read the new design guidelines, I thought there was actually more flexibility for the applicant in the new design guidelines because it gives them specific identification of what site walls could be like if that was what they chose to use, and different landscape materials that can be used for privacy so -- I felt that it would give you folks more direction in terms of what you might want to offer them as an alternative if they were to replace the fence at some point.

Mr. Fredericksen: The wall.

Ms. Wade: Excuse me - wall.

Mr. Ray Hutaff: That is the issue.

Mr. Fredericksen: So at this point, and you're saying in Historic District 1, under current -- under the design guidelines ordinance, fences only are allowed?

Ms. Wade: Correct. Yeah.

Mr. Fredericksen: And then this structure is classified as a wall?

Ms. Wade: As a wall. Yeah.

Mr. Fredericksen: Because it's less than 50% open.

Ms. Wade: Right. Yeah. Exactly.

Mr. Fredericksen: Rhiannon, do you have a question or comment?

Ms. Chandler: Yeah. Erin, I apologize if I'm jumping ahead, but the applicant had mentioned that there are other residential properties in this Historic District 1 that have similar fences that don't -- well, they're fences, but that they don't follow necessarily the design guidelines. Can you speak to that?

Ms. Wade: Absolutely. I provided you a photo montage because I had this question myself, to be honest. As soon as I got the application, I thought, well, wait a second. Driving down Front Street, I know I've seen fences like this before. So I did pull together photographs of the immediate area and everything in Historic District 1. So -- oh gosh. These are coming out kinda dark. But this is the first page in the photo montage category. These fences shown here are the fences and walls on the property itself. The next page is fences and walls within the Historic District 1. And I went and I took pictures of all of the fences and walls in Historic District 1, so now we have a catalogue, which is helpful. But there are a number of low walls. There's really a lot of the low-level knee height or hip height walls. And then as you continue through the historic district, there are some fences. You can see down here in the bottom, this is the Parsonage near the Wharf Cinema, and this is the Parsonage from a little greater distance. This is the picket fence behind the Lahaina Restoration, the Bailey House building. This wall is by Wainee Church, and here's the cemetery. This wall is right at Kamehameha Iki Park. And this wall is in front of 505 Front Street. This is the wall surrounding the prison property. Okay, this the wall in front of the Bailey House. These are all Historic District 1. Okay, this was the only wall, no. 16, that I was able to find that looked similar to the existing wall that the applicant has constructed. This wall is about a 20-foot section on the back side of the Pioneer Inn. So adjacent to the library. If you walk down the road, immediately adjacent, between the library and the Pioneer Inn, there's a section and all their mechanical equipment is

screened by this wall. So no. 16 is the one wall that I was able to find in Historic District 1 that's similar. Okay.

In Historic District 2 and in the National Register District, there are a number of walls that are four-foot, six-foot, and of all different types of materials. So this just happens to be in Historic District 1, which makes it a bit more complicated, but it is a residential property and, you know, as we stated in the staff report, there is an appreciation for the need for privacy in a residential home at such a public location, so we're hoping that some resolution can be accommodated or compromised.

Mr. Hutaff: Where is no. 18?

Ms. Wade: No. 18. That's right at the corner of Shaw Street and Front Street.

Mr. Hutaff: All these walls are permitted?

Ms. Wade: I doubt it, but I don't know the answer to that question. If they had applied for permits, they would be going through the same process that this applicant is going through now so --

Mr. Warren Osako: Photo no. 16, it says it's in Historic District 1. Is that a permitted wall/fence?

Ms. Wade: Yes. So that's the one that I was saying is the one on the Pioneer Inn property. That's -- it was permitted as a screening wall for the mechanical equipment.

Mr. Fredericksen: ...(inaudible)... mechanical because it's all their generators and junk right behind it.

Mr. Osako: And I guess the right side of the photo is considered a fence?

Ms. Wade: Yes. Oh, actually, below, so the bottom part, would still be considered a wall because it is less than 50% open. It's actually a chainlink fence that they then weave the green tape through, which made it less than 50% open so it becomes a wall. And in the new design guidelines, at that height, we probably could permit it, you know, but currently, we're a little hamstring.

Mr. Osako: Well, I just was concerned because, to me, that looks pretty ugly.

Ms. Wade: Then there's that.

Mr. Osako: And if we're talking about how things look and stuff --

Ms. Wade: Yeah.

Mr. Osako: It's pretty -- pretty bad. I think, from my point of view, it would be good if the applicant and the Planning Department would reach some kind of agreement or compromise and --

Ms. Wade: Okay, I will get to that for sure. So no. 3, I believe, I have answered: Is a structure considered a fence or a wall? The existing structure and the proposed are considered a wall.

Does the wall height pertain only to Front Street? No, it does not. The wall height pertains to all of the historic district and, essentially, any wall -- this is what this answer says as well is any wall six feet or higher requires a building permit. I'm about 5'10", and when I stood next to the fence, it was maybe an inch taller than me, so it is less than six feet and wouldn't have required a building permit. But beyond that, then the design guidelines are what would guide the height and construction of the fence.

Mr. Fredericksen: Of the wall.

Ms. Wade: Of the wall. Thank you. Even I have a problem with that.

Mr. Fredericksen: I just wanna revisit Warren's question about that photo 16 that's on the Pioneer Inn property. So that was -- that went through the permitting process for that particular case; that one case, and that's not on Front Street, that - I can't remember what that lane is - it's the one-way lane that's between Pioneer Inn and the library.

Ms. Wade: Right. Right.

Mr. Fredericksen: So it's not -- it's not on the Front Street side of things, per se.

Ms. Wade: Correct. Yeah.

Mr. Fredericksen: And that wall is how tall about?

Ms. Wade: That -- the wall, the tallest portion of the wall is at least six feet. It's probably 6'6". Yeah.

Mr. Fredericksen: Thanks. Any other question, Commission Members, or comment?

Ms. Sarich: Just about in the -- in the new guidelines, there's no set height for walls. They're just supposed to be consistent with what's around you?

Ms. Wade: In the new design guidelines by -- under "site walls," it does say -- I thought that there was a three-foot height.

Ms. Sarich: Or is that in the zoning code?

Ms. Wade: Well, the only thing that regulates the height of a wall at this time is in the building code and that is anything taller than a six-foot wall requires a building permit.

Mr. Fredericksen: Any other questions, comments?

Ms. Wade: Just to finish up, the second thing that I provided with you, because I understand you folks asked for a little bit additional direction for how you might accommodate some of the needs of the applicant while retaining the historic character, so the second page is a list of alternative decisions for you. At this point, the Department still recommends that the wall adjacent to Front Street be removed and be replaced with a wall or fence that's consistent with the Architectural Style Book and pending Lahaina Design Guidelines. And at this point, you would be able to clarify that. The one caveat that I would offer is I think the Department does respect the need of the applicant to have and retain privacy on their property, and so if you would like to place a time on that, that would be reasonable to say -- to allow the applicant to grow some vegetation behind the fence, as it exist now, to grow a hedge so that at the time that the fence was replaced that there wouldn't be any loss of privacy. I can see that that would be -- that would work for -- it would meet the needs of both the Department and the privacy needs of the applicant.

Mr. Fredericksen: So if that were to come to pass, what type of a -- how would the Planning Department handle that? Would it -- there would be a time element for the hedge to grow whatever --

Ms. Wade: Right.

Mr. Fredericksen: Five feet, six feet.

Ms. Wade: So what we would do is -- what you would do is you would approve with conditions, and then you would establish the condition that we would approve the fence conditioned upon the removal of the front fence at the time that it needs repair or at the time when the vegetation has grown to a adequate height to provide the privacy. And then as part of our SMA permit, because this is in the SMA, we would just request a compliance report every two years to ask what the status is of the fence, and the hedge, and if it was ready for removal or not. And then at any time that we determine, as the Department or a member of the public felt that the conditions were not being met, that the fence had reached the point of disrepair to where it should be removed or that the vegetation was at

a point that the privacy had already been established and it should be removed. We would then be able to enforce the conditions of your approval.

Mr. Fredericksen: What type of -- or what height wall could be built here according to the existing or the pending -- 'cause there's no guidelines for existing -- in the existing style book, correct?

Ms. Wade: Correct.

Mr. Fredericksen: How about in the pending design guidelines ...(inaudible)...

Ms. Wade: So I think it states that a three-foot wall could be constructed. And most properties, if you look in either -- in some of the Historic District 2 and the NHL, they have done a low wall and then have done something additional --

Mr. Fredericksen: A fence or something.

Ms. Wade: Above it, a fence on the stop of it, and then have vines or vegetation or things growing through that and that would all be permitted.

Ms. Sarich: And if they wanted, they could do a chainlink fence and then cover it with vegetation?

Ms. Wade: Yes, they can. Oh, wait a second. No, they cannot. A chainlink fence is actually not a permitted type of fencing in the district.

Ms. Veronica Marquez: So question. What is the peripheral purpose of the wall to begin with?

Ms. Wade: Of the existing wall? You're probably going to have to ask the applicant that, but my -- I would certainly say from -- if I was living in that home, I would want some privacy, and you can just tell by the condition of the fence, at this point, it has been damaged to some degree, so it does get rowdy on Front Street, you know. You would want some type of a separation.

Mr. Hutaff: My understanding, it was security as a primary issue, but I think that having the applicant ask that -- because you weren't here last -- right?

Ms. Marquez: Yes.

Mr. Hutaff: Because that's actually important for our decision, which is it.

Mr. Fredericksen: Any other questions or comments? Brandis.

Ms. Sarich: I would just like to say if the fence stays up, I think that it should be painted.

Mr. Fredericksen: The wall.

Ms. Sarich: I mean if the wall stays up, that it needs to be painted especially if it's going to be up for a few years just -- that's part of the historic district, that wood should be painted and I think that would improve how things look tremendously while we're waiting for vegetation or the alternative to happen.

Ms. Wade: And that can be a condition of your approval if the group chose.

Mr. Hutaff: Unfortunately, then what we're saying is that it's okay to have it.

Ms. Sarich: Well, I do like the alternative that they get time to build up their screen wall with vegetation.

Mr. Hutaff: But it depends on what it is if they really ...(inaudible)...

Mr. Fredericksen: Rhiannon.

Ms. Chandler: Okay, so, Erin, just to reiterate, there are no other residential properties in Historic District 1 that have a fence similar to this?

Mr. Fredericksen: A wall.

Ms. Chandler: A wall.

Ms. Wade: Correct. Yeah, the only other residential properties --

Ms. Chandler: Yeah, we're all on the same page.

Ms. Wade: Have either a compliant fence or have what is on - I'll show you their property - there's other properties on this Hale Leilani that might be questionable but aren't as -- this is the fence that's directly across the Hale Leilani street, and this, which is of bamboo construction, this is right at the end looking towards the ocean. You can see through it although it is, basically, it is, in terms of the material, could be considered a wall but because you can -- light and air passes through, I think maybe we could accept it as a fence. And then this, up at the top, is the wall in question, and immediately adjacent - see this one right here - probably doesn't comply either.

Mr. Osako: So the section there that's white in that photo, was that a permitted wall?

Ms. Wade: I don't know the answer to that. I don't know.

Mr. Osako: I think that, you know, in all fairness, if it is not, then that should be addressed also. I don't think we should pick on any one person.

Ms. Wade: Yeah.

Mr. Osako: If that is not a permitted structure, then that one in question should also be --

Mr. Fredericksen: And just to clarify, that is on the same property.

Ms. Wade: The white fence?

Mr. Fredericksen: Yeah, that Warren was referring to.

Ms. Wade: Correct. Yeah. It's on the same --

Mr. Osako: It might be the next lot.

Mr. Fredericksen: But it's on the same --

Mr. Osako: The same ...(inaudible)...

Mr. Fredericksen: Condominium lot.

Mr. Osako: Yeah.

Mr. Fredericksen: Condominium managed property.

Mr. Hutaff: And it's not facing Front Street to be seen by all ...(inaudible)... Kamehameha Iki Park.

Ms. Wade: At this time, if I may, the Department is actually not recommending removal of that wall. We were recommending that they be able to retain that division between the Holy Innocence Church property and the rear of those residences properties.

Mr. Fredericksen: So that's not on the Kamehameha Iki side?

Mr. Hutaff: That's what I thought.

Ms. Wade: Correct. That fence, right there, is on the Holy Innocense Church side of the property.

Mr. Fredericksen: Okay. Between the church compound and the --

Mr. Hutaff: ...(inaudible)... two, or four, or five.

Ms. Wade: Residences?

Mr. Hutaff: No. You said -- which picture is the picture of the fence line by the church?

Ms. Wade: No. 2.

Mr. Hutaff: No. 2.

Ms. Wade: Yep.

Mr. Hutaff: Okay. I thought we were talking about no. 5. I'm sorry.

Ms. Wade: No. 2.

Mr. Hutaff: I thought we were talking about no. 5.

Ms. Wade: No. 5 is adjacent to Kamehameha Iki Park. Yeah.

Mr. Osako: And the recommendation is just the Front Street portion of the wall?

Ms. Wade: Exactly. Just to remove the -- what is directly adjacent to Front Street. Yeah.

Mr. Osako: And --

Ms. Chandler: Is that -- sorry. Erin, is --

Mr. Fredericksen: You done, Warren? Okay.

Ms. Chandler: Is that part of the design guidelines that the wall has to be removed if it's not compliant just on the Front Street side only or, typically, do these rules apply to all walls in the Historic District 1?

Ms. Wade: The latter. So it would apply to all walls in most situations so -- but we did feel, just to give the back of those residential properties a higher degree of privacy, that an exception might -- should be considered for the rear of the properties.

Ms. Marquez: So if we make an exception for one, what do we do for the others?

Ms. Wade: Well, and I --

Ms. Marquez: Case by case?

Ms. Wade: I think because, for residential properties in Historic District 1, you have a handful. I mean you have everything in Hale Leilani and you have two right at the top of Shaw where it turns by Wainee Park -- or Wainee Church, so that's it for residentially owned or occupied homes in Historic District 1. So --

Mr. Fredericksen: Is that -- oh, excuse me.

Ms. Wade: So, for that, I felt it was -- we were able to say, you know, anything on common -- or on a collector street, you know, what is fronting the majority of the public -- what would be considered the public way, should match the Historic District Design Guidelines, but for others, especially because it's a residential use, we might be able to make some special considerations.

Mr. Fredericksen: Is that wall that is separating the makai side residences from the church park's property, is that a permitted structure?

Ms. Wade: That -- they're here today seeking permits.

Mr. Fredericksen: No, no. The wall that -- is that on their property too?

Ms. Wade: Yes. That's on their property. Yeah.

Mr. Fredericksen: On this, for this applicant, so that's part of it as well?

Ms. Wade: Yeah. Yeah.

Mr. Fredericksen: Any other questions?

Ms. Marquez: We'll hear from the applicants.

Mr. Fredericksen: Yeah. Okay, thanks, Erin, for now, and if the applicants can come forward, I'm sure there's some questions. Please introduce yourself and I see some questions. Anyone from the applicant wanna come forward?

Mr. Frank Sylva: Aloha and good morning. My name is Frank Sylva, and this subject in question is owned by my daughter. And, first of all, I wanna thank you folks for giving us

the opportunity to come and defend ourselves and see what we can do. As I heard Erin speak to you, my belief, I might be wrong, I not a lawyer, we not breaking the law. We not breaking the law as to say that we did something illegal. We not over the height or anything of that nature. In my interpretation of your conversation, no law is breaking. And the way I look -- this is one point my daughter said to bring out today is that my daughter had a conversation with then Planning Director, Jeff Hunt, concerning this fence before it -- the structure went up, and Jeff Hunt had approved the wall. He told my daughter that anything below six feet she didn't need to come in for a permit. This conversation was between my daughter and then Planning Director, Jeff Hunt. So my daughter went ahead and constructed this wall - constructed this wall or fence, whatever how you folks term it.

Let's see. I guess the property is a residential condominium comprised of seven units, which was already brought up by Erin. Four of these homes face the common area roadway and each other -- and each other is intended to keep in with old plantation type villages to encourage interaction among neighbors. The fence in question is our daughter's side yard. It does not block the view to the ocean or mountain, as was stated in our last meeting by - I don't know the name, the person who stated that. Erin, did you get the photos?

Ms. Wade: No.

Mr. Sylva: No?

Ms. Wade: The photos did not come through.

Ms. Sylva: Okay, we took some photos and we supposed to have get the photos so I could show you folks that the statement made against this fence. The lady said, when she paddle her bike, the fence was obstructing her view to the ocean. But as you can see, the fence is on the side of the house without -- with or without the fence, they cannot see the ocean. They cannot see the ocean. Even the fence was down, they'd be looking at the house. So the complaint was inaccurate. And I went there a few days ago and yesterday again to take more photos, which my brother took and sent it to Erin for give you folks what we talking about, but it's not available. Then from Front Street looking straight down the roadway, you cannot see the ocean; even if you was seven feet tall, you cannot see the ocean. They say when they riding their bike they wanna see the ocean. That's inaccurate information that was testified to you people. The only time you can see the ocean is when you on Front Street, the property in question, Holy Innocense; then you Kam III School you cannot see the ocean. The only time you can get a view or glimpse of the ocean is when you get to Canal Street, and that's the corner of Kam III School and the banyan tree. Boat -- you can see the boats but, yes, you get a glimpse of the ocean; you pass there, you can see the banyan tree. You still can get some glimpse. And the next glimpse you get when you get to Hotel Street. You see the boats in the ocean. And then you don't see it because

of the building. And when you get to Market Street, you can see the glimpse; then you get the stores; then you get the wall on Front Street, you can see the ocean, so inaccurate information was given to you people.

I wanna go to the map furnished by the County. Let's go to -- let's go to 18, 19, and 20. The photos of the fences. Can we do that, Erin? Well, maybe not. Each one of them has ...(inaudible)... and, Erin, let's get to 16 first. You said it's six feet. I think it's way over six feet, yeah? The one by Pioneer Hotel?

Ms. Wade: It's certainly taller than me. I know that. Yeah.

Mr. Sylva: Yeah, okay, I think it's like eight feet, seven feet; like about ten feet tall I think. I not sure.

Mr. Fredericksen: But that one, that's a -- that's permitted and it was --

Mr. Sylva: Yeah, that's permitted. Fine. Okay. When you get to 18, 19, and 20, and 21, it's over I would say -- let's say it's six feet but, you know, question -- Mr. Fredericksen, you keep asking the question: Was this permitted? I don't know.

Mr. Fredericksen: Yeah, these, who knows.

Mr. Sylva: Yeah, who knows.

Mr. Fredericksen: Yeah.

Mr. Sylva: Maybe. Maybe not. Maybe they had contacted the Planning Department. Maybe they had the same answer like my daughter - less than six feet you don't need a permit. Now, this is -- this here, these fences here - 18, 19, 20, and 21 - about half a block away zoned residential. These properties also residential. And there also zoning, zoned one, historic zoned one, so I feel a little discriminated.

Mr. Fredericksen: Now, these -- the one that you are talking about, at least according to what Erin put in here, Erin, these, the one that -- the ones that the applicant's referring to, are -- what district are those in? Historic district? They're in the national --

Ms. Wade: 18, 19, 20, and 21 are only in the national register district. They are not zoned historic district.

Mr. Fredericksen: So they're not in Historic District 1 or 2?

Ms. Wade: Correct.

Mr. Sylva: Okay. I stand to be corrected. Fine. It's not the ...(inaudible)...

Mr. Fredericksen: No, this isn't, believe, this isn't really clear for us either so we're just -- I'm just trying to make sure we understand what all this is.

Ms. Wade: You folks have the field study map.

Mr. Fredericksen: Yeah.

Ms. Wade: That's the one that shows the zones.

Mr. Fredericksen: Okay.

Mr. Sylva: Okay, my question still remains that, you know, they have it six feet; they're zoned residential. Ours is unique, I think, from -- from Shaw Street, all the way down to way down, pass the Methodist Church, down to Shaw Street, there's no residential --

Mr. Fredericksen: Yeah.

Mr. Sylva: All through that whole stretch, about half-a-mile down the road no residential there, so we the only ones zoned -- I mean not zoned, but it's residential. Okay. The Department of Planning has mentioned that the existing wall is damaged. The lattice at the top punched out. And sections are stained different color, like you mentioned. The reason for that, when my daughter had this notice, we told my daughter, we advised my daughter not to repair, not to stain it to the same color because we coming here before you and we don't know what the decision going be made by you, you have the power to make the decision one way or another, so why fix it, why stain it, why incur expense if we don't know the decision. If the decision is favorable to us, we'll be happy to stain it and make it look uniform.

We feel that the Commission has the power to allow this fence since the Architectural Style Book and Lahaina Design Guidelines have not yet been adopted. In any case, your decision should be consistent with the residential properties on Shaw Street to which is located within the Historic District 1 - but I stand to be corrected, it's not Historic District 1 now - within a half-block of the applicant. You gave them these?

Ms. Wade: Yes.

Mr. Sylva: Oh, okay. It was concluded that if you choose to live within this area, that you need to deal with problems and cost accordingly. Our family has been on Maui and has owned land in Lahaina, land on Front Street in Lahaina for over 200 years up till today. Each year, my daughter has received offers to sell and we always -- my wife and I always

tell my daughter "hang on as much as you can," financially, she cannot, "and, for whatever reason, then only at that time you sell." My daughter bought this property and is doing all she can to keep it. She had received offers to sell her property but we tell her "hang on to it as you will never be able to afford living so close to the ocean again once you sell." In our view of the situation, you asking her to give up her owning property in this premier location near the ocean and close to town. Let me repeat: My family has lived in Lahaina for way over 200 years. We owned property on Front Street in the historic area for over 200 years. We owned property. We live on -- my sisters, we all from Lahaina way before that. And whoever made this complaint, I hope they local. I hope they been around. I hope they never just come from some place and now trying to run the -- trying to suggest things that, to me, no fit the needs. We simple people. What we wanna do is live and live happily, and we not getting in any people's face. We get along with the neighbors. And that's our lifestyle. Enjoy each other. Be friendly. So things like this kinda irking to me. May I ask one question? Who made this complaint?

Ms. Wade: I think in the -- in the complaint code, it is shown right now that the complainant request to be -- to remain anonymous so we don't give out their name.

Mr. Hutaff: So his after-the-fact application actually was not his own doing; it was as a result of somebody else complaining --

Mr. Fredericksen: Filed a complaint.

Mr. Hutaff: And then he took the action to do the permit.

Ms. Wade: Correct.

Mr. Hutaff: I wasn't aware of that.

Mr. Sylva: Because our first -- when we built it, my daughter had contacted the Planning Department and spoke to the Planning Department. He said anything over six feet, you don't have to have a permit.

Mr. Hutaff: Well, if I may say something. I can't speak for Jeff Hunt and I certainly can't speak for the Planning Department, but based upon experience, it's in the past, personally, and the fact that we're dealing with fence or wall, okay? It's what question you ask, you'll get the correct answer for, okay. Again, having had experience where I've had people ask me "Hey, Ray, can you do this?" I've now learned, okay, can you put it in writing and draw me a picture because I may have an understanding of what you're asking but it may not be the question that you're actually asking. For instance, my understanding is is that if a fence was put up under six feet, we wouldn't be having this conversation, okay?

Mr. Sylva: Okay.

Mr. Hutaff: Looking at that, you go to Home Depot, they got 'em right outside the exit door and it says "fence," okay. County definition says that that's a wall. So had you put up a fence by -- by definition, which would have allowed 50% or more, then we wouldn't be having the conversation. Again, I'm assuming, I can't speak for Jeff Hunt, I can't speak for ...(inaudible)... just from experience before, is you really have to ask the right question to get the right answer, and the individual in the position should have said "draw me a picture." That would have been my conclusion because he might have been thinking, oh yeah. The white picket fence right over here. Sure. Six feet of that, we can do that. That's legal. Okay. But then when you look at this here and he go, oh, wait a minute. Now by County definition, that's a wall. And we're having a hard time with it, okay, because, to me, I go to Home Depot, I'm going to buy a fence. I'm not going to go to them and say, "Can you get me six of those walls out there?" They're going to go, "What? What wall?"

Mr. Fredericksen: Yeah.

Mr. Hutaff: Okay, so it's definitely an understandable situation. To go a little bit further than that, now that it's established that that's a wall by County definition, okay, that kinda argument needs to go away. It's a legitimate argument, but it doesn't qualify, in my opinion. Probably the attorney there would be better at answering that. But as far as the other things too, about the other walls that are, you know, "not six feet or not fences but they are in fact walls," you can't use a -- an un-permitted fence or wall as an excuse to build another one. Okay? Now, my question is: I don't know how those things are put together, but is there any way to remove every other one of those things to make it a fence?

Mr. Sylva: Nothing is impossible. We all, you know ...(inaudible)... take out one and ...(inaudible)... the answer to that is, yes. It's going to incur costs.

Mr. Hutaff: Sure.

Mr. Sylva: Labor cost and all that. But nothing is possible -- anything can be done.

Mr. Hutaff: Okay. Now, the other question I think I had was -- no, it pretty much -- it pretty much answered that. I don't know what kinda cost would incur to remove one slat, okay. I don't know if it's possible without losing the integrity of this existing wall. But I got a couple of friends in Lahaina that, if I asked them, and if it was possible without removing the integrity of the fence, and if it was possible to remove it, would love to give you a hand.

Mr. Sylva: Would love to give us a hand?

Mr. Hutaff: Would love to give you a hand. The second thing is --

Mr. Sylva: If I have to do that, you give me their names and we see what we can do with --

Mr. Hutaff: Sure.

Mr. Sylva: ...(inaudible)... we cross the bridge when we get there.

Mr. Hutaff: Right.

Mr. Sylva: Let's cross the bridge when we get there.

Mr. Hutaff: Okay. The other thing is -- is in the last week when you were testifying, the wall, if you will, was put up for security because you were having people walk in the yard, you were having people throw bottles.

Mr. Sylva: Sleep in the yard.

Mr. Hutaff: Sleep in the yard.

Mr. Sylva: Yeah.

Mr. Hutaff: So it was security was your main issue.

Mr. Sylva: Well, my main issue was security. That's correct.

Mr. Hutaff: Okay, so if there was something, again, that complied with the law as a fence, okay, would you be satisfied that that was security? In other words, if we took out each lattice or you put up another fence that had, you know, 50%, would you consider that secured?

Mr. Sylva: At this time, I don't know how to answer that. I would say you taking away some of the security risk. You taking away at least some privacy.

Mr. Hutaff: That's why I asked about security and privacy was --

Mr. Sylva: Well, it was done for multiple reasons.

Mr. Hutaff: Yeah.

Mr. Sylva: More so heavily for security, for little privacy, so people walking on Front Street cannot peek in your yard or go in your yard. So it was for dual purpose.

Mr. Hutaff: Two purposes.

Mr. Sylva: For dual purposes.

Mr. Hutaff: That's important for us to know.

Mr. Sylva: To me, it's very important to have little privacy.

Mr. Hutaff: No. Absolutely.

Mr. Sylva: So that you six feet, over six feet, you don't peek around. Maybe somebody be sunbathing in the yard, my daughter sunbathing, you don't want somebody peeking down upon your ...(inaudible)... That's my personal feeling. That's the way I feel. I don't know how you feel. Privacy mean nothing to you maybe. Security mean, eh, I don't give a rip. But to us, it's a concern.

Mr. Hutaff: And I also do know for a fact that if all of that wall was taken away, you would not be able to see the beach.

Mr. Sylva: That's correct. Not be able to see.

Mr. Hutaff: I know that for a fact. Okay.

Mr. Sylva: Okay. Like it was stated by the -

Mr. Hutaff: Yeah, you can't see it.

Mr. Sylva: You can't see it.

Mr. Hutaff: Well, thanks.

Mr. Sylva: Okay. Thank you for asking the questions.

Mr. Fredericksen: Any other questions?

Ms. Marquez: I listen to your mana`o, your sharing, and, yes, you know, you folks lived there 200 years and all. We understand all that and you want a simple life. We understand all that. And, yes, we do want security and safety and everything. I have a question for the County, so I think I'll look around here somewhere. Is there anything in the current guidelines that tells us purposes of walls, that the only reason why you could put up this wall is for this -- these specific purposes? Is there anything in there?

Ms. Wade: There is some flexibility when it comes to screen walls as related to mechanical equipment, and things like that, but beyond that, I don't know of any additional flexibility in any of the zoning districts; specifically, not in the Historic District 1 that would allow for that.

Ms. Marquez: So when we look at this existing wall, does that connect to any of the purposes?

Ms. Wade: Purposes? You mean like in --

Ms. Marquez: In those guidelines.

Ms. Wade: As it relates to screening or security or privacy or anything like that? The only one that I know of is for screening of mechanical equipment, telecommunications facilities, those types of things. I don't know of anything as it relates to a permitted use, you know, like a residence or a business or anything like that. Perhaps James would have a better answer. I see him reading.

Mr. Fredericksen: You have a question.

Ms. Marquez: Corporate Counsel? Can you add to it? What was the question?

Mr. Giroux: I was reading all this legalese over here.

Ms. Marquez: I am sure you are reading all that. You're very busy. That wall today they have built according to somebody else that was okey-dokey, in the guidelines, is there anything that links that existing wall to purposes of walls?

Mr. Giroux: No. My understanding is that this Architectural Style Book is the one that has been adopted so --

Mr. Fredericksen: Exhibit 3 of Erin's --

Mr. Giroux: Yeah, Exhibit 3, so that would be the law of -- on bottom it says "Railing and fences." So, by definition, what is built is a wall so it can be concluded that -- that discussion isn't covered by this because we're talking about a wall and this the only limiting design or construction is regarding fences outside of the zoning code, which would allow them to build to a certain height without a permit. So I see how the former Planning Director came to the conclusion that they might not need a permit and, you know, that's part of linking all of these requirements.

Ms. Marquez: Help me understand what you just said. So you said it's beyond this discussion, meaning what?

Mr. Giroux: We may -- we may be reviewing something that we really don't have jurisdiction over.

Ms. Marquez: There you go. That's what I was asking.

Ms. Sarich: I just wanted to add that in this adopted guideline, there are styles and materials covered, and things like modern styles are specifically excluded, so as long as this is something that needs a permit, I think that we do have the right to say that it has to match the three specific styles that are outlined in this guideline.

Mr. Giroux: And that's the question is does it need a permit? And --

Mr. Fredericksen: Erin, because this property is makai of Front Street, is that put it into - what am I trying to say - a different kinda like a category where -- from what I'm hearing James say, if it's a wall and it's just under six -- I don't think these are exactly six feet. I think they're just a little bit -- 'cause I was looking at one of those too and it was also called a fence at Home Depot, but I think it's just under six feet and I -- so what -- if it's something that's six feet or less, does it require a building permit away from Front Street? But if it's makai of Front Street, does that change it or is it still the same thing?

Ms. Wade: The location on Front Street doesn't change the permit process. The location in the special management area, which I think is what you're getting to --

Mr. Fredericksen: So it would -- it is SMA because it's makai of Front Street. Is Honoapi'ilani Highway, makai of that, is that special -- SMA?

Ms. Wade: Yes.

Mr. Fredericksen: Or is it just --

Ms. Wade: All the way up to the highway is in the special management area.

Mr. Fredericksen: Okay.

Ms. Wade: The strictest is within the shoreline setback. If you're going to put a fence within the shoreline setback area --

Mr. Fredericksen: Right, but this isn't in -- that's --

Ms. Wade: But this is not.

Mr. Fredericksen: Right.

Ms. Wade: Yeah.

Mr. Fredericksen: Rhiannon?

Ms. Chandler: So getting back to what James was saying, the wall, does that have design guidelines according to what is -- what we're currently operating off of?

Mr. Fredericksen: What's in place.

Ms. Chandler: Yeah, what's in place now.

Ms. Wade: So, it's exactly what Brandis said. It's generally -- it's very general the statement that modern materials shall not be used so --

Mr. Fredericksen: Modern materials being --

Ms. Wade: That is why you folks are in existence to make that interpretation.

Mr. Fredericksen: Wood -- I mean wood is not -- wood is -- that's typically what's like in signage and stuff. It's like with the Kamehameha III -- King Kamehameha III Elementary School, we went back, the sign, the proposed sign went back and wood was the requested material. Brandis?

Ms. Sarich: Right, but, specifically, there are three styles that you're allowed to have in this area.

Ms. Chandler: For fences or for walls?

Ms. Sarich: For anything.

Ms. Chandler: For anything. Where is that at?

Ms. Sarich: That's the first page of the style guide.

Mr. Fredericksen: Which we don't have with us.

Ms. Sarich: Oh, okay. So you can have native Hawaiian, 19th century missionary, and middle 1800s through 1900s.

Mr. Sylva: That's the proposed. It's not the fact one. The law is yet -- am I correct?

Mr. Fredericksen: That is.

Ms. Sarich: No. This is adopted.

Mr. Hutaff: It is law already.

Mr. Fredericksen: Yeah.

Ms. Chandler: There are revisions that are proposed right now, but there isn't adopted style guidelines.

Mr. Hutaff: When was this wall put up?

Mr. Sylva: Approximately three, four years ago.

Mr. Osako: Mr. Sylva, at the last meeting when I asked, you said five years.

Mr. Sylva: No. I said I didn't know. Kapu, you remember, Kapu was here. Kapu said it was between four and five years. That's what Kapu said. I asked my daughter last night over dinner. I said, "Eh, how long the wall up?" Anyway, because my -- my daughter said, eh, she not sure - about three, four years. So who made that comment, wasn't me, was Kapu because when that question was asked, I didn't know. Honestly, I didn't have the answer. But Kapu said it was up four to five years ...(inaudible)...

Mr. Fredericksen: But we can safely say less than five years.

Mr. Sylva: Huh?

Mr. Fredericksen: It could be safely said it's less than five years.

Mr. Sylva: That's correct. I can live with it.

Mr. Osako: And also, at the time I asked you if you knew that it required a permit and you said you told your daughter that she needed a permit, but then now you're changing the story.

Mr. Sylva: No.

Mr. Osako: Now you're saying that she talked to somebody and then --

Mr. Sylva: Yeah, okay, I remember answering that question to you too. It was always the assumption you need a permit. I was under the assumption. I was assuming. I wasn't sure. But when I talked to my daughter after that meeting, she told me she talked to Jeff Hunt. I didn't know that at that time of the meeting. I remember you asking me that

question, and I remember that answer I gave you. I was under the assumption we had the permit. So I wasn't accurate. But I remember you asking that question. I remember I giving you that answer.

Mr. Osako: Right. But, you know, according to the definition, like, you know, there is a confusion, but according to the definition this is a wall so you did need a permit.

Mr. Sylva: To be very honest with you, like I said, I just high school graduate. I not one lawyer. Fence and wall, eh, you know, I don't know. And to me have some confusion amongst us here, in this office, so -- so I don't know. I not one lawyer. I cannot -- fence, wall, to me, I look at that, going back to my old days, I can call it fence and I can call it a wall, in my definition, in my -- in my own definition. I consider that a fence, and I can consider that a wall. I don't know.

Mr. Osako: So, Mr. Sylva, what the Planning Department is proposing, as far as the side fence up on the side, they're going to allow you to leave that. They're only talking about the Front Street portion.

Mr. Sylva: That's correct.

Mr. Osako: So are you willing to work with the Planning Department and come to some kind of a compromise?

Mr. Sylva: I'm willing to work with the Planning Department, and with Erin, see what we can come up with. See what Erin and my daughter and myself, our family, can come up with. If it's something that we can accept, sure. Why not? I believe in compromising. In this world, you gotta compromise. You no compromise, you the loser. So I'm willing to listen what Erin's going to -- her proposal and her suggestions to us. Yes. I'm willing.

Mr. Fredericksen: Mr. Sylva, I've got a question. What's the frontage of the -- of this wood wall along Front Street would you say, just around -- just approximate - what do you think? It's kinda hard to tell from this photo 'cause it just kinda -- it looks like it kinda disappears but --

Mr. Sylva: About 75 -- approximately 75 feet.

Mr. Fredericksen: Okay. Okay. Thanks. I'm just trying to get a kind of a gage about how much that is. Veronica?

Mr. Sylva: Approximately. We're just guessing.

Mr. Fredericksen: Okay, thanks. So between 70 -- 70 plus, minus, but somewhere in that area.

Mr. Sylva: Okay.

Mr. Fredericksen: Thanks.

Ms. Marquez: Well, you know, before we even go any further, it's Corporate Counsel again.

Mr. Fredericksen: Yeah.

Ms. Marquez: I'm going back to this thing about it could be beyond our discussion. Have we established whether it is or not because if it's beyond, why do we continue?

Mr. Fredericksen: Yeah.

Ms. Marquez: It's -- it's silly. So from your point of view, is it established that this is beyond our discussion?

Mr. Giroux: Well, I think we need to confirm with Planning and Public Works. If they're going to define it as a wall, if the wall's under six feet tall, does it need a permit? And I don't know if that's been answered yet.

Ms. Marquez: So if we get that answered, then can you answer my question?

Mr. Fredericksen: Let's see what Erin has to say.

Mr. Giroux: I'd probably be in a better position to do that.

Ms. Marquez: So may I -- we ask County to answer that question?

Ms. Wade: Sure. All structures require an SMA application and this, for example, would be exempted. So we have various levels of, you know, criteria in terms of a development. This would be considered a development. Any structure or construction of any type is considered a development. At \$125,000 or less, it is a minor. And if it is of a certain category, we have an exemption list, it can be exempted. This would be in the exempt category but we actually have to issue an exemption. In terms of the Architectural Style Book, again, any structures developed in Historic District 1 trigger review per the Architectural Style Book in Lahaina.

Mr. Fredericksen: So that's what pulls it in is the fact that --

Ms. Wade: That's what pulls it in to you. Correct.

Mr. Fredericksen: If it's an SMA minor, it's in the historic district, and it's in Historic District 1. It's makai of Front Street -- well, in Honoapi'ilani Highway. So if this were someplace else outside of let's say just mauka of Honoapi'ilani Highway, across the street where the residential area is over there, we wouldn't be having this discussion.

Ms. Wade: Absolute not. It would not be in any historic district nor in the special management area, so it would not even come to us, and then the response from Jeff Hunt would be totally accurate - a permit of any kind would not be needed.

Mr. Fredericksen: But because it is in the SMA, it's a minor because it's certainly less than \$125,000, it's still and can potentially be exempted, but this is where what Brandis was referring to the Architectural Style Book and everything, where that information would be taken into -- put into the mix in thinking about this.

Ms. Wade: Right.

Mr. Fredericksen: Okay. Now, James.

Mr. Giroux: 'Cause what I'm having trouble with is that we have one page from Architectural Style Handbook in front of us, and there's nothing about walls on that page, and we're being told, well, then look at the whole Architectural Style Handbook. We don't have that. And, really, it looks like the issue is -- is the materials and the style of fence or wall appropriate in context of looking at the Architectural Style Handbook and we don't have that in front of us. So if -- okay.

Mr. Fredericksen: Do you wanna look at a hard copy?

Ms. Sarich: I have my copy.

Mr. Giroux: Yeah. Because I think that's what the analysis is supposed to be if you are going to be analyzing the wall.

Ms. Sarich: Do you need my help with any of those definitions?

Mr. Fredericksen: Yes. Please.

Mr. Giroux: Well, I mean that's supposed to be what you, as a group, are supposed to be discussing.

Ms. Sarich: Right.

Mr. Giroux: Not -- the lawyer is not supposed to make that decision. What I'm focusing you on is this is part of the analysis. If you're looking at the historic Architectural Style Handbook, then that's what you need to be looking at as far as what the jurisdiction of, you know -- because this doesn't give us any guidance, the Exhibit 3.

Mr. Fredericksen: Thank you, James. Any other questions? Okay -- oh, Stanley. Okay, now, I want to go back on all of this to, and I mentioned this earlier as just a question to Erin, on item 1, James, from her letter, now the property is held, the ownership, if something is held as a condominium, in condominium ownership, how does that affect a structure that's put up or if there is some action that's decided upon, how does that affect what occurs?

Mr. Giroux: Well, that would be controlled by the condominiumization documents that would determine --

Mr. Fredericksen: Which, again, we don't have at this point ...(inaudible)...

Mr. Giroux: Yeah. And it's based on also what you mean by action meaning that, you know, does the condominium have CCR incorporated in it telling it -- telling the owner what they can and cannot do; the delineation of common areas - what can and cannot be built in those common areas; procedures for proceeding before somebody builds something. That's all determined by the condominiumization document. The County, normally, doesn't look into that when it gives or doesn't give a permit, such as if you live in a neighborhood that doesn't allow ohana units, you actually can come to the County and get a building permit for an ohana unit, and the County, basically, just leaves you to your association of whether or not they're going to sue you or not. So whether or not the property is condominiumized or not, I don't know how big of an issue it is. I think it just comes down to if there is going to be any changes, who's going to be responsible for those changes, and that would be determined by the actual condominiumization document.

Mr. Fredericksen: Yeah, I'm kinda, just to be real frank, I'm torn by this one because, you know, it is in the historic district and there are, you know, very specific guidelines for it, for what occurs in the historic district, but I mean I am really confused with the fence and the wall stuff and I just -- and I can certainly see how someone else, I mean just a member of the general public, could get easily confused. I mean the property owner obviously didn't put this up just so she could turn around and sell the property. I mean it's been numbers of years that this wall has been up. I'm -- I'm just -- I'm torn on it. Anyway, does anybody else have any questions for the testifier at this point?

Ms. Marquez: But the fact remains still that they were told by somebody in the capacity from the County, we gotta keep that in mind now, that it was okay back then to do so.

Mr. Hutaff: To put up a fence.

Mr. Osako: Fence.

Ms. Marquez: Thank you for the fence/wall thing. Thank you.

Mr. Hutaff: I know.

Ms. Marquez: And I know, and I feel for them - fence/wall, it's up. So with that in mind, and hear them, they wanna live their lives, like we all do. We have all these rules and guidelines, which we are confused. So if we are confused, can you imagine how they are? My opinion. So, yeah, we're torn.

Mr. Hutaff: Well, then I think we need to discuss the solution.

Ms. Marquez: And that's what we're trying to do right here, aren't we?

Mr. Hutaff: So do we need him?

Ms. Marquez: Right.

Mr. Hutaff: Need him to sit down so we can discuss it and then we can call on him.

Mr. Fredericksen: Yeah, are there anymore questions for the applicant at this point?

Mr. Hutaff: Yeah.

Ms. Marquez: Yeah.

Mr. Fredericksen: Let's go ahead and talk, and then if we've got more questions, we can ask the applicant to come back up.

Ms. Marquez: Sure.

Mr. Fredericksen: Thanks. So we're going to discuss, and then if we got anymore questions for you, we'll ask you to come back up, okay?

Mr. Sylva: Okay. So I can come back up? Today you going --

Mr. Fredericksen: Yeah. Yeah. Don't leave. Hold on. We're going to try to talk and everything.

Mr. Sylva: Oh, okay.

Mr. Fredericksen: We need to discuss some stuff.

Mr. Sylva: Private conversation?

Mr. Fredericksen: Well, it's not private. No, no, no. Just sit down. Have a seat in the chair over there.

Mr. Sylva: Well, I going out and you folks can call me.

Mr. Hutaff: No, no, no. Sit down. Sit down.

Ms. Marquez: Stay.

Mr. Hutaff: Sit down.

Mr. Sylva: Can I go right out?

Mr. Hutaff: No, no. Join us.

Mr. Fredericksen: We're not closing the meeting or anything. You're free to sit. I'm just saying, just so you don't have to stand up there anymore for a while that's all.

Mr. Sylva: I just like add one thing before ...(inaudible)...

Mr. Fredericksen: Okay. Sure. Okay.

Mr. Sylva: I getting a little old. I have some questions --

Mr. Fredericksen: Okay.

Mr. Sylva: And then I going miss when I driving home to Lahaina, oh boy. But just one thing I like you folks keep in mind is this: When I asked who made the complaint, the complainer said they don't wanna release that information. If they complaining against me, I know my feeling, I don't know your feeling, but to make a complaint against you, I think you should know who's complaining. To me, it's America. That's America. This is America. Why hide? I feel we should know who's complaining against me or my daughter to bring us here to face you folks. And the reason I bring this up is this: I never born yesterday. I kinda old timer in Lahaina. I live in Lahaina all my life. If they don't wanna -- the County don't wanna give me the name or whoever, they should make that person -- they should make that available to you. Why I believe in that is this: You're going to find

out the same complainers all the time. The same people making lives miserable. The County should be aware of that. If the same person is complaining or just a group of people, they just going you complain today; you saying this one today. The fact is that's what's happening. That's what happened to us in -- in the pedestal in Launiupoko. Two people made sixty-something complaints. The same people. And in this case, Erin and this gentleman here, you folks should know who the complainer is if you don't wanna share it with us, and you can determine if this is a chronic complainer or a troublemaker. That's all I ask. But my last statement is I feel if they don't release it to us, bring us here, it's very un-American to me. I have the right to know who's complaining against me. And that's my feeling. And I think -- I just think if something of this nature - I not saying we going court, no, we not going do that - something of this nature, if you go to court, that going have to be exposed. And why it's not exposed here or to me, I feel that's my American right. It's not right by you people not exposing the person who made the complaint. Remember what I said, you're going to find out, Erin, it's the same people. We know that. The old timers in Lahaina, we know that. It's a few people wanna control Front Street. Aloha.

Mr. Fredericksen: Okay, thank you. Okay. Oh, you wanna say something?

Mr. Hutaff: Sure.

Mr. Fredericksen: Please give your name.

Ms. Sharon Sylva: I'm Sharon Sylva, and I'm the daughter -- the mother of the applicant. I just wanna say one thing that you acknowledge that, you know, this property is a residential property and it's in a unique situation because it's all commercial. So you have the authority, I think, to make an exception because it is a residential property and when people buy homes, I think they're entitled to some sense of security when they buy and purchase. So I think you have the authority to grant that ...(inaudible)...

Mr. Fredericksen: Thank you. Okay, we'll have discussion.

Ms. Marquez: Do we -- okay, so I'm looking at page 2 on this document --

Mr. Fredericksen: Yeah.

Ms. Marquez: And the options we have. Are we going to go there now?

Mr. Fredericksen: I think so.

Ms. Marquez: I think we should.

Mr. Fredericksen: Yeah.

Ms. Marquez: If we can come to a decision.

Mr. Hutaff: It's it okay with -- can I?

Mr. Fredericksen: Yeah, Ray, go ahead.

Mr. Hutaff: Yeah. We, obviously ...(inaudible)... yeah?

Mr. Fredericksen: Yeah.

Mr. Hutaff: If have the obligation to what we raised our hand for or said we'd do here, and they're not in balance, okay. A thought. That fence --

Mr. Fredericksen: Wall.

Mr. Hutaff: And here I was I thought I was on it. Okay. That wall --

Mr. Fredericksen: You're not alone, Ray.

Mr. Hutaff: I know. That wall will not last forever, okay. And I know that the Planning Department has done this with other places of mostly homes and parcels of land where they say, hey, you know what? We are not going to make you tear it down but you can't fix it. So in other words, it goes away. Okay. If as a compromise we give it a certain period of time that that wall be allowed to remain until growth can take its place and the agreement be it's non-replaceable I think would be the best we could do under the law that we are obliged to work with --

Mr. Fredericksen; Well, and also, excuse me, I'm sorry, Ray, but I'm just going to just add it's also -- I mean this hasn't been -- I mean we've all commented on how this has not been real clear and so -- yeah. Continue. I'm sorry.

Mr. Hutaff: Well, yeah, and I'm also concerned too about the other walls that are up there, okay.

Mr. Fredericksen: On this condominiumized property or the overall property or --

Mr. Hutaff: All on Front Street.

Mr. Fredericksen: Oh, uh-huh.

Mr. Hutaff: Okay. Again, you know as we see by the applicant pointing out that, oh, what about over there? Well, the reverse can happen to us too if we say this is okay, then the

other guys go, well, what about the Sylva's place. Okay. I think that the -- if I, you know, had my way to compromise, it would be allow them a certain amount of time to come up with funds, over a long period of time, in order to grow something behind that fence, and part of the deal is is they can't replace it. It has to --

Mr. Fredericksen: They can't replace it with like. It would be replaced with something that was ...(inaudible)...

Mr. Hutaff: That's already being started in place now, you know, a couple of bushes here and there a month, you know; lost cost, you know; let it grow. How long does it take for the stuff to grow? I don't know. I don't think we should have to say we allow, you know, five years. We'll just, you know what? When that fence falls, you remove it. If it becomes a danger, you remove it. And by then, 'cause it should take a while - I don't know what the life expectancy on that is, I'm sure we can go to Home Depot and ask, okay, but it might give enough time to accommodate growth over there, keep their security, keep their safety, okay, and at the same time, we're not saying it's legal; it's okay. We're saying, no, it's not, but we're going to give you time. So if another applicant comes in with the very same -- one of the applicant come that we have pictures here, okay, we have not said it's okay. It's not okay.

Mr. Fredericksen: Stanley's going to break in for a minute.

Mr. Solamillo: Yeah, I'm sorry. I think the applicant may have one more statement.

Mr. Hutaff: Sure.

Mr. Solamillo: Is that possible to be heard?

Mr. Fredericksen: Yeah, that's fine.

Ms. Shariann Sylva: Hi. My name is Shariann and I own this piece of property.

Mr. Fredericksen: Good morning.

Ms. Sylva: Good morning. I just wanna clarify that the main purpose of this fence/wall is for security.

Mr. Fredericksen: Sure. That's very understanding.

Ms. Sylva: That's 90%. I have children. And let me just give an inside on what occurs without the fence. There's a lot of drunk people. There's a lot of fights, which you brought up about the discoloring of the fence, it's, you know -- the panels had to be replaced three

times in the last two years due to fights; one because a car backed into -- into the property. I have had my water hose stolen once before. And people just walk right into the yard, use my water hose, on a daily basis. I have two children and it's just -- it's just not safe. So that is the like 90% purpose of the wall, and I just wanted to make that clear. And one more thing, Halloween, I woke up to three drunk people lying in my front yard, not even on the side, right in my front yard. So that's just a little bit of insight on --

Ms. Sarich: That's when you had the wall up people still came into --

Ms. Sylva: No.

Ms. Sarich: Oh, okay.

Ms. Sylva: Without. This is without the wall. So the wall has provided me security for my family, my children; myself, peace of mind, save me water, save me water on my water bill.

Ms. Marquez: Okay, the purpose in your --

Ms. Sylva: The purpose --

Ms. Marquez: Applicant's purpose is security ...(inaudible)...

Ms. Sylva: Security. So that's the main concern for my wall - security of my children, myself.

Ms. Marquez: Very good.

Ms. Sylva: I'm a single parent and it's for my family.

Ms. Marquez: Now I wanna link what you just said to your suggestion, if we afforded that vegetation growth --

Ms. Sylva: How safe is that?

Ms. Marquez: Let me ask -- now, let me just finish here. What you suggested, and it takes many, many years for that to happen by the way, go back to the applicant, would that make you feel secure?

Ms. Sylva: No. It doesn't, and I -- I'm more than willing to compromise this as long as myself and my children are safe. So, you know, bringing down the wall four feet, cutting off the top lattice, as long as I'm going to be safe and my kids are safe - bottom line.

Mr. Hutaff: I had in mind, I don't know the name of the plant, but it does have growth from the bottom all the way up to the top. I remember being a little kid having to have my grandfather come with the pruning shears and cut me out of it. I still have the scars from the tree itself. Because I think that your right to security is paramount and you've already proven to us by your words and I've seen actions down there that confirm what you say that I would feel insecure, as a male with a big baseball bat, okay, and we're just trying to look -- at least I'm trying to look down the line for others who have the same concern or have the same wall in the historic district, which is our role, okay, and I was hoping that you could have your security today, okay, and you could have your security 30 years from now. The nice thing about plants they grow is that they continue to. That fence or wall, once you planted it, it's dying and it's going to fall over, and then you're not going to have security or you're going to have to tend to it more where you're going to have to put more money into it. And the next time you come, you can't have an argument as strong as you have today about security. You see what I'm saying? The wall's been up for 30 years, I've had nobody come into my yard, I've had no problem with it. I know what happens if I tear it down, they'll come. We'll go, you know, the next children of today will go: Are you sure? You see what I mean? Your argument down the road may not be the same today. Your argument today is excellent. It's perfect. So in a way, having foliage there that nobody can get through unless they have pruning shears to get the kid out, okay, is a way, in my opinion, that you could have both today and tomorrow. So you understand where I'm coming from too?

Ms. Sylva: Yes.

Mr. Fredericksen: Well, and if we do, as a Commission, side on a, you know, on a compromise where the wall can stay for -- till the hedge gets established or it's, you know, comes -- fall downs, a fence could be put up in front of the hedge, which would provide a barrier and their hedge would be there, which provide the privacy element because I think privacy -- this place is super busy, it's really, really, really busy, and there is a desire, I'm sure, to have privacy; in addition, security's the top one, but privacy's also -- I mean would be I think a real important factor.

Mr. Hutaff: I certainly can't disagree but somebody lived there before the wall was put up. They knew what they were walking into. But I -- that -- I mean, obviously, everybody should have a say about this but that would be my best suggestion to allow today, okay, without saying, yes, to the wall because of other concerns of people who may come in later on and not have the same concerns ...(inaudible)... oh, what about that wall? What about that wall? We already heard it today. At the same time, you know, you need to have your security there, and I'm sure you've gotten with the Police Department and asked them to watch the people across the street if there's drugs going on and sometimes the police hands are tied too so --

Ms. Sylva: It is.

Mr. Hutaff: You're taking action for your own security.

Ms. Sylva: Correct.

Mr. Hutaff: And I don't think that we should ignore that; at the same time, we have to do our job too. How do we come up with a positive to where -- where you walk out of here grumbling with us but, at the same time, you got your privacy, yeah, and your safety?

Ms. Sylva: Safety.

Mr. Fredericksen: Any other comments?

Ms. Sylva: Thank you.

Mr. Fredericksen: Thank you. Any other comments.

Ms. Sarich: I feel good about giving them enough time to gather resources to be able to comply with what we have in place here, but I think that when they do come back in the future, if we say, okay, you know, you've got five years or until this thing falls down, to work on your hedge or your mitigating thing. When they come back, they do need to follow whatever guidelines are in place with what kind of fence or wall they wanna put up.

Mr. Fredericksen: I've got a question for Erin when you've got a minute. Are you okay?

Ms. Wade: Yeah. Go ahead.

Mr. Fredericksen: If they -- okay, let's cast down the road a bit, just for sake of argument we go with what Ray was talking about, recommend planting a vegetative hedge of some sort behind -- behind the Front Street facing portion of this wall, and a certain amount of time the hedge is established, the wall comes down and they wanna put in a fence that's compliant with the in place guidelines at that point, do they need a permit or could they just do that?

Ms. Wade: They would come in for historic district review.

Mr. Fredericksen: Okay, now, given the amount of involvement at this point that the CRC has had with this, if they were -- if it complied, could it just be done administratively or would this -- would they have to go through all of this again?

Ms. Wade: No. It would be an administrative approval.

Mr. Fredericksen: Okay.

Ms. Wade: Yeah.

Mr. Fredericksen: Okay. Because --

Ms. Wade: In fact, you can even make that part of the condition that, you know, be of a certain type, if they're ready to agree now, to a certain type of fence, you can condition your approval now that it will be replaced with X-type of fence in the future.

Mr. Fredericksen: Well, and I don't know if the applicant could even be put on that, but if it's something that complied, I mean within the existing -- the guidelines.

Ms. Wade: Yeah. It's just administrative.

Mr. Fredericksen: So that, at that point, would become an administrative situation. It would allow the applicant to have time to establish some -- some hedge close to the existing wall, and when that wall is in need of coming down or if the applicant decides after three or four years and, oh okay, well, hey, this was all good and I want to get rid of this and put up something so I don't have to hassle with worrying about this anymore, and the hedge would be in place, at that point, it could be done as an administrative level where there wouldn't be anymore of this that they'd have to deal with.

Ms. Wade: Right. Exactly.

Mr. Fredericksen: Okay.

Ms. Sarich: I would also like to add that if we're going to let them leave this wall, that we should mitigate it a little bit by having it painted to better match the style guidelines.

Mr. Hutaff: I agree in principle with that, but having got the idea from previous planning and homes being built, one of the conditions of leaving the home there or --

Mr. Fredericksen: The wall?

Mr. Hutaff: No, these are homes.

Mr. Fredericksen: Oh, okay.

Mr. Hutaff: I'm talking about a home, that's where I get the idea from.

Mr. Fredericksen: Okay.

Mr. Hutaff: In Wailea. That they built the house not quite within the permit process, and as a compromise rather than tear down the house and say you can't have this, they say you can have -- you know what? You've already done it. Okay, but you can't touch it. If your roof begins to leak, if it needs a paint job, you can't. Okay. Because, again, that's giving -- that's like saying, okay, you built the house, you can't have it there legally, and, therefore, go ahead and paint it and upkeep it and all that you want; you're really violating the idea of what they were trying to say is that you can't fix that house up. You can build a house behind it now for when that one goes because you can't do anything to it. The same thing goes along with I think this one here is that if you allow to maintain it, you're authorizing them to have it. We're saying, by the compromise from where I'm looking at, you're not authorized to have it, but, okay, understanding all the circumstances, we'll give you time, but not the wall time.

Ms. Sarich: Okay. So if we go with the Planning Department's recommendation of taking down the portion on Front Street, how long do they have to do that?

Ms. Wade: You can -- you can condition whatever you feel is appropriate for the situation.

Mr. Hutaff: I mean if you guys wanna paint it, go for it, you know. We all have a voice here so -- I just have one voice.

Mr. Fredericksen: The, ultimately, what I think on and wall/fence of that type what ends up giving out, ultimately, is the posts.

Mr. Hutaff: ...(inaudible)...

Mr. Fredericksen: The posts, yeah, that go into the ground.

Mr. Hutaff: Right.

Mr. Fredericksen: Erin?

Ms. Wade: I just wanted to point out though that, you know, several panels of this section have been destroyed, not by nature, but by man several times already for them so, I guess, from the Planning Department's perspective I should clarify maybe that our recommendation to wait for the hedge to grow would perhaps allow for them to replace panels strategically as they get damaged but for manmade reasons, you know, until the point at which the hedge is tall enough to provide the privacy and then a new fence could be installed for security because tomorrow it could get damaged again and there would be zero hedge.

Mr. Fredericksen: I think the applicant said that somebody backed into it too. I recall that so -- yeah, okay. Yeah, let's try to get something formulated on this.

Ms. Wade: I could summarize, if you like, what I've heard.

Mr. Fredericksen: Yeah, Erin, please. Oh, did you have one more question, Veronica, before Erin goes?

Ms. Marquez: Before you summarize. Question to the Commission. Does this Commission need additional information that will assist in our deliberation? I'm just looking at the alternatives, okay, to start crossing these off already. Do we need additional time and more information to make a decision?

Mr. Fredericksen: I don't think so.

Mr. Hutaff: I don't.

Ms. Marquez: Cross number one off. Okay.

Mr. Fredericksen: ...(inaudible)... I don't want to drag these folks back in again.

Ms. Marquez: Let's move on.

Ms. Wade: Okay, what I've heard today was that, basically, the group may be leaning to move to approve the request for a six-foot wall with the conditions that, one, the wall in place today, adjacent to Front Street, shall be allowed long enough to grow a suitable hedge to provide security and privacy for the residents; that, two, the time at which the hedge is of suitable height, the wall along Front Street shall be removed; three, that the wall may be replaced by a fence or wall consistent with the design guidelines upon the time of removal of the existing wall.

Mr. Fredericksen: And, Erin, do you have something in there that if that fence or wall were proposed, that if it followed the architectural guidelines, then it could be approved administratively by the Planning Department?

Ms. Wade: I can put that. It would be a given though.

Mr. Fredericksen: Oh, okay.

Ms. Wade: We don't bring you anything that's consistent.

Mr. Fredericksen: Okay.

Ms. Wade: Just to save time.

Mr. Fredericksen: No, it's just because we've had a lot of time on this -- on this particular item --

Ms. Wade: Yeah.

Mr. Fredericksen: And just to help ensure that the applicant in the future. As long as it's in compliance, they're not going to have to come back and go through anything other than just being in touch with the Planning Department and saying, hey, the hedge is good and we're ready to take the portion of the wall down a long Front Street and replace it with this.

Ms. Wade: So consistent and shall be administratively approved. Four, that within six months of this decision, the existing wall shall be painted in a color consistent with the Architectural Style Book, and panels may be replaced within the time of the hedge's growth.

Mr. Fredericksen: Yeah. I know, Ray, you got a thing about the painting but I do - and, you know, we can discuss this with everybody else too - I do agree with Brandis --

Mr. Hutaff: Sure.

Mr. Fredericksen: Let's get it so it's consistent at least - that portion of it.

Mr. Hutaff: That's the coolest thing about this kind of commissions, we all get to have a voice. I've made my case. Now we all get to vote. That, I think, is excellent.

Ms. Wade: I have two more.

Mr. Fredericksen: Okay. Thanks.

Ms. Wade: Five, that a compliance report shall be completed and submitted to the Planning Department every three years with photographs of the vegetation being grown for privacy and security. That could keep us up to date. And then, five, that all fines associated with the after-the-fact permit shall be waived. You folks expressed concern that this was done by a complaint, so that would be the way to rectify that.

Mr. Hutaff: I'm not so sure that I want to -- I just kinda think that these guys did the best they can under the circumstance and we still have an issue with wall and fence, and I think that that alone, okay, needs to be addressed as far as should they be fined or not? Nah. Nah. No way.

Ms. Marquez: Yes. I'm going to add to what he just said in which I think I understood what he just said. The family wants to have a life. They need their security. We -- all of us are here for a purpose of historical sites but still yet, because of the historical facts remain that, hey, we were given permission to put this - I'm not going to say word 'cause I'm going to say it wrong - the what?

Mr. Hutaff: Wall.

Ms. Marquez: You said it. Up.

Mr. Hutaff: Okay.

Ms. Marquez: That was their mana`o.

Mr. Hutaff: But they asked for a fence. I know.

Ms. Marquez: But that's where I'm coming from.

Mr. Hutaff: Yeah. I agree.

Ms. Marquez: Okay.

Mr. Hutaff: I agree. I understand.

Ms. Marquez: I just wanted to add.

Mr. Hutaff: Now we should ask what he thinks of all this.

Mr. Fredericksen: Stanley, did you have --

Mr. Solamillo: I just wanted to ask the Commission to ask the applicant whether they were agreeable to the conditions that we were discussion.

Mr. Fredericksen: Yeah. Thank you. Yeah, we're still in the discussion. We're still discussing. Mr. Sylva?

Mr. Sylva: Yeah, I just wanted to add one thing. You know, I see you folks having trouble with the definition of wall and fence. What about me - John Q public, high school graduate, not lawyer? What you think what happen to me and all the other guys like me? If you the guys running this and you get confused, what about John Q public, all my family, my friends, and everybody else out there in the general public?

Mr. Fredericksen: Yeah, and that's -- and that's a good point and we take that one to heart and that's why, you know, we're trying to work through this so it provides a solution but not where it's just like, okay, well, you know, you gotta go take the fence down tomorrow or the wall and put up something else right away. You know, that would be an un, you know, an unreason -- I think, you know, an unreasonable thing, but we also gotta try to take care of our responsibilities on this Commission but I really understand the confusion on this one because it's confusing for us too.

Mr. Sylva: Okay. Thank you.

Mr. Hutaff: Can I?

Mr. Fredericksen: Go ahead, Ray.

Mr. Hutaff: Mr. Sylva, okay, you realize that we are all John Q public here?

Ms. Sarich: Yeah.

Mr. Fredericksen: Yeah.

Mr. Sylva: I realize that. I realize you all John Q public.

Mr. Fredericksen: We're volunteers.

Mr. Sylva: But I realize you folks all volunteers. I've been a volunteer on the general plan.

Mr. Hutaff: Yeah. Right. Okay.

Mr. Sylva: I realize no pay and all that.

Mr. Hutaff: Yeah.

Mr. Sylva: But you folks have more information in front of you, what you doing, the job you doing, you get more information, you get more knowledgeable than the other John Q public not sitting in here ...(inaudible)...

Mr. Hutaff: And I wish -- I wish that were the case. We wouldn't be having a problem with a wall and a fence. But we certainly understand and, you know, we wanna make this work for you but you're going to have to give some effort, I think, in the end, you know, and I don't know what the Commission is going to end up voting on, but you've heard us speak. Can I ask him this question?

Mr. Fredericksen: Sure.

Mr. Hutaff: Okay, what do you think so far what you've heard about what we may be suggesting?

Mr. Sylva: What I think so far that, like I say, I believe in compromise. Compromise in what extent? I would think that that going be between the County and ourselves and see what we can work out, and I not one hard nose guy who going say no, no, no. My way or the highway. Like I say, I believe in compromising so whatever we can work out with the County.

Mr. Hutaff: So, do you think this is something you could -- you could undertake, that you'd be willing to say, okay, that's -- that's the best we can get, that's -- well, I'm not going to ask you that 'cause the best you can get is to walk out of here with a yes. I would be on your side or if I was ...(inaudible)... but knowing that we're saying, okay, we understand the security, we understand that leave things in place, there may be some suggestions to tidy it up a little bit and make some repairs, and then, in the meantime, have some kind of growth going on there to provide you with security so that the wall eventually goes away. Would you be in favor of that over a period of time?

Mr. Sylva: Well, I going have to discuss that with my daughter 'cause she the owner there and give us time to talk about it, give us time to get what we feel is comfortable or uncomfortable.

Mr. Hutaff: And you also --

Mr. Sylva: To be very honest with you, so far, from what I hear, I believe I can work with Erin, and I believe she's a fair person --

Mr. Hutaff: Absolutely.

Mr. Sylva: And I feel that that's only my feeling, you know.

Mr. Fredericksen: I have a -- here's a suggestion. We put this to a motion, and then we leave the time element flexible, and then you folks communicate with the County, you know, about like, you know, I grew up in Lahaina but I don't -- I don't remember how long it takes for a hedge to get established or whatever stuff growing -- growing there or anything, so maybe have the time element, instead of just pulling some, you know, figure out of our hat, have a flexible time element so there's plenty of time to have the hedge get established before anything else occurs.

Mr. Hutaff: How about - and idea here - how about if we set a time limit but before the time limit ends, they can come back and say we need more time with proof?

Mr. Fredericksen: The thing -- excuse me, Warren. Go ahead.

Mr. Osako: I think Erin said that with photos showing the hedge growth so --

Mr. Fredericksen: But it would not necessarily need to come back here --

Mr. Osako: Yeah. Correct.

Mr. Fredericksen: Because I mean that's -- that's kind of a hardship to take time off of your life and go into a --

Mr. Osako: On the condition that they compromise.

Mr. Hutaff: They monitor.

Mr. Osako: The time, you know, I think she's saying that they can have the time they need to grow the vegetation.

Mr. Hutaff: I think the time also should be attached to how long the fence is going to last. It's not going to be replaceable, right?

Mr. Fredericksen: No, we've already --

Ms. Sarich: We said that ...(inaudible)...

Mr. Fredericksen: Erin's already said that's -- that's something that -- 'cause they don't have any control over some dummy kicks a section of the fence in. They don't have any control over that.

Mr. Hutaff: Okay, so they can repair that.

Mr. Fredericksen: Yeah.

Mr. Hutaff: But I mean if the fence just got too old, is that going to be replaceable?

Mr. Fredericksen: No, at that point, that's what we've been talking about. At that point it would be --

Mr. Hutaff: Okay. Right. That's what I -- I just want to get it clear. So anyway --

Mr. Fredericksen: Stanley, you have something else to add in?

Mr. Solamillo: Yeah, I think -- at the last Commission hearing I had made the statement that if we begin to make --

Mr. Hutaff: Compromises.

Mr. Solamillo: Well, they're not compromises, they're essentially variances for --

Mr. Fredericksen: Right. The individual --

Mr. Solamillo: The architectural design guidelines that we have to be -- we're setting precedent. This is one parcel of seven. We do not have an overall comprehensive --

Mr. Fredericksen: Right.

Mr. Solamillo: You know, fencing or walling plan for the property. And since the case came out of a complaint, it would only make sense that we try and get some set of comprehensive plan for the entire property because it's not just this parcel, it's --

Mr. Fredericksen: From the --

Mr. Solamillo: It's --

Mr. Fredericksen: The Hale Leilani --

Mr. Solamillo: Yeah.

Mr. Fredericksen: Condominium association or whatever it's called.

Mr. Solamillo: Because there may be other outstanding issues that haven't been addressed by the condominium association ...(inaudible)...

Mr. Fredericksen: So in your mind, is that -- that goes into the deferral column. Go ahead, Veronica.

Ms. Marquez: I see that as it goes into the number two, approve with no conditions. This Commission may take action to approve the permit request without imposing -- because of what you just said. That's where I link it to.

Mr. Fredericksen: No. He's talking deferral.

Mr. Hutaff: Deferral.

Ms. Marquez: Well --

Mr. Solamillo: No, I mean you can interpret it any way you wish. I'm just trying to say that based on the fact this comes from a complaint, we've got lots of parcels involved --

Mr. Fredericksen: On this given property.

Mr. Solamillo: On this particular property that are part of a condominium association. We don't have an overall comprehensive fencing or, you know, security plan, if you will, for the entire parcel and yet that sits out there on Front Street and maybe we need to consider that. That's all I'm saying. I'm not instructing the Commission to vote either way.

Mr. Fredericksen: No, I appreciate the input because this is a -- this is a bit of a mess. Yeah, Veronica.

Ms. Marquez: However, today, we are discussing that parcel.

Mr. Fredericksen: Right. That's on --

Ms. Marquez: We're not discussing the whole complex.

Mr. Fredericksen: Yeah.

Ms. Marquez: That parcel and with what we have, which is not much, and what we're understanding, which is we need to understand more, is at their expense. So I see, and this me now, that we approve this and use this, as I always say, as a stepping forward and a learning situation and moving on and looking at future needs. That's me. So number two.

Mr. Fredericksen: But it could also be number three. It would be approve --

Ms. Marquez: Number three.

Mr. Fredericksen: Because at some point that --

Ms. Marquez: Well, that's with conditions.

Mr. Fredericksen: Yeah. But at some point, that wall is -- nothing lasts forever ...(inaudible)... made out of wood.

Ms. Marquez: No, I understand that. I understand that. Everything is in the future. I mean you can't guarantee anything. Well, a few things you can.

Mr. Hutaff: Yeah.

Ms. Marquez: Death and taxes, but we're not talking about. We're talking about these people's lives.

Ms. Sarich: So you would approve it as is. No conditions.

Ms. Marquez: I would approve as it is written in number two. Approve with no conditions. The Commission may take action to approve the permit request without imposing any conditions. That's how I see it.

Ms. Sarich: So you would let them leave that up even though it's in contradiction to this?

Ms. Marquez: Because of what had happened in the past. It's not their fault.

Mr. Hutaff: And it also means that they can replace it at any time.

Ms. Marquez: There you go. I want to hear the rest of you.

Mr. Fredericksen: Brandis.

Ms. Sarich: I think that it's pretty sticky to just -- we weren't there to hear what went on with Jeff Hunt to be able to know if we can approve it just based on that. But I actually support what Stanley is saying because as I'm looking at these pictures, I'm already thinking, wow, this is not in compliance, not just hers, but the rest of it around that property.

Mr. Hutaff: Yeah, approving that without any conditions at all, basically, approves every single one of them in there.

Mr. Fredericksen: Yeah, I --

Mr. Hutaff: It does.

Mr. Fredericksen: I'm --

Mr. Hutaff: That's the hard part.

Mr. Fredericksen: I lean more towards number three and it could be a hybrid, it wouldn't necessarily have to be -- it'd be -- we could put it out there for when the fence need -- or

the wall, when the wall needs to be replaced because at some point, it will need to be replaced.

Ms. Marquez: So that's -- so the number three alludes to all what she just summarized?

Mr. Fredericksen: Yeah, but there would be no time -- the time element would be -- I mean get a hedge established but to be linked to the life of the wall.

Ms. Marquez: And would the feelings of the family affect our decision?

Mr. Fredericksen: Well, we should ask, but, you know, the fact -- well, actually, the fact -- I don't know if it is a fact because we still don't -- it appears that a permit was needed because this is an SMA minor action.

Ms. Marquez: Was.

Mr. Fredericksen: Any -- Warren, did you have a comment or an addition or thought?

Mr. Osako: Well, yeah, like I said, you know, it would be great if the landowner and the Planning Department came to some kind of agreement, workable agreement, and so I would be in favor of number three, approve with conditions, and that, you know, I think if they are given enough time, Mr. Sylva said they're willing to work together with the Planning Department.

Mr. Fredericksen: And I mean this is the situation where I spent a lot of time as a kid in Lahaina, and over the years too, but that section of Front Street gets pretty crazy, and Kamehameha Iki Park's been cleaned up but before that was a huge mess, and across is kind of not -- there's just a lot of -- there's a lot of problems there and I certainly understand why, you know, a landowner would, right there, would be wanting to have -- be safe, feel safe.

Mr. Hutaff: I think it's their right.

Mr. Fredericksen: Okay, Commission Members, let's try to -- let's try to craft something. Does the applicant folks want to have anything else to add? If you need to -- come up to the microphone please just 'cause there's -- we have minutes all that stuff.

Mr. Sylva: Right now, we having discussion like you having discussion. What in my mind say would be alright with me kinda not alright with my daughter, so we need more time to discuss.

Mr. Fredericksen: Well, we have a couple options. I mean we can defer it but then you folks are going to have to come back again. I mean if you want to do that, be in touch with Erin, you can do that. I mean, you know, I don't want to make -- I'm just talking for myself, I don't want to make it seem to you folks like, oh, okay, no, this is -- stop. Don't have anything else. Don't talk about it. That's what you go do. I don't want you folks to feel that way. If you want more time, you know, I'm happy to defer it. I just want you to understand that they'd you have to come back. That's all. And that's -- that we're here.

Ms. Sylva: We're here. I feel that we're here because I would like to have approval for the fence. You have the reasons that I want approval for the fence. I'm willing to compromise as long as we are safe and secure. Shrubs just doesn't make me feel secure. I mean are we going to have thorns all over my shrubs? We going to have conditions on that? It doesn't make me feel secure. I mean we all agree that it's traffic, there's fights, there's people walking in my yard, sleeping in my yard. It's a definite issue. So shrubs, right now, it just doesn't make me feel secure.

Mr. Fredericksen: Sure. But how about down the road --

Ms. Sylva: We're here for approval of my fence. I would like approval of my --

Mr. Fredericksen: Of your wall.

Ms. Sylva: Of my wall, of my fence, I would like an approval of that. I'm willing to maintain it, to color it to match whatever coding needs be. I mean it's a wooden fence. It's in the historic district. Wood. I'll match whatever. Those kind of conditions. Keep me and my family safe. I would like an approval of my wall. Fence. Wall.

Mr. Fredericksen: Warren.

Mr. Osako: I have a question.

Ms. Sylva: Please. You have the power.

Mr. Osako: I have a question.

Ms. Sylva: Okay.

Mr. Osako: Actually, we don't have power. We can make suggestions, okay?

Ms. Sylva: Okay.

Mr. Osako: Just -- how long have you live in this property?

Ms. Sylva: '97.

Mr. Osako: And before you bought this property, there weren't any problems there?

Ms. Sylva: There was -- there was problems there. It's been ongoing.

Mr. Osako: So you bought this property knowing that there were problems there, correct?

Ms. Sylva: No.

Mr. Osako: No?

Ms. Sylva: No.

Mr. Osako: You just said that you knew there were problems there.

Ms. Sylva: Well, there was when I got there. I mean it's continued. It's gotten worse. It gotten, you know, it's gotten better. It just depends. I mean the whole property has changed for the better.

Mr. Fredericksen: When the applicant says she bought the place, around that time there were ...(inaudible)... extended it to a few years ago, there's all kind of like surf school stuff and it was a mess in that area.

Mr. Osako: Right. Because I remember, you know, even before that, you know, like especially Halloween, was pretty wild, you know, before everything even got organized and -- I mean I don't live there but I've been there during some of these times or the fishing tournaments and stuff like that. So, you know, to give blanket approval means -- well, what you gotta understand is that the next person is going to come up and say the same thing, then that's going to put us in a squat. So pretty much what you're saying is let everything go. Let everybody do what they want.

Ms. Sylva: Well, not necessarily because I heard Erin say that there's a handful, maybe six people in this special circumstance on Front Street and in the SMA and in the historic district. Correct me if I'm wrong, is it six?

Ms. Wade: Yep.

Ms. Sylva: Six people. There's a handful. So when you say that you're going to approve one, I mean I look at it as 25-plus. There's six -- six homes in that area that I feel could be a case by case situation. You're hearing me. I'm a single mom. You know, I don't think

you're going to hear that from the rest of the five applicants for something for this reason. My feeling.

Mr. Hutaff: The thing called "precedence."

Ms. Sylva: I understand that.

Mr. Hutaff: We can be accused of being prejudice.

Ms. Sylva: I understand that.

Mr. Osako: So now this whole time because you weren't here at the previous meeting, we've been listening to your father and we're trying to make an agreement, but now that's not working so we're wasting our time in a sense.

Mr. Hutaff: Maybe not. What about a fence? What if you replaced it with a fence?

Ms. Sylva: What kind of --

Mr. Hutaff: No bushes. A fence that has 50% daylight going through it.

Ms. Sarich: She will be limited in height then.

Mr. Hutaff: To how much? Less than six feet.

Ms. Sarich: Four feet, I believe.

Ms. Sylva: That's fine with me.

Ms. Marquez: You would feel secured with the height?

Ms. Sylva: Yeah.

Ms. Sarich: Okay.

Mr. Sylva: With what?

Ms. Sylva: With a --

Ms. Sarich: A four-foot fence would be okay with you?

Ms. Sylva: Well, my fence right now is --

Mr. Fredericksen: About six feet.

Ms. Sylva: About six feet.

Mr. Sylva: Four feet - they can hop over the fence.

Mr. Fredericksen: But how about with a fence --

Mr. Osako: Combination.

Mr. Fredericksen: A fence with a hedge behind it? And understand, we're not, you know, at least for me, I'm not envisioning, oh, okay, go do this tomorrow. I mean this would be --

Ms. Sylva: Yes.

Mr. Fredericksen: Years. Years. Not like --

Ms. Sylva: That's -- that's --

Mr. Sylva: If I was to do it now, you know, financially, everybody's stuck right now.

Mr. Fredericksen: No, no, no, that's not -- yeah, no that wouldn't be the case at all.

Ms. Sylva: Yeah, years of reaching a compromise.

Mr. Fredericksen: It would be, you know, years. We're -- you know, at least for me, it would be years because it's going to -- hedges take a while to grow.

Ms. Sylva: Yeah. Well, like I said, you know, I'm willing to compromise. I just want to be safe. And the shrubberies just doesn't make me feel safe. So I mean --

Mr. Fredericksen: In the meantime you'd have your wall --

Ms. Sylva: We have something in play that's fine.

Mr. Fredericksen: Just paint it so it's - talk to Erin - so it would matches per --

Ms. Sylva: Yes. Absolutely.

Mr. Fredericksen: And, you know, for a length of time that you folks and Planning Department can direct -- agree on some kind of time, it's going to be dependent on, you know, what you choose to plant, you know, as your hedge and about how long it takes and,

you know, it's going to take years, I mean in my opinion, just because you want something five or six feet tall before the wall goes away.

Mr. Hutaff: Isn't the fence allowed if it's less than six feet tall?

Mr. Fredericksen: It's allowed right now. But -- yeah, I'm --

Ms. Sarich: No. But in this area, it has to be 48 inches tall.

Mr. Fredericksen: Yeah.

Mr. Hutaff: Only?

Ms. Sarich: Yes.

Mr. Hutaff: So maximum?

Ms. Sarich: Yes.

Mr. Fredericksen: That's the maximum height right, Brandis?

Ms. Sarich: Yes.

Mr. Fredericksen: It can be shorter but --

Ms. Sarich: Yes.

Mr. Fredericksen: I mean ...(inaudible)...

Mr. Hutaff: And in the new things that may be approved, it's six feet? I'm just trying to figure out where I got six feet from?

Mr. Fredericksen: That's what it is right now.

Ms. Sarich: Because in the rest of the County, you can do this without a permit if it's under six feet.

Mr. Hutaff: Except for here?

Ms. Sarich: Yes.

Mr. Fredericksen: Because it's in the SMA.

Mr. Hutaff: Okay. That's where I got six feet from.

Ms. Sharon Sylva: So it's still okay for the church to have it, which means the resident -- I mean it's not going to be consistent throughout, right?

Mr. Fredericksen: So you're talking about the --

Ms. Sylva: You're allowing that --

Mr. Fredericksen: We're talking about the Front Street footage only. Right? That's what, Erin, this is here for?

Mr. Hutaff: You can always file an anonymous complaint.

Ms. Sylva: But you're talking about the whole complex. That's your concern, right?

Ms. Sarich: That's when we were talking about a deferral.

Mr. Fredericksen: No, we're only looking at this particular item at this point.

Ms. Marquez: And then they have to come back for the other side and the other side? It doesn't make sense.

Mr. Fredericksen: It's not their --

Mr. Hutaff: No.

Mr. Fredericksen: It's not their property - her property.

Mr. Hutaff: Yeah.

Ms. Marquez: Oh, their property is only that side?

Mr. Fredericksen: The Front Street side --

Ms. Marquez: Is that right?

Mr. Fredericksen: And then the lane side, which is -- Erin, could you enter on this, please? And then we gotta move on pretty soon because we're losing -- we're losing time.

Ms. Sarich: That and that is theirs. And in a compromise, we're letting leave that but on the Front Street they have to comply with the guidelines.

Mr. Fredericksen: Because it's on Front Street. Is that correct, Erin?

Ms. Wade: Correct. Yeah, that was the Department's recommendation.

Mr. Fredericksen: Okay.

Ms. Wade: Let me know if you'd like me to re-read the motion.

Mr. Fredericksen: Yes.

Ms. Wade: Yes?

Mr. Fredericksen: Yes, please.

Ms. Wade: Okay. So the suggestion or the compilation of all of the comments was to move to approve with the conditions that: number one, the wall in place today adjacent to Front Street shall be allowed to be maintained long enough to grow a suitable hedge to provide security and privacy for the residents of the property; number two, the time at which the hedge is of suitable for security and privacy along Front Street, the wall shall be removed; number three, that the wall may be replaced by a fence or wall consistent with the design guidelines and shall be administratively approved; number four, that within six months of the decision, the existing wall shall be painted in a color consistent with the Architectural Style Book, panels may be replaced and repaired as needed until the hedge is established for privacy and security; number five, that a compliance report shall be completed and submitted to the Planning Department every three years with photographs of the growing vegetation.

Mr. Fredericksen: So, excuse me, Erin, who does that?

Ms. Wade: The compliance report?

Mr. Fredericksen: Yeah.

Ms. Wade: Whoever -- whatever planner got assigned the project originally so --

Mr. Fredericksen: Okay, so whoever it is would contact the property owner and say I'm going to come out and take some photos or something or just look at it?

Ms. Wade: No. This would be the property owner's responsibility to just submit a compliance report. It's usually a one-page thing that says, per the conditions of our approval on the CRC, dated December 2, we are providing for you this report of the growth of our hedge. Here's the photographs, you know. And then they can say, in our opinion,

this does or does not meet the security and privacy. So if we see it and it's still two-and-a-half feet --

Mr. Fredericksen: Yeah.

Ms. Wade: We all concur. If they send it in and it's showing at seven feet and they say it doesn't meet the security and privacy, then I would bring it back to you and say the Planning Department's opinion is it's a full hedge and it does meet security and privacy and they can still establish the fence. So if we were out of agreement at any point, we would bring it back to you, but it sounds like we can -- I mean I have a two year old myself so I totally understand where she's coming from on this.

Mr. Fredericksen: Good.

Mr. Hutaff: And also too if the hedge wasn't -- didn't satisfy her need for safety, she could put up a four-foot legal in-style fence in front of that hedge at any time.

Ms. Wade: Right. So that's condition number three.

Mr. Hutaff: Right.

Ms. Wade: That the wall may be replaced by a fence or wall consistent with design guidelines and shall be administratively approved. And then the number six was all fines associated with the after-the-fact permit shall be waived.

Mr. Fredericksen: Waived. So that's gone? There's nothing -- okay. Okay, because they get -- Veronica?

Ms. Marquez: For the family. Oh, I have a question for the family.

Mr. Fredericksen: Oh, sure.

Ms. Marquez: A senior moment. It just went out.

Mr. Fredericksen: Huh?

Ms. Marquez: Give me time.

Mr. Fredericksen: Oh, you might -- yeah, you're not picking up on the microphone too.

Ms. Marquez: Thank heavens.

Mr. Fredericksen: Okay, anything else? You think on that for a minute. Oh, you got it?

Ms. Marquez: Oh, I have it. Senior moment passed.

Mr. Fredericksen: You gotta speak into the -- Veronica, you gotta speak into the --

Ms. Marquez: Family, do you need, as a family, additional time to gather additional information to bring back to us? Do you need the time? Apparently, we don't.

Ms. Shariann Sylva: I think I ...(inaudible)...

Ms. Marquez: So the answer to my question is yes or no. Do you need the time, additional time?

Ms. Sylva: No.

Ms. Marquez: No. Thank you. Okay.

Mr. Fredericksen: Any other comments? Warren, did you have something to add?

Mr. Osako: No. I would like to ask the family if the conditions that Erin read off is agreeable to them.

Mr. Fredericksen: Yeah. That's a good -- could somebody come up and answer just what -- Warren's question?

Ms. Sharon Sylva: Well, my first point is that you seem to be concerned about the whole project in general ...(inaudible)...

Mr. Fredericksen: Could you speak into the microphone, please? Thank you.

Ms. Sylva: Well, one of the things that I'm hearing is that you wanted it to be consistent. You said it's a condominium so, you know, if you approve her fence, then you may have to approve the other ones. So, in general, you're talking about two homes on Front Street. Two residential homes. Those are the only ones in question. If you look at the home on the oceanfront, they have the same fencing that she has so --

Mr. Osako: We understand that. The question is not the fence along the side, it's only the fence on Front Street.

Ms. Sylva: Yeah, so what you're saying, you know, what if somebody comes back and say I want a ...(inaudible)... we're talking about two homes on Front Street in the project.

Mr. Osako: Well, like Ray here said that we have a responsibility, you know, not only to you as the homeowner, it's also to the historic district.

Ms. Sylva: But you acknowledged it's unique. Yeah, it's a unique situation.

Mr. Hutaff: So is Lahaina.

Ms. Sylva: It is a residential.

Mr. Hutaff: Yeah.

Ms. Sylva: Yeah. And, you know, you said, oh --

Mr. Osako: So what we're trying to do is --

Ms. Sylva: But you bought the property, you know, there were problems. I mean you never know fully. You hope that when ...(inaudible)... full value --

Mr. Fredericksen: Yeah, until you actually live in the place.

Ms. Sylva: You never know what problems you encounter until you actually live there.

Mr. Hutaff: Or the ...(inaudible)...

Ms. Sylva: So, you know, the insinuation that --

Mr. Osako: Well, I have the same thing.

Ms. Sylva: Yeah.

Mr. Osako: I live on Lana`i, across the street, when I was a kid, was a park, then they had dormitories for the summer pineapple field workers, then now they tore it all down and they built two-story low-income housing, which can look right into my house, so I planted a hedge and it's tall enough that they can't. But -- yeah.

Ms. Sylva: But the insinuation was that when she bought it, she knew it would be a problem. Well, you don't really know. You know what I mean? ...(inaudible)...

Mr. Osako: Well, there were problems already back then, yeah.

Ms. Sylva: We knew there high traffic, but the proximity to the ocean was attractive so --

Mr. Osako: Of course.

Ms. Sylva: You know what I mean. So my point is that these are two homes that you're -- that you can make a decision on. In fact, two homes in that area. There are only two homes right on Front Street in that area.

Mr. Fredericksen: Brandis.

Ms. Sarich: I think our concern is setting precedence in all of Lahaina, not just the two places in the condominium project.

Mr. Osako: It's also the -- yeah, the whole district.

Ms. Sylva: But you're talking about Historic District 1.

Ms. Sarich: Right.

Mr. Sylva: There's only two homes in the whole historic area.

Ms. Sarich: No, there's six.

Ms. Sylva: Historic District 2 you have Chanel House, you have Lahaina residential, they all have six feet same fencing. They're all six feet. That's Historic District 2, and they're on Front Street, and those have six feet walls. So --

Mr. Fredericksen: Erin, in Historic District 1, are there just the two homes? I don't -- I'm not -- I know there's not a lot.

Ms. Wade: There's two residential homes on Front Street. Exactly.

Mr. Fredericksen: So that's what -- and on this --

Ms. Wade: There's two residential homes on Shaw Street in Historic District 1, and the rest are back away from those primary collector streets.

Mr. Hutaff: Until somebody changes the law in District 1, we still have a law.

Mr. Fredericksen: Yeah.

Mr. Hutaff: It's a good argument on her part but --

Ms. Sarich: Yeah.

Mr. Osako: In other words, then my question is not answered, you do not want to agree with what Erin put down?

Ms. Sylva: Well, the point is, when you have a fence, you put it up, you maintain the fence. So now you're asking her to plant a hedge, which she may or may not be comfortable with, so she's gotta hire somebody to put those plants in, it requires water, it requires maintenance. I mean, eventually, we may wanna do that but right now, financially, she's gotta maintain it, it's gotta be cut, you know, I mean you're --

Mr. Hutaff: Or she can put up a compliant fence in the same period of time.

Ms. Sylva: And then you can put a compliant fence but look at the compliant fence. I mean you're saying that the picket fence is safer than what she has now? I don't think so.

Mr. Fredericksen: No. No, it's not, but it's in the historic district and that's kinda where we're, you know, where we're kinda stuck.

Mr. Sylva: Looking at everything, just getting a little off base, but, you know, the -- you folks gave some suggestions, drawings, how things should be done. For safety purpose, I think you know the rock wall? Any rock wall, stone wall, whatever. I think it's very unsafe on Front Street because, to the best of my recollection, had a fight, not by our house, but by the armory hall area, what you call that - Moku`ula? Or what - armory hall? If somebody hit their head --

Mr. Fredericksen: Kamehameha Iki Park - that one?

Mr. Sylva: Kamehameha Iki Park, that's the one on the ocean.

Mr. Fredericksen: Yeah. Yeah.

Mr. Sylva: They had a fight there some years back --

Mr. Fredericksen: Yeah.

Mr. Sylva: The person hit his head on the rock wall and passed -- either passed or was paralyzed for life. So you folks putting up this for people to do can be very harmful and very unsafe - the rock wall. Just something for you folks to think of 'cause when get fight, you don't know how people fly, being thrown, or punch out, they hit their head on a rock wall. Kinda unsafe.

Mr. Hutaff: They could be thrown through the wall and the wall crack, or those fence crack and be stabbed by the wood.

Mr. Sylva: At least they get better -- they get better chances.

Mr. Hutaff: I hope so.

Mr. Sylva: I guarantee that - the wall crack ...(inaudible)... on their head.

Mr. Fredericksen: Okay.

Mr. Sylva: That's all I had to say.

Ms. Sarich: I would -- I think --

Mr. Fredericksen: Brandis.

Ms. Sarich: Really, because we're much more concerned with the bigger issue of what's right in Lahaina --

Mr. Fredericksen: Yeah.

Ms. Sarich: That we should defer this and try to come up with a recommendation that's more general about what is the right thing to do in these cases inside the historic districts with residential houses.

Ms. Marquez: I have a question. So help me understand what additional information can we get, come back for how many more meetings, that will help us -- that will change our minds or that will help us make a decision. I don't understand.

Mr. Fredericksen: That almost seems to me like that would be an agenda item on it's own because it's -- it pertains to the overall historic district, and that's a very --

Ms. Sarich: Correct.

Mr. Hutaff: Yeah. Right. That -- I think the only other way to undo this is in a way what she's suggesting here is that we look at our rules and change them in Historic 1 to fit the fact that this wall could be there only in Historic District 1, and that's like -- Erin's going, and I'm going, sure, Erin, you wanna do that? You know, because it is, you know, in fact, but I think that since, you know, we're giving a little bit of time here to come to an end of supplying privacy today, and safety today, and allowing time for things to grow and the fence to fall down, basically, that in that process, if they wanted to come and petition the change of Historic District 1 so that those things no longer applied, okay, and the end result is is that she would have that if it was approved by whoever, this Commission, the Council, and all that kind of stuff. So we've given her, I think, a window, that's not what our goal is,

a window to go and have that -- give her that opportunity with that effort if they wanted to make that. Does that make any sense to anybody?

Mr. Fredericksen: Barely. No, it does. It does, Ray. Stanley, do you have something else? You're sitting there or leaning there.

Mr. Solamillo: Yeah, I just have one comment and then a question for Corporation Counsel.

Mr. Fredericksen: Okay.

Mr. Solamillo: Question for Corporation Counsel. Can the Commission vote to vary from the design guidelines? Case in point. Two years ago we had a contractor sit here with a pallet of plastic windows sitting in his front yard. He wanted to take out all of the wooden windows in his contributing property to the Lahaina NHL and replace them with the plastic windows. This Commission voted to approve. So, that violated the basis on what we usually do, right, because these contributing buildings need their historic elements and windows are historic elements to remain contributing. So the question is, based upon that, can this Commission vote essentially to approve the variance even though it does not comport or comply with the Architectural Style Book?

Mr. Hutaff: You see, that's my worry. That's my worry. We approve something, and it comes back to bite ya.

Mr. Fredericksen: Let's hear from James here.

Mr. Giroux: Well, I think from what Erin said in clarifying, you know, why it's here is that, you know, first of all, it doesn't need a -- it doesn't need a permit, per se, for being under six feet, it needs an approval from this Commission because the County Planning Department will not give it an exemption because in order to give it that exemption their policy is that it has to be consistent with the design guidelines. So that's why they're asking for your approval. But, otherwise, there's no -- there's no permit. An exemption is not a permit. An exemption is an exemption. Once you find an exemption, it's not a development. Once it's not a development, it's not -- it doesn't need an SMA permit. It's circular. We go round and round and round and round, and then we look at the County and say that's their policy. It's their policy is that they bring it to you to ensure that they're not stepping on your toes saying we would give it an exemption except for you guys because you guys have your Architectural Style Handbook. So the Department is in a position that if they gave this project an exemption and then you guys found out about it, then there would be hell to pay, right? Because you'd be how can we be building these things in the historic district without an approval, and then they would explain to you, well, the way we do it is it's an exemption. It's not a development. We don't bring it to you. So that's the

process. The process is that the County is bringing it to you because you have an Architectural Style Handbook that gives you guidance as to what you would or you would not approve. Now, we see this in the MRA. We see it in the UDRB. There's design guidelines. Now, these guidelines are administrative rules, administrative rules or laws; they're to be followed. But the board, as a body, has to interpret whether or not something actually complies to that or not, and that's where the start of the conversation has to start, and that's why I asked you to show me the Architectural Style Handbook and show me what we're supposed to be looking at because right now nobody has it in front of them, okay? We're being told by the Department that it doesn't comply. That is your purview. Look at the book. See if it complies or not. And agree or disagree with the Department. As was said, if you firmly disagree with the Department as, under your powers, to say that it does meet the guidelines. If it doesn't, then it doesn't. Now, if it doesn't, then the next step is you gotta go get a variance. Okay? And that's what Stanley's trying to allude to. If you find that it doesn't, then the next step is you gotta get a variance. But again, you have to remember that this is for the purpose of an exemption.

Mr. Fredericksen: So, James, just so I'm clear, you're saying that we, as a Commission, could simply say it doesn't meet the guidelines, and then at that point the applicant would need to go apply for a variance outside of this? Is that what you're saying?

Mr. Giroux: Well, then things can get really complicated because your rules are zoning rules. They're looking at your decision as a decision of whether or not to make it a SMA minor or major.

Mr. Fredericksen: Well, it would be a minor because it's less than --

Mr. Giroux: Yeah, so the next step would be they would tell the applicant, well, you need to get an SMA minor permit, and then that would be, you know, who knows how they would administratively go about looking at that now that it's been, you know, you've deemed that -- they'd probably have to look at the Architectural Style Handbook again, at a different level, you know, so it -- they're asking you that does it or does it not, and if it -- and the administration has to deal with the result of that.

Ms. Marquez: I have a question. I'm so glad you brought that one up, Stanley, because I was still -- I was back there then two years ago, but we did make that exception so mine to you now, James, is if we're going to make a motion for exception, that's -- I think I lost you, I thought I got you, but I think I lost you -- if we go for the exception, the is it pau?

Mr. Giroux: You mean exemption from the SMA?

Ms. Marquez: Yeah, exemption, or what that word is.

Mr. Giroux: Well, that would be the administrative call. You don't grant SMA permits.

Ms. Marquez: No, we don't.

Mr. Giroux: So, basically, under the charter, the Maui Planning Commission is the -- is the authority for SMA permits. They've delegated the authority to deal with exemptions and minor permits to the Department, the Planning Department. As part of that, there's Planning Commission rules that they have to follow in order to grant the exemption or the minor. And, basically, the bottom line is that there's 24 points or factors that they look at to see whether or not something is or is not development, and one of the criteria is that it's consistent with the zoning. And so what the Department's position is is that in order to be consistent with the zoning, in order for the wall to be, it has to be consistent with your administrative rules, which require that it be consistent with the guidelines because your guidelines are in title -- well, they come out of Title 19 - we hope. So --

Mr. Fredericksen: So the SMA exemption would occur under items two or three, so approve with no conditions or approve with conditions; that's where the exemption would be granted?

Mr. Giroux: Right. In any approval, any approval, at this level would allow the Planning Department to deem it consistent in order for them to allow them to give the exemption.

Mr. Hutaff: But the Department recommends approval of the request with a condition that the applicant be asked to remove the sections of the wall immediately adjacent to Front Street and replace --

Mr. Fredericksen: That was from --

Mr. Hutaff: I know. But this is what was originally came across is what I'm trying to say.

Mr. Fredericksen: Right.

Mr. Hutaff: Okay. Replace these with a wall or fence consistent with the Architectural Style Book or the pending Lahaina Design Guidelines. Going back to what he said is we have to have a place to start. This is a place to start it. Okay? That's fine. I understand that.

Ms. Sarich: So --

Mr. Fredericksen: Any other --

Mr. Giroux: Hold on. Erin, do you have a comment on variances?

Ms. Wade: I wanted to point out that 19.52.070, "In any particular case where strict compliance with the provisions of this article would cause practical difficulty or unnecessary hardship, the Commission may grant a variance."

Mr. Giroux: That's the --

Ms. Wade: This is in the historic district.

Mr. Giroux: Oh, okay.

Ms. Wade: Yeah, so that's the Cultural Resources Commission.

Mr. Fredericksen: So the case, in this particular case, a variance would be granted.

Ms. Wade: Well --

Mr. Fredericksen: If it were approved.

Ms. Wade: It's not the Department's recommendation.

Mr. Fredericksen: Yeah.

Ms. Wade: The Department is recommending that you determine -- that you grant approval with conditions, basically.

Mr. Fredericksen: And that's not a variance.

Ms. Wade: And that's not a variance.

Mr. Fredericksen: Okay. Thank you.

Ms. Sarich: But if we grant approval, are we saying that we're okay with this Home Depot type fencing?

Mr. Hutaff: No.

Ms. Sarich: Because we're going to leave it up in part of the property.

Mr. Fredericksen: If there are conditions attached to it.

Ms. Wade: Right. You're placing conditions.

Mr. Fredericksen: If it were with no conditions, then, yeah.

Mr. Giroux: But, Erin, from what I'm reading, you said 19.52.070?

Ms. Wade: Yeah.

Mr. Giroux: Okay. But then that approval would have to go then to the County Council.

Ms. Wade: Correct. Yeah, but this, like I said, this, and as you said, this isn't a variance at this point. I just want it to be clear that it becomes a whole different thing if they determine it's inconsistent.

Mr. Giroux: Yeah, I was explaining it -- there's a whole different system.

Ms. Sarich: It's getting very complicated now because I don't believe that this is consistent with what the intention of the guideline that we have are and so --

Ms. Chandler: You know, okay, I'm just going to say this. I've been trying to be quiet this whole time. No, it's not consistent with what we have in front of us, but I think that drugs, alcohol, and violence are a completely different reality for this area and we cannot disregard that because five years from now, if something happens to this family, we have to live with the fact that we could have helped them but we made them put up a hedge instead. So my recommendation is that we approve the fence that they have, to paint the fence --

Mr. Fredericksen: The wall.

Ms. Chandler: Wall. And that if we are going to require them to do anything other than that, that it still maintain the security of the property and, in my opinion, a four-foot wall does not do that in this area of Lahaina. So that's all.

Mr. Fredericksen: Anybody else?

Ms. Marquez: And I would like to go with number two - approve with no conditions. Take action to approve the permit request without imposing any conditions due to the security fact and what had happened in the past, and taking this case by case, not looking at the next property or the other properties, but dealing with that and with this now. I'm for number two.

Ms. Chandler: So, Veronica, you don't suggest that they paint it at least?

Ms. Marquez: They what?

Ms. Chandler: Paint it.

Ms. Marquez: Oh, paint?

Ms. Chandler: Yeah.

Mr. Fredericksen: That would be with conditions.

Ms. Marquez: Oh, paint.

Ms. Chandler: Yeah, paint would be conditions, but I don't think that the stain is appropriate.

Ms. Marquez: So if the paint was the only condition, I'd be a happy camper.

Ms. Chandler: I, personally, would be. I mean, at this point, we're talking about one other residence on Front Street in Lahaina, so if we're worried that we're going to be held to setting a precedence, we need to state in this motion that this applies to Historic District 1 only, and that we are always going to be -- I mean, in fact, you did also come and say what about this other property, you know, adjacent. We have to deal with that all the time. But in this case, I particularly have a lot of experience with Kamehameha Iki Park and it's better than it was, but this code was not written knowing the situation of this area and I don't think that our job - yes, we do have to protect the historical integrity, but I can't see that that's anymore important than somebody's personal safety so --

Mr. Hutaff: I agree.

Ms. Chandler: I don't know. It's tough. I've been trying to be quiet because I am obligated to honor this historic district guidelines. That's what we're all here for. So that's why this is difficult and we're going back and forth, and this is a huge exception if we do make it, but I think somebody's gotta be -- we have to be honest, you know, about this so --

Ms. Marquez: Ms. Chandler, okay, I can bend. I can. So if we -- should we go with the number three, approve with conditions, and the condition is the paint mana`o, no problem with me. Paint it purple or, oh, I'm sorry, whatever color that they want or require.

Mr. Fredericksen: In the guidelines.

Ms. Marquez: In the guidelines. All paint and I get along. No problem. If that's the condition we're going to talk about, yes. I can bend.

Mr. Osako: I have a question for Erin. The other property on Front Street, do we know what they have up front on Front Street?

Ms. Wade: Yes, it's actually in the -- in what I gave you. I think it's picture number five is what they have. It's a split rail fence.

Mr. Osako: So they don't have anything on Front Street?

Ms. Wade: Correct. That sidewalk and the tree is the Front Street sidewalk.

Mr. Osako: Photo five is from someplace else. It's not along Front Street where it is.

Ms. Wade: Correct. The split rail fence is adjacent to Kamehameha Iki Park.

Mr. Fredericksen: On the other side or on this condominium property?

Ms. Wade: It's on the condominium property because it changes as it goes down.

Mr. Osako: So that broken low stone wall is actually on Front Street?

Ms. Wade: Correct. Yeah. It should be probably noted though that this property has been utilized for commercial use quite a bit of the time. I know the Chairperson referred to the surf school that was operated out of there, so I'm not certain that they have the same family situation occurring that this applicant has.

Mr. Hutaff: My understanding was the commercial activities ceased from the last meeting.

Ms. Wade: Right.

Mr. Hutaff: But it has ceased?

Ms. Wade: Yep. Do you know if it's occupied right now?

Mr. Fredericksen: Okay, well, we're -- we've had our discussion. If somebody wants to -- I think we're at a point where we can put a vote -- or, excuse me, put a motion forward and vote on it, and if something passes, it passes; if it doesn't pass, we'll make another attempt. Now, does any of the Commission Members want to put forward a motion on this, please do that?

Ms. Marquez: I will try and, Ms. Chandler, you help out and the rest of you, please. I move that we approve with a condition, and the condition being that the applicant complies with the paint mana`o. That's the only condition. Help out.

Ms. Chandler: Chair, can I ask Erin a question so that we can help with the motion.

Mr. Fredericksen: Sure. Yeah.

Ms. Chandler: Erin, is there any kind of condition where this could be only allowed for this family and if they were to sell the land, they would have to comply, that the next owner would have to remove the fence and comply with the historic guidelines?

Ms. Wade: I think so. Maybe James could --

Mr. Giroux: I don't know. You could try put a nontransferable clause or something in there.

Mr. Fredericksen: I mean is that doable?

Mr. Giroux: This is all of the administrative ranks. I mean once you guys make your decision, it gets thrown into Planning's lap; they're going to have to figure it out, and, you know, like I said, you can put a nontransferable clause in there and see what happens, but it really --

Mr. Hutaff: Somebody can always challenge it later on if the property was to be sold and then the court decides whether we had a valid argument or not. Unfortunately, we don't have a valid ...(inaudible)...

Mr. Fredericksen: I'm very cautious on this one. I would want in the conditions, personally, that if -- okay, that existing wall is allowed to be, with the proper paint color, but if it ever needs to be replaced, then something else is going to have to happen. It has to be compliant. Something put in there. I mean, yeah, they can maintain it, whatever. Keep it so it's the right color. But if the wall needs to be replaced, it's in the historic district and that's that. But if, you know -- they can maintain the wall and everything, and it could last for whatever, 10, 20, 30 - I don't know how long a wall like that last.

Ms. Marquez: So are you saying that if we go with the condition of paint it appropriately as required, and maintain the wall, that cool?

Mr. Fredericksen: Yeah. Well, and if the wall, at some point, needs to be replaced, I mean the whole wall needs to be replaced, then that would need to become a compliant, you know, in the historic district, compliant structure. I'm just concerned about going, okay, well, it's fine and just paint it.

Mr. Hutaff: I know where you're coming from, and I would normally agree, but if -- if we do this and at 5:00 this afternoon somebody goes by and takes a car and totals out the whole fence, then security is gone, safety is gone.

Mr. Fredericksen: That's a manmade thing though. That's not just the wall's got termite so it's falling apart.

Mr. Hutaff: So you're saying is qualify how the wall is --

Mr. Fredericksen: Yeah, if it needs more -- 50% or more replacement on something other than, you know, like human -- like you say, a bus swipes the whole thing out, well, then that's something that would be --

Mr. Hutaff: Okay, cool.

Mr. Fredericksen: It would be replaced. But if it's all falling down because the post rot out in 10 or 20 years, then whatever comes back is going to have to be to the design guidelines.

Ms. Marquez: However, if they continue to maintain, as long as they are able to, that's what we're saying.

Mr. Fredericksen: Yeah, and as long as it's not replaced, over half of it, oh, gotta maintain it and replace over half of the wall, yeah.

Ms. Marquez: Not replace, maintain.

Mr. Fredericksen: Yeah.

Ms. Marquez: Then that'll be okay?

Mr. Fredericksen: I just like -- I would feel more comfortable having so it's very, very specific to this property, and specific to the structure itself. I don't know what you folks think but that's my two bits.

Mr. Hutaff: So where do we go from here? We've made a motion. We've discussed it.

Mr. Fredericksen: Well, it still hasn't been --

Mr. Hutaff: Seconded yet.

Mr. Fredericksen: It hasn't been completely crafted.

Mr. Hutaff: I thought you made the motion.

Ms. Marquez: I tried to.

Mr. Fredericksen: And then I butted in.

Mr. Hutaff: But nobody second it so it falls -- if I can ask my question. So, in other words, we don't have a motion on the table?

Mr. Fredericksen: We have a working motion but we're still discussing where we're going.

Mr. Hutaff: And so where are we at with that?

Mr. Fredericksen: I just gave my opinion that because of where this is, it's in a very unique location, yeah, there are very valid security concerns, but it is in the historic district.

Mr. Hutaff: Right.

Mr. Fredericksen: And down the road, at some point the wall's going to not be there, at some point, because it'll fall over or whatever, even if it's maintained, but until then, it would be kept painted and maintained, the owner will maintain as the owner wanted to, but it would be maintained. If it ever had to be over half of it replaced just because the wall is falling apart, at that point, then the wall needs to come down and they need to put another ...(inaudible)...

Mr. Hutaff: I understand that. It's just where are we now with the motion?

Mr. Fredericksen: If somebody wants to make a motion, please have at it.

Mr. Hutaff: Okay, that's what I'm saying. We said, no, we had a motion, now we're in discussion.

Mr. Fredericksen: The motion is pau ...(inaudible)...

Mr. Hutaff: Sorry.

Mr. Fredericksen: So if somebody wants to make a motion, I gave my opinion on, you know, if a motion like that were to be made, I would want something like that added but it doesn't have to happen.

Mr. Hutaff: So, Veronica, you're going to modify your motion?

Ms. Marquez: Before we move anything, is it kosher for us to hear what the family thinks about this or this all pau?

Mr. Fredericksen: In my opinion, it's pau because --

Ms. Marquez: Their side is all pau?

Mr. Fredericksen: They, of course, would like to keep -- well, that's fine. We'll work with them. There's some compromise. But, at some point, that wall -- I mean it is in the historic district and, at some point, the wall's going to not be functional. That's just my --

Ms. Marquez: Okay, I'm going to attempt to make a motion, and people help me out 'cause you're smiling over there. I move that we approve with the condition of the applicant complying to the paint --

Mr. Fredericksen: The guidelines.

Ms. Marquez: Guidelines, and that they maintain that wall as best they can, and keep maintaining it, and maintaining it - I know what you're waiting for - until the point that it's like aloha, we can't maintain it anymore, and when they need to replace it, they will be compliant with the guidelines. Is that what you're saying?

Mr. Fredericksen: Yeah, that's my own opinion. And then that gives us, as a Commission, it's a very specific --

Mr. Hutaff: I'll go with that.

Mr. Fredericksen: Permit thing that we're granting and so it's not -- I don't think I would leave this open to somebody else going, well, look --

Ms. Marquez: I'm really not finished yet.

Mr. Fredericksen: Oh.

Ms. Marquez: And make this nontransferable.

Mr. Hutaff: Okay. So was that a motion?

Ms. Marquez: I thought it was.

Mr. Hutaff: Okay ...(inaudible)...

Mr. Osako: Okay, I second.

Mr. Hutaff: Perfect.

Mr. Fredericksen: So we have a motion on the floor, it's a pretty restrictive motion, but it does allow the applicant to keep the wall to maintain the privacy and the security, and the security we all would agree is a big -- that's the big thing. It really is. I mean it's a neat spot but there's a lot of people that do silly things in there.

Mr. Hutaff: It gives them a lot of time to come up with another solution for security.

Mr. Fredericksen: Well, yeah, down the road when --

Mr. Hutaff: As long as they maintain the wall.

Mr. Fredericksen: Yeah, down the road the wall will need to be replaced at some point, but I mean ...(inaudible)... last pretty long time ...(inaudible)...

Mr. Hutaff: ...(inaudible)...

Mr. Fredericksen: Okay, so we have a motion on the table. All those in favor say "aye." How many do we have? All those oppose? Okay, I, in this -- and, Brandis, do you want to discuss why you oppose or no?

Ms. Sarich: I just -- I feel like I'm here to maintain the historic integrity and much more than architect, and as an architect, my ...(inaudible)... interpretation is this doesn't meet but I mean, personally, I had somebody walk me to my car, which is across the street from this property, the other night 'cause I'm not comfortable there, so I understand it. I think that you guys are doing the right thing for the safety of this family. But I just feel like, in my position as the architect, I just can't say it's okay.

Mr. Fredericksen: But it does have -- remember, it does have a condition - and I completely respect where you're coming from - it does have one of the conditions is when that wall does need to be replaced, it will become compliant, and in the meantime, it'll be painted the right color. But that's -- it's okay. I understand what you're saying.

Mr. Hutaff: I also think that the dissenting vote is very important in this case. Very important.

Ms. Sarich: Yeah.

Ms. Chandler: ...(inaudible)...

Mr. Hutaff: No, that's fine. That's what we're here for - we get to disagree occasionally. Isn't that cool?

Mr. Fredericksen: Okay, in this case, I'm going to be the one that's gotta cast the final because we got four to one, right? Four Commission Members. I'm going to -- there's six of us --

Ms. Marquez: Okay.

Mr. Fredericksen: Four -- we need five, right, 'cause there's nine, ultimately?

Ms. Marquez: Four for; one --

Mr. Fredericksen: One oppose, at this point.

Ms. Marquez: And so you have the deciding vote?

Mr. Fredericksen: I'm still on the fence but I'm coming off the fence and going to wall, so to speak. My vote is - cause I'm not comfortable with this - I'm not going to vote not, but I'm going to just do an abstain and what that ends up doing, right, James, is that that ends up being counted as an affirmative because I am not overly comfortable with it but I, given this particular situation, I will lean kind of a little bit towards the landowner's side on it, so the motion does pass.

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

It has been moved by Ms. Marquez, seconded by Mr. Osako, then

VOTED: approve with the condition of the applicant complying to the paint guidelines, and that they maintain that wall as best they can, and keep maintaining it until the point that they can't maintain it anymore, and when they need to replace it, they will be compliant with the guidelines, and that this be nontransferable.

***(Assenting: R. Chandler; E. Fredericksen; R. Hutaff; V. Marquez; W. Osako)
(Dissenting: B. Sarich)
(Excused/Absent: J. Laborte; M. Kanuha; B. U`u)***

Ms. Marquez: So your abstainsion alludes to yes?

Mr. Hutaff: Right. But it also sends another important signal, like what she did. Very good.

Mr. Fredericksen: So anyway, the motion passes, and to the property owner, I know this has been kind of an ordeal but just for future reference, it is in the historic district, and we

do understand the security -- the security issues, and please work with Erin on a proper color for the wall so it looks, you know, it helps blend in, okay?

Mr. Sylva: Okay. Thank you very much.

Mr. Fredericksen: You folks take care. You folks take care.

Mr. Sylva: I appreciate your folks' time and energy working -- thank you, all of you. Mahalo.

Mr. Hutaff: Thank you.

Mr. Fredericksen: Yeah, let's go ahead and take a break. What do we want - five, ten minutes? I gotta make a couple calls. Let's take a -- Stanley, ten minutes? Let's take a ten-minute break. Okay, yeah, and we can have a working lunch when we come back.

(A recess was called at 12:47 p.m., and the meeting reconvened at 1:00 p.m.)

C. DEMOLITION

- 1. MR. SHAYNE AGAWA, on behalf of the RICHARD AGAWA TRUST, requesting comments and recommendations on the demolition of a plantation dwelling located at 255 Prison Street, TMK (2) 4-6-011:015, in the Lahaina National Historic Landmark District, Lahaina, Maui. (S. Solamillo)**

Mr. Solamillo: The applicant for the next item is not present so I would prefer to defer on this one.

Mr. Fredericksen: Okay.

Mr. Solamillo: And then go directly into the workshop.

Mr. Solamillo read the following item description into the record:

D. WORKSHOP

- 1. Presentation on historic hale types in Maui County such as the Hale Pohaku of Kaupō, Hybrid Houses, and Fire Retardant Thatch (Synthetic or with Fire Retardant Coating) as viable structure and building material types (requested by Commissioner Brandis Sarich, AIA). (S. Solamillo)**

The Commission may provide comments and recommendations.

Mr. Solamillo: This item was requested by Commissioner Brandis Sarich, and she'll make some opening remarks. The Commission may provide comments and recommendations, or just use it as food for thought until we have our next meeting.

Ms. Sarich: I would like to postpone any action for a couple months on this so that I can talk to more people involved in the Indigenous Housing Code and also be more prepared.

Mr. Fredericksen: But at this point, so the presentation would be the information part of it --

Ms. Sarich: Yep.

Mr. Fredericksen: Which is all good?

Mr. Solamillo: This is actually the second time we've made the run on this subject before this Commission. And I believe that the cause or the instigation for it, initially, was the passage of Senate Bill 1917, which occurred in 2007, and this was related to the housing crisis that Hawaii was facing and, specifically, I'll read the preamble:

"The current housing crisis requires government to explore alternative means of providing shelter to Hawaii's residents. Large numbers of native Hawaiians are currently without shelter. Indigenous forms of shelter may be an option for many native Hawaiians as provided under Section 46-1.55, Hawaii Revised Statutes. However, only Maui County has amended its building code to allow the construction of indigenous Hawaiian structures and no other counties have amended their codes to allow for the construction of indigenous Hawaiian dwellings for residential purposes."

Under section --

Mr. Fredericksen: Excuse me, Stanley?

Mr. Solamillo: Yep?

Mr. Fredericksen: Has Maui County done that though - that part of it, for residential structures?

Mr. Solamillo: Well, no. That's what we're kind of getting into. I think there's been a couple of changes made. One was that they allowed electricity to be run in indigenous housing or indigenous Hawaiian buildings, but they still are only places where you can sleep or where you can sleep your canoe and not, necessarily, your family.

Ms. Sarich: And, as I understand it, the electrical is only allowed to run six lights on a pole, and you can shine your lights different directions, but you can't --

Mr. Fredericksen: But there's no wall wiring, sort to speak --

Ms. Sarich: No.

Mr. Fredericksen: With receptacles.

Ms. Sarich: Yeah.

Mr. Solamillo: After the passage of the bill, Maui County, specifically my office, was flooded with calls from various counties around this State asking for copies of the Indigenous Building Code. I think that the committee that worked on the building code, which included architects as well as hale builders, is to be commended because they went the first step very early on to actually get the indigenous housing ordinance passed and get the code developed.

In trying to create a typology for dwellings in Maui County because I have, for the past five years, been trying to place buildings and structure types in some sort of chronology. I came across a new hale type, which was not included in the Indigenous Building Code and that's part of the reason why I'm going into this presentation now.

According to Section 46-1.55, Hawaii Revised Statutes, under Indigenous Hawaiian Architecture, "Each county shall adopt ordinances allowing the exercise of indigenous native Hawaiian architectural practices, styles, customs, techniques, and materials historically employed by native Hawaiians in the counties' building code including, but not limited to, residential and other structures comprised of either rock wall or wood frame walls covered by thatches of different native grasses or other natural material for roofs." And, remember, natural material for roofs will be covered under another item that's included in this presentation that's called "synthetic thatch."

"The application of indigenous Hawaiian architecture shall be permanent in all zoning districts provided it is consistent with the intent and purpose of the uniquely designated special or historic district." They are allowed, for instance, in the Lahaina NHL and Historic District Nos. 1 and 2. "All counties shall adopt rules to implement this section no later than March 31, 2008. The rules adopted by Maui County shall serve as a model."

This is a copy of our code. The housing codes exclusion, which is 3603 and highlighted, is that all indigenous Hawaiian architecture, structures constructed in accordance with this chapter are not required to comply with requirements in Chapter 18 -- excuse me, 16.8 -

I can't read my own slides - Maui Code pertaining to the housing code. There's also an indemnification and responsibility clause attached to it, which follows.

Because this exists, during the Maui Island Plan, there was an ad that was run, which was kind of interesting, and it said, "Everything old is new again," and, unfortunately, I didn't have an opportunity to bring it, but I go back through some of the publications from the '20s, in specific, one from *The Friend*, which was the official org. of the Hawaii Evangelical Association, which actually portrayed hale along with hula in a less than positive stance. In one case, asking the question: Is this really what we want Hawaii to be looked at by folks from the Mainland? What I had hoped to find, but wasn't able to find, is actually when the dates or in what date did indigenous architecture or specifically hale construction become illegal in Maui County, and I think that's important to find out.

Right now, there are essential four types of hale, which are allowed by the code: one is hale noa, hale ku'ai, hale halawai, and hale wa'a, and they're pretty detailed. The code is very detailed in sizing members and it comes from a lot of work over decades by hale builders. These are photographs of hale builders from Hana. I think Francis is among them.

Mr. Hutaff: Oh yeah. He's the guy in red. He's the guy pointing down there at the bottom.

Mr. Solamillo: How many does he train?

Mr. Hutaff: How many does he train?

Mr. Solamillo: A year?

Mr. Hutaff: Anybody who will come over he trains.

Mr. Solamillo: Okay.

Mr. Hutaff: But he has officially gone through a college program where he's what they call "trained inspectors."

Mr. Solamillo: Okay.

Mr. Hutaff: Which is about 15 people.

Mr. Solamillo: I think the importance of traditional hale was kind of underscored in this photograph and it's -- I'm sorry it's very dark, and I don't remember in what year it's taken. I think it's post-1900 and it's Her Majesty Queen Lili'uokalani, and she's in the center just right, first row, and I think this photograph came from Kauai.

There's historical precedence for hale construction exist in numerous photographs taken in the 19th century and early 20th century. What you will notice is that they vary in size, some of very small and maybe housing one or two people, and some are very large. They also vary in their shapes and style. Hale typology by use was broken into nine -- nine essential types. And even going back -- actually, the first recording of native Hawaiian hale occur, actually, in the 1700s when the first European explorers begin to paint images of heiau buildings and these continued, these images continued to be reproduced as lithographs and they give us our first introduction of hale as they existed just prior to contact.

We have pre-contact reconstructions that have been erected in various places. Post-contact Hawaiian hale, I think this is where I've become probably most interested because we tend to look at indigenous Hawaiian architecture as being quite static; that it was only built a certain way and that Hawaiians weren't open to new ideas when, in fact, if we go through all the images that have been collected over time, they're very open to new ideas and will adopt things very quickly and employ them in hale construction, things like, which are very western, like porches. The one on the lower right shows a fairly substantial porch in front of a hale. Wood doors, as it appears on the photograph on the left. Windows.

Ms. Chandler: Stan?

Mr. Solamillo: Yeah?

Ms. Chandler: Kaahumanu had a house in Manoa Valley that had green windows on her hale, just so you know.

Mr. Solamillo: Thank you. Here's another one on the upper left, which includes full -- a porch, six-over-six wood windows, and presumably a wood door. Then the one on the right, again, a wood door. Those are -- those two are from actually Lahaina. In this case, we have a Hawaiian hale where the porch -- we now have a porch on the front and an addition, which is an enclosed porch, on the rear of the hale. This is one with an open porch. The other thing that we tend to think about is that when Europeans first come here that they're going to build in specific European ways and culture works in two directions - it'll work from both sides, so they too become influenced by indigenous builders and their architecture changes as well. A lot of the early European buildings employ things that we would typically consider to be Hawaiian. In this, I guess, it looks like it might be a painting or a lithograph image, we have Hawaiian hale which are extremely large in size and, obviously, housing more than one family.

We have something, if we look at -- it's kinda of -- I called them "hybrid houses" for lack of a better word, and it was actually where you took European building tradition at the time was a preference for stone or rock, and roofing material here as well as materials that are

available are probably pili grass or palm fronds, so what we have is kind of this marriage of the two traditions and we have extremely large buildings and multi-story buildings which employ native materials and probably native craftsman. And then we have a case here, this is building -- a hale building, and the photograph was taken in 1940, showing that it worked the other way, in this case, we had a rock foundation, we had board and batten walls, and we had palm thatch as a roofing material for this hale. I think this photograph was taken in 1941.

Mr. Hutaff: ...(inaudible)... about the wall.

Mr. Solamillo: Pardon?

Mr. Hutaff: 'Cause a lot of people misunderstand the bottom of the hale that were built with rocks was because they couldn't dig down into the ground to put the posts so what they did is they put posts down as far as it would go which was ...(inaudible)... and then they built a wall around that in order to secure it ...(inaudible)... high winds. So it was based upon this ...(inaudible)... of where the home was built that determined whether it had a bottom wall or not.

Mr. Solamillo: This is a hale form, which is found in Kaupo, and again, it could be a moderate size building or it could be something that was fairly substantial, and I started getting photographs, and the most recent batch I've received are from 1905 and 1904, and they were taken by Maui residents or Maui visitors who had ventured to this side of the island and photographed this. This one is entitled "At Kaupo in 1905" with keiki in front. You can see it's got the rock walls and it looks like pili grass, in this case, as the thatching materials. And these are probably the most easily identifiable or adaptable by Europeans in kind of hale type allows a lot of interchange between the two cultures in construction. Here's another example, same title "At Kaupo."

Now, we tend to look at this, this is a plantation dwelling, 1922, built in Lana`i, as being -- just kinda came in and replaced traditional Hawaiian construction, and you actually look at picture from Keanae in 1904, this house indeed is very prominently located in lo`i on that peninsula. But conversely, if we go and look at a photograph of Kahului, same time period, roughly, we have that house type as well as hale being lived in and constructed.

Mr. Fredericksen: Excuse me, Stanley?

Mr. Solamillo: Yeah?

Mr. Fredericksen: Do you know where this photo's taken in Kahului?

Mr. Solamillo: No. I don't know the exact location. But you'll notice the last arrow, that hale is under construction. So they're actually coterminous building traditions in that they're existent side by side at the same time. Hawaiian rock work is famous but it too various from island to island, and from region to region within the archipelago. And as Ray was probably inferring, now everything is pretty much contingent upon local conditions and the availability of materials as well as building.

Mr. Hutaff: On rock walls. I had this question asked about 15 years ago, and it took me about 10 years to find the answer: Why did Hawaiians build rock walls?

Mr. Solamillo: Why?

Mr. Hutaff: Okay, because their land that they were going to farm had too many rocks on it, and they -- Hawaiians don't believe that anything is "wasted" or is not there for a reason, so they would make defining characters on the land with these rocks to give rocks something to do and to give them some importance. So by removing them so they could tend the fields and make fields, then build a wall in accordance to whatever their designs were also led to making other structures as time went on. So the pohaku is very important.

Mr. Solamillo: Going back to the theme of hybrid houses, this is a building from Kauai. It doesn't look that much like a European building because it's kind of this blend, and if you look at the hale that are pictured on the lower right-hand, the two photographs, I think those came from Oahu. This wrap around porch around a single unit and then a high peak roof, whether it had the single or double pitch, is something that was built and shared between both Hawaiians and Europeans during this period. The difference predominantly between European and Hawaiian rock work is that Europeans course their stone, which doesn't work really well in an earthquake zone because it cracks and comes apart, whereas Hawaiian rock work is very organic and if there's void, it'll fill, and it'll settle.

Mr. Hutaff: Another thing with the rocks too is that when they started to apply mortar, some of the old folks were very upset because the rock gives you permission to stack it. When you put the mortar in, you are capturing and it is not allowed to go and move on its own. So they were very upset when they started to put the mortars together for rocks at some of the churches. They would not go to the church.

Mr. Solamillo: Then, conversely, once there was a plentiful amount of wood, we get the same design, it has changed a little bit, but it's now built in wood. In this case, this was the Charles Gay house. It was built by Lahainaluna High School students. So the dormers, the cupola, which allows light to go into the interior of the building or the upper story, are modifications but, essentially, it's very similar to the one that was on Kauai - on the left.

I included this because this was kind of an interesting and odd little building, a pavilion down at Kanaha, and the most recent information is that it was built actually by the CBs in 1944 as kind of a dance pavilion for officers, but what it does is it allows us to visualize, if you will, you could take the rock walls and just change them into columns and then just place a roof structure on top of it, and it still essentially can be tied directly to -- to this evolution of building that we see happening in the islands. So it too could be classified as a hybrid.

We'll visit with this one later. Hui O Wa`a hale in Lahaina. This was under construction in 2007. This is at Kamehameha Iki Park, right?

So, as I said, the Indigenous Building Code has everything specked out to do this hale and the four types that I explained to you. What is happening now, and this is going -- we're going to go around the world in ten minutes, and it's my favorite part is that this type of construction is actually, you know, developing around the world and around the equator, and it provides some opportunity, and I've become a little concerned because when we look at cultural landscapes and we see that the housing that is being constructed here in subdivisions is looking more and more like the Mainland, and for someone like myself who left the Mainland with very specific intent to not be reminded, I get kinda scared. So it was like, okay, can we do something to make sure that Hawaii stays Hawaii, or Maui stays Maui; something that comes from this chronology and development of building over time. This is Ku`io Golf Club building, which no one of my friends nor myself has been able to get into because we're not members of the golf club, but it was major because it was taking everything that we were talking about and actually doing it with a modern building, but it's a modern hybrid building. It's, essentially, hale construction with windows, you know, and it's pretty amazing. And then we go to the Pacific Rim and we start seeing, whether they're in Bali or whether in the Phillipines, you know, this type of building is actually being erected for very high-end resorts all around the world and it -- you know, they seem to be doing very well. So it's kind of when Maui built their resorts during the '50s, '60s, and '70s, we were going for this packing in as many as you can, you know, and do super high rise; where now the trend is actually to go low rise and go with "indigenous" or "pseudo indigenous" building forms to enhance the tourist experience. So all the way from Miami to -- in Florida, to the Pacific Rim and, on the left-hand side, *Tropical Living*, that's in the Phillipines, we're seeing this, and it's this wonderful kind of resurgence or native structures but the difference is they have kitchens, bathrooms, electricity, and plumbing, and we're not there yet.

Going around, I started to look at Bali because Bali has quite a few resorts that have been developed along these lines. In this case, it was interesting because there was rice being farmed adjacent to the resort area. But you can see, as I go through these various hotels, they've incorporated everything that you would expect - swimming pools and sorts of things - and all the modern conveniences that you might want but they're still, essentially, indigenous -- upgraded indigenous architectural forms and use indigenous materials. Bora Bora. Back to Bali. Fiji. And this one was interesting because you could see how closely it was built

to the original or an original house form in Fiji on the right-hand side. This was a church - modern adaptation; it's a wedding chapel but it could easily function as a house as well. The Westin in Fiji. It's the only picture I could find. Back to Bali. Essentially, open-air structures, airflow, collapsible doors or accordion doors. Pools. Two-story buildings on platforms. It's kind of my favorite. But it gives you the range. I think a lot of us tend to think small and I said you could really carry this as far as your imagination can take you.

Then I'm going to deviate a little bit because we have an issue with structural bamboo. In Vietnam right now, this is done by a Vietnamese architect who was trained in Japan, I thought it was rather odd that he had gone to Japan for training given the history of Vietnam and Japan during the last war. But what he has done with bamboo is really interesting because he uses modern mathematics and modern structure studies and advances to come up with new truss types that use this grass into fantastic structures. This is all bamboo, and it's really amazing. It's just we need to just look at it and dream a little bit, and seriously, it's all open. We don't need to be importing lumber. This was interesting because it's almost a hale form when you look at it from an elevation, but it's actually circular in plan but it's covered with the thatch, I believe. He does a lot of bars and restaurants. Dining hall - huge. All bamboo and trusses. That's another one that's open air pavilion used for a bar/restaurant. It's pretty ingenious in its forms and, in this case, I think it's a cantilever truss structure based on a circular plan.

Going back to where we are, this is going back to Ku`io Golf Club again. The rendering above and the finished built project below. They stayed fairly close to what they originally presented. But if you forget about the fact that it is a golf club and just look at it as a piece of the cultural landscape in the top slide, those could be dwellings around the central hale that serve as a community building or a cook -- or a community kitchen. What I found in looking at the Ku`io structure, it looked really heavy in comparison with some of the other things both historically speaking as well what we've been looking around the world at. So we're not there. We don't believe that it will stand up so we have to oversize the structural members, and in this case, the one on the left, they look like telephone poles.

Going back to other images from 1905, grass house, again, with a full door frame and door. One that may or may not have one at Kaupo. This is one where a porch began to be enclosed, and there's a front porch, and then it began to temporarily enclose it from the weather. That's in Wailuku, 1905, entitled "Native House." Virtually, all of the immigrant laborers that came to Hawaii come from cultures where thatch and thatch building exist. This is an example of one from the Phillipines. This was the manager's house for Calamba Sugar Estates, and the manager at the time was Louis Weinzheimer. He is remembered as being the last Hackfeld manager for Pioneer Mill in Lahaina. After he left, and Hackfeld was incorporated as American Factors, he went to San Francisco, and then he was sent to the Phillipines to bring Calamba Sugar Estates out of near bankruptcy, which he did, and

he stayed there for 20 years. I lucked out and was able to meet his granddaughter, and she actually supplied ...(inaudible)...

A lot of the roof forms -- the interesting thing about, when we look at the architecture in the Phillipines, there's a lot of use of sliding windows and doors. They'll use capiz shell because they don't use glass on the early historic buildings, and it's that same thing that I was telling you about when we were looking at the Kanaha Pavilion - just imagine it a little further that you just have sliding doors, and whether they're filled with glass or capiz shell, they do the same function.

Obviously, in Japan, we have long tradition of thatch. In Hawaii, on the left-hand side lower photograph, actually the laborers who came here in the 19 -- or 1800s, their first houses, they were building their own before HSPA Standards came in for housing, so we actually had Japanese building thatch houses for themselves. And this is great because it's a fully early 20th century building with a thatch roof. And then Conway Carter, who did our best HABS projects from U.H. had been studying Japanese farm houses and these are all thatch construction as well.

Now, to date, South Africa remains the largest producer of thatch houses or thatch dwellings and other thatch buildings, and after the demise of the African government and under new leadership, we see this kind of resurgence of building of thatched roof dwelling units; in this case, building units and storage buildings. You'll be amazed by the roof forms, by the number of stories, and by the size. These are huge. So it's something I think we've all been afraid of because, you know, fire, fire, right? In the American builder's mind as well as in the building official's minds, but other places deal with this material very differently than we do. In this case, their framing -- this particular building is being framed in steel, whereas the other example we were looking at was being framed in wood, and they're using a traditional thatch material, which in this case is going to be reed. And then we actually have large scale hotels being built in South Africa - same technology.

Back in the United States and Florida, this case was the first one that use the synthetic thatch to deal with the fire issue. And, remember, although our building code, the Indigenous Building Code, you know, allows us to use thatch, we get caught when we have to deal with the fire official because, all of a sudden, you have to invest 20,000 in the fire suppression system. And if we're trying to deal with the issue of affordable housing or indigenous housing, it becomes a barrier. So I was trying to find, well, can we get around that in some way? And that was where I discovered a fire resistant synthetic thatch roof, it's called "ASTME108" or "Class C" roofing material. It's already gone through all its testing. It's already gone through the labs both in the United States and Canada, and we should be able to use it. But currently within our code, it just says, "natural thatch material."

Mr. Fredericksen: Stanley?

Mr. Solamillo: Yes?

Mr. Fredericksen: What is it manufactured out of? Do you know?

Mr. Solamillo: Polyethylene, a plastic.

Mr. Fredericksen: So it's recycled plastic?

Mr. Solamillo: I don't know if it's recycled, but it could be.

Ms. Sarich: I just see this and I imagine being able to recycle in Hawaii ...(inaudible)...

Mr. Solamillo: Absolutely, as much plastic as we use.

Mr. Hutaff: Cost. Cost imperative though. I mean, again, the cost of building an indigenous home, you know, since the legislature really wants you to be, you know, cost effective in order to do it and not have to import things 'cause importing might be a problem one day. So doesn't that kinda defeat that ...(inaudible)...

Mr. Solamillo: Well, you have to find out --

Mr. Hutaff: Let's import a whole bunch of thatched roofs so we can build a house. We don't have to ...(inaudible)...

Mr. Solamillo: Well, what you do is you find out how many units we need to build. You're going to have to do one demonstration unit. And then if there's enough of a market, you either get a license to manufacture their product or have them build something similar, build a plant here to do it because I think the demand is there, but you have to find the product first. So right now we've got actually two ways of dealing with it; you can just do a fire retardant coating, which is a spray on, that last -- they give it a ten-year life span, so it has to be renewed every ten years, or you can go with a synthetic thatch.

Mr. Hutaff: Do you know what they did with the -- the thatching that got too old to be on top of a roof, talking about recycling? Hawaiians recycled it.

Mr. Solamillo: Where'd it go?

Mr. Hutaff: That's how they built their fires for their food.

Mr. Solamillo: Alright.

Mr. Fredericksen: Stanley?

Mr. Solamillo: Yes?

Mr. Fredericksen: The coating that you can put on, let's say, traditional thatch, does it go on the inside and outside?

Mr. Solamillo: It goes on the outside.

Mr. Fredericksen: Outside?

Mr. Solamillo: Yes.

Mr. Fredericksen: Do you know how much that cost?

Mr. Solamillo: I don't know have any cost at this time; that's why we're going to -- there would be more research conducted.

Mr. Hutaff: How much what cost?

Mr. Fredericksen: The coating that would make, let's say, just thatch made from ...(inaudible)... available materia so it wouldn't --

Mr. Solamillo: It's a spray on.

Mr. Hutaff: It's pretty inexpensive when you consider it. It's not more than a dollar a foot, per foot. In fact, I think it's around 16 cents, 17 cents a square foot as far as ...(inaudible)... both sides now.

Mr. Fredericksen: It's spray on?

Mr. Hutaff: It's spray on.

Mr. Solamillo: Spray on.

Mr. Hutaff: Pump and spray.

Mr. Solamillo: A lot of other designs are being, I guess, prepared and developed for that Big Island facility because the golf course is just not going to be the golf course alone. Obviously, we're going to develop housing around it. But I thought what was ingenious was the way that the housing was being developed, and even though these remain as concept drawings, a lot of them are not very large, they're shared dwellings, so you have, in one case at least, two building units under one roof or two dwelling units under one rood, and I'm just asking everybody, you can image, it becomes, you know, a potential village design

idea or concept design, and my charge or challenge to the archaeological community is still, please, any plans of a village, where did the ali'i live? How do we get -- can we actually get the floor plans and say this is this type of hale or this is this type of hale?

Mr. Fredericksen: Bishop Museum has some of that on file, some of the older --

Mr. Solamillo: Okay.

Mr. Fredericksen: Older studies, and then there have been some interpretive work that's been done.

Mr. Solamillo: Okay. Going back to hale pohaku at Kaupo, at this point, I, like I said, would want it to be considered for adoption into the code because we have lots of rock around the island - excuse me - most assuredly in West Maui we have at least 65 rock piles that were created in 1946 by Pioneer Mill and they're being mined without permits for garden rock, and we could do, what, 300 hale pohaku from these rock piles, at least. We should have about one million cubic yards of stone, and that's being conservative. But it would only seem to make good sense. Materials. We've got everything sized; thatch, everything is sized and identified. Sources. You know, I think someone said over on Molokai the pili grass grows by the airport, right, and we have to identify sources and actually work toward producing enough if we were going to grow this into a larger industry. We have lots of crafts persons who are being trained all over the archipelago. Also, we have rock wall builders being trained as well. And here's where we have the new thatch products where you can either use the fire retardant coatings or the new synthetic thatch products; they've got fiber thatch and Bora Bora thatch that I was easily or I located easily. I'm sure further research will provide more information and more products. The challenge, I think, is we've got all the pieces and can we put them together to create -- address the need, first of all. The need to house our Hawaiian people in something that they can do. And, essentially, you can start this as a new housing industry which would be something locally based and locally developed and come to be identified, you know, very closely with the islands in which it's built. So that's kind of my challenge. We've got all the pieces. Can we -- can we do it? The need right now is jobs, right? So it seems to me that it provides us a great many opportunities. I'll turn it over to the Brandis.

Ms. Sarich: Thank you for the presentation, Stanley. Again, I would like to defer any action on our suggestions on any amendments to the code. But I am really excited by the prospect of having a code that allows us to build this type of house more easily in order to have an architecture, besides plantation architecture, that is -- becomes a Hawaiian architecture. I mean right now I think that plantation architecture is what most people would identify as Hawaiian architecture and that's not truly Hawaiian architecture.

Mr. Fredericksen: Brandis, do you know much about these synthetic products that Stanley was talking about, you know, that roof coating and that sort of thing?

Ms. Sarich: Yeah. I worked on a project in California actually, and it was a Japanese, traditional Japanese group of dwellings, that they were able to use traditional thatch and paint on a coating that allowed it to get through the fire marshal, and they had to prove to the fire marshal that it worked, which would probably be what we would do here is actually spray the coating on the light fire to it.

Mr. Fredericksen: Yeah, flammable.

Ms. Sarich: Yeah. So, Ray, did you also have experience with this spray-on coating here?

Mr. Hutaff: Have I had experience with it? Yeah.

Ms. Sarich: Oh, okay.

Mr. Hutaff: But not necessarily the way that it would be, you know, important to this body at this time. I'm still kinda like stuck in an era of like, you know, for thousands of years Hawaiians lived a certain way, and they utilized certain materials and recycled certain materials, and there was reasons that they did things, and it was very pertinent to here, and so I'm coming onboard now with the fact that you're looking at it as an inexpensive way or a less expensive way to provide housing for people who wanna live in that so -- before they didn't really have any fire retardants. Actually, the pili grass and they call it the lolo leaf, okay, has a method of burning that prevents the framing from burning. If there was a fire, like one of the gentleman came here and said everybody just walk outside, you know, no big deal. Also, if you understand why these homes were built that way across Polynesia, they had no wood resource, the had no metals, okay, and there were things that appeared to have what they call a useless property or they didn't have anything good for them to use it for so they, Hawaiians, looked at that as: How can we utilize these things? And that's how their thatch roofing came about was, okay, it's a useless resource ...(inaudible)... how can we put it good use? And it doesn't last forever. And it's definitely labor intensive to go and put it up, which is, if they had a hurricane about every five years, they actually liked it because the hurricane would blow off the old thatching and blow all the palms and stuff onto the ground, so it was push all the old thatching in the place where you're going to make your fire, and all you had to do was put it up - saved you 30% in labor time. And that was also one of the reasons too there was no design idea, at that time, that they'd evolve into that would prevent the winds from the destroying it or taking it apart, okay - over 80 or to 90 miles an hours. The Hawaiians, again, believed in -- since they believed in destiny, there was never no damage. There was always the opportunity to renew, okay. So I'm kind of like of that era - if you're going to do something traditionally, that's where you begin. But the Hawaiians weren't stupid, okay. They would have loved Black & Decker, and South

Carolina Pipe and Foundry. They would have found good uses, pono uses for all these different things to evolve. And so I'm just coming into the evolutionary process here so I need your guys' guidance on that. I'm always going to be pulling it back.

Ms. Sarich: Yeah.

Mr. Hutaff: You gotta keep pulling me back forward.

Mr. Fredericksen: And I think one of the challenges with the indigenous Hawaiian architecture is you've got the overlay of, whatever you wanna call it, western/modern safety and all the -- and, you know, inspections and -- if what Stanley brought up earlier is a thing, you know, you have to have the fire sprinkler system if you have just the thatch by itself, and having the coating is appealing because that gets you away from having to install a 20,000, I don't know, 15 - \$20,000, it would be a lot, sprinkler system in a traditional structure. So it's -- there, I think, is a need -- well, because nothing -- it hasn't gone very far at this point because of all the, you know, the fire code safety standards and stuff and you have to have --

Mr. Hutaff: Well, you can build haies ...(inaudible)...

Mr. Fredericksen: Yeah, and live in them, per se.

Mr. Hutaff: Yeah, well you kinda sorta can. You just can't, you know, like you can't have a plug-in wall, you can't have the indoor fire, you know, but if you build one and you wanna go sit on the ground and light a fire, you definitely can do that. No one's going to say, hey, you're violating the code of the building. You're being stupid because you might start a fire, okay, especially if you use the wrong kind of material, which, by the way, the thatching, the way it burns, is actually quick. It's like burning sugar cane, okay. It is so quick that it barely tarnishes the framing, barely turns it black. It doesn't have that much BTUs. It goes like that. So, really, if you were in a hale, by the time you thought to get outside, it'd be all nothing already. Nothing to burn you anymore. That's how fast it goes.

Ms. Chandler: My only comment about flame retardant material is, again, it's not really consistent with indigenous architecture, and I understand, you know, the current safety precautions and things, but a lot of flame retardant materials have chemicals that are -- can potentially cause respiratory problems and so I think before we encourage people to use them, we really should keep that in mind and do some more research about that.

Mr. Fredericksen: Yeah. Good point.

Mr. Hutaff: ...(inaudible)... my side of always going back. You guys have to help us draw forward because this definitely is some concern is that --

Mr. Sarich: So, Warren, were you wanting to speak or I can --

Mr. Osako: Yeah, I guess what I wanna say is, like it or not, we are living with a foot in both worlds. In other words, we can do indigenous, but we have the western constraints and one of the big western constraints -- the Hawaiian people were pretty adaptable, and one of the western restraints is, pardon me, but the legal people and that's where all the regulations come from because what happens is nobody is responsible for themselves. It's always somebody else's fault when something happens.

Mr. Hutaff: Government, right? Also too, as a point, Stan mentioned that he didn't really know when it became law that you couldn't have a Hawaiian hale. The answer to that is about 1845 to 1855 is when they were trying to get the Hawaiians to go and work in central locations, like Lahaina and Kahului here on Maui, in order to have an economic base those who wanted to make a whole lot of money; what they did is they started to lay the foundation, which came about in 1890, to make laws saying that you only had to live in a certain kind of home and, by the way, we have those homes for you in Kahului and in Lahaina so leave Kahakuloa, okay, leave Waihe'e so you can be legal or we'll arrest you and put you in jail. So that's the real reason why the hale became a non-foundation for building is because of that movement at that time, which is something really kinda cool to consider that look where we are today. The more we can do with indigenous plants and cultural methods of the past utilizing the important things, the tools, that the Hawaiians would have definitely embraced 'cause they said they weren't stupid, okay. They didn't live in the same hundred years; they developed over hundreds and thousands of years and they were going to progress, okay, without us, okay, and if we look at where they would have progressed and how they would have done things, then what we're really doing is we're taking that past and all those values and all those things and we're moving them forward rather than say, no. It longer works. So we have to have the fire retardant and those kinds of things - maybe just a little different thought on how we do things.

Ms. Sarich: Yeah.

Mr. Hutaff: Yeah.

Ms. Sarich: Thank you. And then to answer the rest of your question, the synthetic thatch is actually a 40 to 50-year roof, so it's extremely long lasting, and even though it is more expensive and, at this point, would have to be imported, I don't think I would wanna recommend it unless it's something we could make as a Hawaiian industry.

Mr. Fredericksen: Do you know, Brandis - excuse me - if it's made with recycled plastic?

Ms. Sarich: It is not at this point, but it needs to be. I mean that's so obvious.

Mr. Fredericksen: Yeah.

Ms. Sarich: Yeah. But the other point that I wanted to bring up about this is that there is talk at the AIA because Hawaii may adopt LEEDS, and I don't know if you're familiar with LEEDS, as the standard for building here, and LEEDS is a sustainable building program and you get different levels of certification based on how green your building is. And in Hawaii, we have a very hard time meeting LEEDS because a lot of it has to do with how far you ship things.

Mr. Fredericksen: Yeah.

Ms. Sarich: And so if it gets adopted for Hawaii, it gets really hard for us and you start having to do crazy things in order to meet LEEDS, such as make sure that you put in an air conditioning system that meets the energy code in order to get points for it. So instead of building a house that doesn't need it, you have to put in the air conditioner to meet LEEDS. It's crazy. There's a much better way to do sustainable green architecture in Hawaii, and we already know what it is, it's just a matter of making it work. So that's where I'm coming from and I just really hope that we can come up with some recommendations so that it can work.

Mr. Hutaff: Well, anytime you have a problem, right, there's always a solution, okay. I think that the big issue, from my understanding, is the biggest issue is fire, health, and sanitation. Those three issues, okay. If you look at all the ways to overcome those issues, right, then you have solutions and you have an end result, which is positive. Naturally, we're going to complicate things because we already have a solution - we can build a wooden home with a roof and wood indoors and fire extinguishers, okay. So how do we overcome that fire issue culturally and it is using what is available on the land and what is available to us through tradition, the pili grass and all those kinds of things, not necessarily looking at fire retardant and all those things, those are new concepts, okay. And my understanding is the number of people that have increased in the world versus the number of people who have not died by fire in their homes is inconsistent. Okay. If you had ten people in the world, one of 'em went up in flames. If you had a hundred people in the world, two went up in the flames. If you had a million people in the world, six went up in flames. You see what I'm saying? And so we might be putting too many restrictions on a nonexistent problem. But, like he said too, is that if I go in my house, okay, when I'm nine years old, and I light a fire in my closet, and the fire department has to come, right, what's going to happen is the fire department and the government is really taking responsibility for my wrong actions; whereas, before, there was never that situation. If you house burned, you get kicked, you got slapped, you know, whatever it was that you needed to go do and your parents took responsibility and took care of it. Part of this thing, I think, if we're going to have these issues is that people need to be educated on the problems of fire and all these things, and then say "I'm going to take responsibility for that. I'm not calling the fire department."

...(inaudible)... okay. They're very little codes, except for fire because the fire department's going to come out. We need to take responsibility for our own actions like we did in the past. And maybe that can overcome some of the County requirements that put restrictive or dangerous chemicals, hey guys, look, I'm never going to burn to death in this house, okay, but everybody just died of cancer. That's not an effort that we'd like to see.

Ms. Sarich: Yeah. And just so you know, the code, as long as you're I think a hundred feet away from other structures, you don't have to have a fire suppression system, and you have to be under a certain square footage.

Mr. Fredericksen: What -- do you know what the minimum or maximum square footage is?

Ms. Sarich: Maximum square footage is 1800.

Mr. Hutaff: That's ten by eight.

Mr. Fredericksen: 1800.

Ms. Sarich: 1800.

Mr. Hutaff: 1800.

Mr. Fredericksen: That's a good size house.

Mr. Hutaff: Good size room.

Ms. Sarich: I might be wrong. I'm trying to remember how big it was. Are you going to tell people when we take public comment or do we keep talking?

Mr. Fredericksen: Yeah, we can go ahead and get -- ask for public comment. Let's go ahead and open this up for public comment now, and then we have -- just as a workshop, we can talk a little bit more about it.

Mr. Keeaumoku Kapu: Aloha mai kakou. Keeaumoku Kapu from Lahaina. You know, I commend Stan for the work that he did on the research around there. We've waited a long time for somebody to take the time to really study, you know, traditional versus contemporary madness that we facing in today's society. One thing about Hawaiian architecture, you really gotta understand "kapu." In order to understand the kapu that is placed upon the hale, then you have something basically to focus on. If you only focusing on only material kinds of things, whether or not the County ordinance code will call for these kinds of things, then you really getting yourself into their kind of mix. I suggest that this body really understand the kapu system based upon what a hale noa is, what a hale pahu is, what

a hale wa`a is, and groom from there based upon its use. Now, there was comment made about finding the house of the ali`i. It wasn't just one palace. It was a bunch of homes. And if the hale noa required for a place because it's going to be a 24-hour thing, then, you know, then the fire marshal might have a problem saying we gotta put -- the size of hale we gotta put seven sprinklers at a capacity that can run 2-inch - what is that? copper lines, which should have enough volume, you know, to control whatever may happen. Then you have like the hale pe`a or the hale ma`i. Those kinds of places are forbidden - for only women to dwell in. The hale moa. Certain things was done in those areas. So when you look at the hale ai, well maybe that one you really gotta consider whether or not they going -- that's one cook place. They going cook. Today, people look at Hawaiian architecture design as a place of entertainment and education. That's what we looked at it for. For us, as native Hawaiians thriving in this pathetic world that we live in today trying to incorporate our traditional styles, we always get challenged by the foreign perspective as based upon whether or not we going be safe in our own house. That's always our problem that we're always being beaten down for the I guess the lack of western education that we -- they feel we really, really need to have in order to live within the society that they have chosen for us but do not want to accept the fact that our lives have dwelled within these islands on the different types of methods and tools that we, basically, utilized for generations, and we still doing that today. Today, there is a big infatuation of bringing this so-called icon or this prestigious thing back for what? Economic stimulus. We use traditional hale for education, to teach our children the importance of ahupua`a. The importance of it's not just one hale, every piece has a name. The most important piece to a hale, to me, is the hale pohana, and that's the ridge post that supports the house. Now without the ridge post that supports the house, then everybody within the house will not get the education that they need. And it's that concept. The hale manu, the kihi pohaku - especially the kihi pohaku because that is the most important, that is the foundation, the niho stone that supports the whole structure of the house. Without the pohaku, the house no stand. And mahalo because it's interesting that I stand here because I have three sons in the Big Island that is getting certified for uhu pohaku from the National Parks. I mean Saturday. And I like the encouragement on how we all come together and discuss ways of figuring out whether or not these materials that were used in Hawaii has a retardant on it versus dealing with the fire chief. So if you place kapu on hale, and look at it, you know, in that perspective, certain hale are not allowed to be putting materialistic things, like water sprinklers, inside. The hale wa`a, you no put water sprinklers inside because it's next to the beach. When they go hale noa, well maybe you might have to consider certain things so there might have to be a cause or a reason for looking for this so-called retardant because people going be dwelling inside their 24-hour ... (inaudible) ... hale ai different. Hale pahu. Hale peha. Stick to the concept because if you building one resort, then we may as well adopt ideas from Bali, Phillipines, Japan, but is it indigenous architecture designs that was basically passing in the senate from here to the county that this is an icon now. This is something of reverence that everybody wants to have a piece of this pie, but we stuck in the contemporary world by dealing with one fire marshal. One guy. If you can change the concept of people thinking that certain dwellings

are used for certain things, then maybe you get something. If you only going be stuck in just looking at a house as being a house, then we going be stuck in the same boat.

Mr. Fredericksen: Keeaumoku, I got a question for you. Have you testified about this, you know, the really good point you bring up, and we talked about it some too about, you know, this thing with the -- 'cause it is, the way I look at it is, well, you know, how can this be encouraged to go forward without just kinda sitting and nothing really happening. I mean, yeah, Maui County does have the -- is more progressive than elsewhere in the State, but still what is -- is that -- is it -- have the rules that are in place encouraged this sort of architecture, you know, the indigenous Hawaiian architecture to the point where it can be use for let's say affordable housing - to throw that one out. You know, for me, I don't think it has. But have you given testimony, like to where there were representatives of the fire department so they could comment or --

Mr. Kapu: Let's just say we had many arguments with the fire department, especially when we was building the hale down Kamehameha Iki Park.

Mr. Fredericksen: That was going to be a followup question. Could you just share, briefly, like what, you know, what --

Mr. Kapu: If the traditional hale is being built somewhere within the parameters of a residential area with possible homes that might be less than 300 feet, then you would have to highly be required to put up sprinklers. Then it's the position of where the fire hydrant is at the same time too that needs to take into high consideration, yeah? Residential area, business area. All those things are basically inclusive when they look at the master plan when they allow you the permit to start development. Then it's the size of the building that they look at pertaining to the size of the pipe that you need to install within the structure of this traditional building to make sure that you have enough volume of water to douse out I guess the parameter size of the building. So like for us, in our traditional hale that we built, we had one --

Mr. Fredericksen: Kamehameha Iki Park.

Mr. Kapu: Yeah, Kamehameha Iki Park, we had to install one sprinkler way up on the top, actually there's two, and it's on the outside on the top roof to douse the out -- the existing part of the roof.

Mr. Fredericksen: And that has to do because of the function of that structure?

Mr. Kapu: Yeah, it was -- that structure, basically, was built for sort of an educational component, which means we going have children inside there and we going have other activities so --

Mr. Fredericksen: But there's no like no cooking, nothing like that inside?

Mr. Kapu: No. No.

Mr. Fredericksen: It's just strictly for educational purposes.

Mr. Kapu: Yeah. It's forbidden that -- that structure is forbidden for any consumption of food. So when you forbid it, then it's a total -- it's a different atmosphere inside there that you only going in there for one purpose and one purpose only. It's not one hale where you going inside there and just moloa and just, you know, live inside there. It's not a living quarters.

Mr. Fredericksen: So when -- so that was a permitted structure and so what kinda -- I mean I'm just trying to get some sort of concept of what's happened so far. So the fire department was contacted and you said, okay, this is the function of this hale, and then so then they came back with, okay, well, that's fine - two sprinklers, one on each end on the exterior and --

Mr. Kapu: Yeah, and seven sprinklers under.

Mr. Fredericksen: So there's still sprinklers -- okay, that was going to be my next question.

Mr. Kapu: Yeah. And it's because it was within the -- a residential commercial zoned area.

Mr. Fredericksen: Too close to the side properties.

Mr. Kapu: Yeah, now if there isn't anybody that is within I guess, you know, across the street over here, I mean if they that far, then -- they're that far away, then there is some exceptions that other homes may not be impacted if all of a sudden these hale was to catch on fire. The loulu was found that there is a slight retardant on it because it's natural ability. It takes time for burn. I mean you can stand over there with one lighter and just --

Mr. Fredericksen: You gotta get it really hot.

Mr. Hutaff: It takes a while to catch on fire.

Mr. Kapu: Yeah, and, you know, it takes a while but I mean if you --

Mr. Fredericksen: It will burn.

Mr. Kapu: Gather 'em all up, yeah, sure it'll burn. The thatching is important. When you thatch the hale, yeah, if the building burns, eh, you know what? They going burn but the

timber going fall down on the side so you can use the timber for build the hale right back up. The reason why lao Valley's hale went burn - you guys know the reason why? Because it was all nailed and screwed together, and plus on the inside, they had some plyboard and da kine, corrugated roof. So it was one facade. That's all it was.

Mr. Fredericksen: With combustible material on it.

Mr. Kapu: Yeah. So it burnt to ash. But in comparing to one traditional building that is thatched, when it catches fire, all the po hana, the po manu and everything going still stay standing; everything, the rafters going fall on the side, the fire going douse, it doesn't travel, and you can actually use those materials to re-thatch the house again. Kanaka, they was smart. You know, Kalakaua was the 33rd mason, yeah. He was part of the Illuminati decree. And Iolani Palace, they have the initials on the footprint of the building, the mason's initials on the footprint of the building, so that's why the kihi pohaku is important to all hale structures. To understand its purpose, you have to understand the kapu system based upon each dwelling, then you can make one decision to convince the fire department that certain buildings, for certain reasons, needs to be exempt. If it's one house building, eh, then fine. Be stringent on those kinds of things. If it's one resort, well, then maybe you might wanna look into this so-called material ...(inaudible)... the synthetic, they using it right now at Kaanapali Beach Hotel, yeah. They even using the similar synthetic material at - what is that? Old Lahaina Luau. The buildings that they have over there. Eh, it's fine. But to me, it doesn't bring reverence.

Mr. Hutaff: Part of the fire approval for the hale, because their concern is other homes, other pieces of property, other people, and inhabitants, okay. The reason that the water was on the outside, okay ...(inaudible)... inside, okay, is that the thatching doesn't come all the way down so your escape is 365 degrees rather than 1 door or 2 doors as required or window, okay. So inhabitants weren't necessarily going to be a big concern of the fire 'cause everybody just -- run.

Mr. Kapu: Yeah. It was unnecessary because there is no walls.

Mr. Fredericksen: Yeah, no constraints to ...(inaudible)...

Mr. Hutaff: Then the roof side of it only needed enough water to put out any flames that may travel to another home with the winds that's why it was very minimal so, you know, like you said, depending on what you're going to build determines what you need.

Mr. Kapu: Yeah. So in final, in the indigenous architectural design guidelines that was past through this County, this thing went through Senate under Kalani English. A lot of other islands, like Big Island, Kauai, Molokai -- well, Molokai is part, but Kauai, Oahu, and Big Island, they want this plan. They wanna foresee this plan to go through their islands and

I'd give it. I'd give it to 'em, and say, you know what, if you can pass this to one of your county council members, that's the way to start because Kauai is sort of the catalyst to get -- I mean Maui is sort of the catalyst to getting this thing started. We just get, you know, burdened that we gotta -- a lot of hale that was built was unnecessary for us to be spending another \$20,000 for install kapa with fire -- what is that? That sprinkler with the wax burning.

Mr. Fredericksen: Yeah, the sensor.

Mr. Kapu: That's crazy. I mean the mayor gave us \$55,000, yeah, to help construct this hale. We had to find another \$25,000 more to install all the other kinds of things that needed to be installed, and that's one nonprofit. I guess the private entities or other organizations probably can afford it but for one nonprofit, eh man, we suffer everyday because of these stringent unnecessary policies that they had placed upon by not understanding tradition -- traditional architecture.

Mr. Fredericksen: Well, we'll be -- we'll be going on about this. This isn't going to be all done today so we certainly welcome more input.

Mr. Kapu: Well, keep in tune. I would love to be, you know, wherever it goes from here.

Mr. Fredericksen: Yeah, I particularly, before you step down, Keeaumoku, I really appreciated you sharing about the different hale types and the cultural uses that are tied in if you do, you know, follow the kapu system like you're talking about and apply that because that is one of those situations where it's just not a cookie cutter for every single thing - oh, you gotta have this many sprinklers and this many sensors no matter what.

Mr. Kapu: Yeah, in Hawaiian tradition, the purpose of the dwelling was based upon kapu and was really important. I mean like ...(inaudible)... some islands, you get hale still exist over there, traditional hale that wahines can't even walk on the path. They gotta go all the way around down by the beach because they're restricted. So, you know, those kinda things really need to be considered when you ...(inaudible)...

Ms. Marquez: You know, there was a slide earlier and then it listed all the hale. Okay, now, is there such a thing as hale ku a`i or is it hale kuai cause that's the eating hale? Ku `ai ai?

Mr. Kapu: Yeah, I think that's a --

Ms. Marquez: I think you mean ku `ai.

Mr. Kapu: Mistake. Hale ku `ai.

Ms. Marquez: Try check. Yeah. Unless there is, and I'm no expert, is there such a thing as hale ku a`i and educate me? I really think it's hale ku `ai.

Mr. Kapu: Yeah, it's hale ku `ai.

Ms. Marquez: Okay.

Mr. Fredericksen: Any other questions or comments?

Ms. Marquez: So I'm listening to all this mana`o and is this the guiding document link to all what we're talking about today?

Mr. Fredericksen; This one.

Ms. Marquez: Okay, so then I looked at page 110-4 and it does define indigenous Hawaiian architecture structure or hale need.

Mr. Kapu: Yeah.

Ms. Marquez: You folks better really look at that because it's really specific, and you all can read, I don't need to read this for you. It's very detailed. You know, it's like built by the -- okay, so construction methods and uses of structures built by Hawaiians in the 1800s, which uses natural materials found in the Hawaiian Islands and complies, well, with intent of the structural requirements of the County Code. Very important paragraph. Remember that, Commissioners.

Mr. Kapu: Yeah, so when you do any recommendations to this, you have to take it per dwelling. I mean like the hale ku `ai, if you look at how the hale ku `ai is built, it's only like a one thatch roof that's because just within in that area is only for cooking purposes only. It's not for gathering. So if anybody comes in front of you, it's the type of hale that they going request to build and what going be your recommendations based upon whether or not that's going be one gathering area of how many people versus only one area that would only be specific for the use of that area by an amount of people, maybe two, three, four. You know, that counts a lot because by incorporating those kinds of thinking with the traditional perspective of indigenous architectural designs, then you start to get to understand its true purpose of why the dwelling was built in the old days. The chief never only had one house. He had one sleeping house, he had one hale kapu, yeah, one hale noa, he had one hale mua, and that's where he hid his images inside where he had -- if he had to go nighttime and go inside there and talk to his gods, that was the place to do it. Then you had all different other things that served different purposes within the dwelling of this so-called compound. So mahalo.

Mr. Fredericksen: Thanks, Keeaumoku. Any other testimony? Again, this isn't a one-shot deal. We'll be discussing this more, but anybody has some comments, please come forward and state your name. Thank you.

Mr. Kaniloa Kamaunu: Kaniloa Kamaunu from Waihe'e Valley. I think it's interesting especially after Keeaumoku came up and explained a lot of different things. It came to mind Lilikala, a book that I read from her, and it's interesting. Remember Israel? He has facing the future but you only see the back of him. I never understood what the meaning of that, and I was reading through her book and, basically, for the Hawaiians or tradition would be that for Hawaiians the future is the past. And I remember Keeaumoku talking about this when we were constructing our slides and -- and I wondered about that and, basically, when the Hawaiians -- because to them, if you look to the future, what do you see? Really nothing. 'Cause there is nothing to look at. But in the past is everything. Your kupuna lays your structure of life, lays everything that you've been given, and that's what you take to the future. And it's interesting to see that we're turning back as far as the dwellings that we using. And when I read that, and I started to understand what that meant, and even when they would `olelo, especially -- you know I -- I'm foreign to a lot of things because we weren't able to be taught. But when they would come into a place, I always wondered why you chanting for? What is the chant? As I read through it and I found out that for the person to bring you on, and again, Keeaumoku taught on the walk that we had last year, that they have to recognize you. For them to bring you forward, you had to connect. So you would `olelo your ku `auhau so that they could find how they relate to you. So these things are interesting because, again, you looking to the past to have answers for what's in the future. So I just thought I would share that. Mahalo.

Mr. Fredericksen: Thank you. Any other comments from --

Mr. Kapu: You know, Erik, can I make one more comment on the ...(inaudible)...

Mr. Fredericksen: Yeah.

Mr. Kapu: Our canoe -- I mean our hale down Kamehameha Iki Park is a hale halawai, and I kinda angry about that one because the fire code and all the stipulation what was placed. The hale halawai that we have is exactly that was -- no more walls. And hale halawai is a place for educating people, for talking politics, for talking about concerns within your ahupua`a, for bringing certain issues to the table, and that's all it's for. Once all that pau, it's like this meeting room, you come over here for meeting, and that's all we do. Once pau, we don't even dwell inside there. That place is like -- placed a kapu for the reasons as pertaining to why we going gather. Once the agenda is pau, everybody go to the hale noa, they go to the hale ku `ai, they go to all these other kinds of places, so take into whatever consideration you can when you give recommendation to these kinds of things as certain hale should fall under exemptions, high exemptions because if I building one hale that's only

like 20-by-10-by-20 feet, then they going require me for put in 5 sprinklers, that's going cost me another 10, \$15,000, and that really -- I don't know. That's just kind of unfair so I --

Mr. Fredericksen: Challenging.

Mr. Kapu: I hope that, you know, when you guys go really get into the grind of this that we will be present to help you guys out on the way.

Mr. Fredericksen: Warren, did you have --

Mr. Osako: Yeah, I have a comment actually. I think you're very correct in the all the regulations because if we're talking about alternative housing and all that, it will become unaffordable with all the restrictions. So we're wasting our time, in effect, but you're correct, you know, because you should all the things about the different places of the world. I've been to Africa four times and going again next year. I've talked to some of the people there. And, you know, the thatch roof, I asked them, they actually cost more than a modern roof, and the reason they do it because they're in the tourist business, you know, I go, and that's what's appealing. So you're right. The resorts and the place of learning. But if you're going to make it for people to live in to alleviate the housing problem, it's not going to work 'cause it's going to cost too much.

Mr. Fredericksen: Any other comments?

Ms. Jocelyn Costa: Aloha. My name is Jocelyn Costa. When I see all of this, what comes to mind is the word "aloha." And it has been compromised just to no end. It has been economically stretched to its limits. So now we looking at our hale. And I keep hearing the word "traditional." "Traditional." "Traditional." So if I start with a tricycle and I said, well, I think it'll be more stable if I put one more wheel, so this tricycle will have four wheels, so I can put a floor in between it, stick a roof over it, change the handle bars to some steering wheel, and I'm going to go down the road in this tricycle. It's no longer a tricycle. It's a car. And no matter how you wanna change our traditional hale, just the mere fact of changing it, does not make it traditional anymore. We're holding on to our traditions. If this body so wishes to move in that direction, maika`i. But don't pull us in a direction that does not work for us. Mahalo.

Ms. Johanna Kamaunu: Aloha. Johanna Kamaunu from Waihe`e. So nice to see all your faces. It's been a long time. I couldn't help ask myself the question: Is it to save money or to make money? And I think that's the main difference. If it's to save money, what I can see is as time gets stressful, that people who have kuleana lands are living on their lands have that right to collect and use thatch, so that means they could build. What kind of codes are there for the kuleana? Like I told the Water Commission yesterday, I says, "You know when this plan for the water use management permit, that application, you say in your law,

174c.101d that a pertinent or kuleana rights, right, their superior right?" And they acknowledge that. And I says, "Okay, then if they're superior, according to this particular law, it says that their rights can never be diminished nor extinguished. Okay, so I got one real big question because according to the distribution in the application that you have for Waihe'e, you note 30 applications," I says, "You know there's over 200 kuleana in Waihe'e? That's not reflected in you plan. There's no numbers reflecting that. How are you going to meet the needs of the kuleana who, your report said, didn't have to fill out the application? The law says if you have kuleana, you don't have to fill out the application. And if you don't fill out the application, you not going lose your rights. But that's not what the Water Commission was asking for. They wanted us to fill out those application. So you kinda wonder if I don't fill it out, I don't lose my rights. If I fill it out, what's going to happen? Whose laws am I going to be subject to?" So I said, putting all of that aside, I realized and they realized it too, they acknowledged, they realized the dilemma they're in. I would say that, 'cause I know this going be hard for you, but for the kuleana you might have to look on the other side of the coin or not include them in this kind of decision making process. I understand what you're trying to do. You wanna take the architecture and you wanna be able to utilize it. But like was already explained, to utilize it in building codes will make it horrendous for -- for the kuleana or someone who wants to build it on their homes to be able to afford it. And yet it's within the law that we have the right. HRS 7-1 says that we can do that. So now I turn the dilemma over to you that maybe what we need to look at as the dividing point is does it -- is it commercial or is it domestic or for, you know, private use? Is it for kuleana? 'Cause certainly the kuleana have to be considered as a separate entity in all of this, yeah? And if -- then there's the other side of it, that's the side you folks get to play in. That's all I wanted to bring to your attention.

Mr. Fredericksen: Thank you. Very interesting point. Ray, did you wanna say something?

Mr. Hutaff: Always.

Mr. Fredericksen: Help yourself.

Mr. Hutaff: Okay. Sorry. First of all, I'd like to comment on what you said about "traditional." I certainly do agree, which is kinda why I mentioned that I'm always going to be dragging things back a little bit. I think without trying to define "tradition," and I'm certainly not going to be sending an email out about it, but tradition is subject to time, okay. Ten thousand years ago there was a tradition. Today, we claim it as a tradition. Four hundred years ago, definitely a tradition. So what is traditional by that? The way I kind alike to perceive things, and I think it's a real thing, is had the Hawaiians been allowed to progress on their own, making their own decisions with influences coming in and go, look, here's a chainsaw, you know; here's a ditch witch, okay; here's a aluminum shovel. They would have made choices based upon their culture and their traditions that would have allowed them to either utilize or say, no, that's okay. That's not going to work for us. We

forget that, you know, by imposing a limit of tradition, what my opinion is is that we then say that Hawaiians didn't have the intelligence to move forward. It think they've proven, okay, they've proven that they can move forward so much so that there are things that we're doing today that we're going, wow, look at this. We can make sure we always have fish by having fisheries, and you go back to the traditions of Hawaiians and you go they've already been doing it. They already knew no take the big fish. Take the middle one. Leave the small ones alone too. And they went this is a new idea. It's not a new idea. So I think tradition is relative in visual concept, if you will, not necessarily time, okay. We're still going to have it look like a hale. That's the tradition that we're trying to look at here. Commercial versus this. I think this is, you know, this is one of those three-edged swords. In order to keep the culture of Hawaii alive, we have to have visual impact, okay. We have to have the visual of what those who come here can say, oh, that's what Hawaii is like. Now I have the mind set. Now I understand. Not that it's important that they understand, but it's important for us to past down to our children the visual side of things so that those "traditions," as I've defined them, are kept. So having a hale built traditional and done with everybody in the family working together to accomplish the task, whichever kinda hale you're going to build, one to live in, one to cook in, whatever it is, that's what you're going to perpetuate, again, bringing some of the tools and things from the past that the Hawaiians would have probably really, really enjoyed, I think that's extremely, extremely important. The commercial side. I'm sorry, but we can't tell anybody, no, you can't ...(inaudible)... the village that looks like an old Hawaiian town, okay. So, yeah, they're probably will be. But then that's where all of us being observant can make a decision whether it's something we wanna support, something we wanna stop, or something that's, yeah, it's okay. That's the second part of the story. The thing is is that all of us intuitively need to make a decision on what's in here as trying to make it "affordable." That, I think, is what the legislature was trying to say and I what I've heard in here is that here's an alternative. What happens if the ship never comes in again? What are we really going to do? Well, I can tell you one thing, we're not going to do anything, not even build a traditional Hawaiian hale because we don't have enough materials to go ahead and accomplish that task, but if these things get passed to where there's potential for reasonable inhabitation or places to inhabit, then we can all build or plant things in our backyard. I'm not a taro farmer, okay, but I have more taro than I can eat. So I share. So if everybody -- not everybody, but if lots of people got onboard and says, well, I don't have thousands of acres of land, but I can grow more pili grass than I need, okay, if we begin now. So having this process of what can we do, what materials can we use is the first step in us being able to build something less expensive than we have today. And having the foundation and the architectural design that can be shared with everybody, and what's -- another thing that's already in place is all the people that Francis Sinenci taught at the college, they're the inspectors. So there's already somebody to go over and go, no, you gotta tie 'em like this, brah. You don't have to be a contractor or a hale builder. And then he needs to teach more and those people need to teach more. And I think I'm finally done.

Ms. Sarich: Thank you, Ray.

Mr. Hutaff: For what? For being quiet? No?

Ms. Sarich: No. That was very well stated.

Mr. Fredericksen: Okay, anymore discussion?

Ms. Sarich: I just wanted to thank Stanley one more time for that great presentation.

Mr. Fredericksen: Yes, thanks, Stanley.

Mr. Solamillo: Thank you. And I apologize for mispronunciation of Hawaiian words.

Mr. Fredericksen: Let's go to Director's Report.

E. DIRECTOR'S REPORT

1. Kanaha Pavilion (requested by Commissioner Rhiannon Chandler)

Mr. Solamillo: First item, this is on Kahana Pavilion, requested by Commissioner Chandler. Would you like to describe for the members.

Ms. Chandler: Okay, so the pictures that you're looking at are of the structure as it stood in, I believe, 2007 probably, and it was, like Stanley said, built presumably by the people that were occupying the area at the time, which is referred to as NASKA, Naval Air Station Kahului, and it was used as like an officers' kind of hangout spot. I was told by somebody who was doing research with families at the time that there was a pavilion that was in that area that had been built by the plantation, much older than possibly, I guess, this structure. I think at the time that I was originally introduced to this structure, I believe it to be that one by the plantation. Either way, this pavilion stood in its state of disrepair. And as you, I think, saw earlier, Stanley showed us pictures of the roof that had massive holes in it and the columns are missing stones. And in 2007 or 2008, my executive director at the time, the executive director of Community Work Day Program her name is Jan Dapitan, she convened a group of people to begin to look at repairing this structure, and eventually went on to hire an architect who had been a former member of the CRC, his name is Lon Whelchel, and he drafted plans to repair this structure, and it was repaired in 2008. So now the roof has been replaced and the columns has been replaced, and the building is safe, I believe; however, that's questionable still, apparently, according to the Parks Department, who, apparently, is upset because at the planning -- in the Planning Department, there was never a permit filed so now the two departments are fighting each other over the repair of this building. If the building had not been repaired, it probably would have fallen to the

ground by now. And I think that is why my executive director at the time stepped in to save it. However, I wanted the Commission to be aware of the fact that there is this building and others that are very old, and are falling apart, and many of them are on County property, and it has been -- I think that was part of the purpose of bringing this to the Commission was to make the Commission aware that there are many structures under the County's purview or management that are crumbling and oftentimes the suggestion is the tear the structure down rather than to repair it. So now I guess you could say our organization is in the middle of this because we did the repair and I'm still continuing to interact with the Department of Parks and Recreation and the Planning Department to try and resolve this, but I think, ultimately, we just want you to know that that is the current state of this pavilion and that there are many others like it.

Mr. Solamillo: Thank you. Item 2 -- oh, I'm sorry. This is after the repair.

Mr. Fredericksen: Oh, cool.

Mr. Solamillo: A useable building which is roped off. No access.

2. Moloka'i CRC Meeting (requested by Chair Erik Fredericksen and Moloka'i Commissioner Veronica Marquez)

Mr. Solamillo: Anyway, under item 2, I am remiss because I have nothing new to report and I haven't been able to do any work on it, and I apologize.

Ms. Marquez: However, may I say something?

Mr. Solamillo: Yes, you may.

Ms. Marquez: I would like to thank Ray for that mana`o I saw on Facebook.

Mr. Hutaff: Well, I didn't do that.

Ms. Marquez: Well, whoever did it. Your name was in there. Your mana`o that you shared and I'm sure you did read what they wrote, right?

Mr. Hutaff: Not on Facebook. I read the paper.

Ms. Marquez: Same difference. I thank you for the support, and it's ongoing, and I was in the community yesterday and somebody said, hey, your Commission's on Facebook. I said that's not the point. I said, you know, we're really trying but that person went, yeah, but you folks not going get it 'cause it's going to take a long time. Well, I had to listen to that kind of mana`o. I hope it happens before I leave in March and we still will try. It's not dead is it?

Mr. Solamillo: No. It is not dead.

Ms. Marquez: Okay.

Mr. Hutaff: It's just a little complicated.

Ms. Marquez: Well, what is, you know, so ...(inaudible)...

Mr. Hutaff: Well, my understanding, and trying to keep real brief, is that in order for the County to accept money, they have to open up their budget, you know, that they've already gone through, and they have to amend the budget to say, okay, now we have more money, okay. And then, when they open the budget up and say now we have more money, then they have to open up the part of the budget that says, oh, by the way, it's going to go the planning commission, okay, and -- but that's the, you know, that's a consequence of our government. And, you know, we have these discussions on what we're going to do about things, you know, and there's a consequence somewhere down the road but --

Ms. Marquez: Because I spoke with the chair right, you know, after this whole thing came up and he said, "It doesn't take that long."

Mr. Hutaff: Right.

Ms. Marquez: It should have been done prior to December.

Mr. Hutaff: Well, it did -- I did take an extra month before I put it to the mayor and to them. Originally, I was going to get with some people I know that would gladly donate for this kind of cause to open up Molokai us with -- that don't have any business interest in Molokai so it'd be easy. Unfortunately, in talking with some of the people within -- who knows the government, it's like, Ray, the more people you add, the more complicated it gets. So I raised the money myself and it took a little bit longer than I thought, and I have it in a trust fund so it's dedicated, so, you know, if I get run over next to that fence in Lahaina --

Mr. Fredericksen: Wall.

Mr. Solamillo: Wall.

Mr. Hutaff: I love this job. But anyway, so that it would be a lot easier for it to go through. But, you know, it is, in my opinion, it is what it is, and although I think all of us would love to go to Molokai with you on, you know, the board here, I don't see us being disappointed if we could still see your face in the audience.

Ms. Marquez: Question. So, for you, so what's our next step?

Mr. Hutaff: Wait.

Ms. Marquez: For what?

Mr. Solamillo: Wait for me to figure out a way because, actually, we may have another way where it won't take so long and it won't involve all the things that you described.

Ms. Marquez: Are you at liberty to share what it is?

Mr. Solamillo: Right now, I don't remember the details.

Ms. Marquez: Thank you, Stanley. That really helps.

Mr. Solamillo: I am having a senior moment too. I look younger than I really am.

Mr. Hutaff: Really?

Mr. Solamillo: Yeah.

Mr. Hutaff: Okay, so we're going to go on the next one?

3. Eliminating Duplication in Historic Preservation Reviews/Determinations of Eligibility and Effect/Mitigations (SHPD and Maui County)

Mr. Solamillo: Next item, the one we tried to get to you guys for two months now, really important. Back in 2005, we had couple of huge demolition projects; one involved Pioneer Mill in Lahaina, the other one involved Paia Mill in Paia. We had some mitigation documents that were assembled and submitted and approved by SHPD, and yours truly went out on a limb and after numerous conversations, and some interface with then director, Michael Foley, we decided that those two projects needed more than what had been provided, and we also inaugurated a dual letter approval process whereby one letter would be issued by SHPD and one letter would be issued by Maui County or every demo that we came across. Things have improved to such a degree at this point that after consultation with SHPD, this is now after five years, that we believe that one letter is necessary from either SHPD or Maui County provided that we do what we're doing now, which is we email review and concurrence information. So if we can get concurrence, for instance I'll get something, do a determination of eligibility and a determination of effect, and if required mitigation, and along with the photos, send those to SHPD and receive a concurrence email that I issue a letter stating.

Mr. Fredericksen: Yeah, my only comment was going to be who, specifically, at SHPD said that, you know, or led you to feel that everything would ...(inaudible)...

Mr. Solamillo: This is only architecture and this is Ross Stephenson, and he's a PhD, and we've been working for, you know, over a year.

Mr. Fredericksen: And he's still there?

Mr. Solamillo: Yeah.

Mr. Fredericksen: Okay, 'cause my comment was going to go on to the Archaeological Branch side because the person that was there that was a place -- kind of placed in there when the outgoing administration put, not the County but the State administration, placed certain, you know, administrators, etcetera, I wasn't really impressed with some of the decisions that that person made. That person is no longer there.

Mr. Solamillo: Okay.

Mr. Fredericksen: Which is good.

Mr. Solamillo: So, anyway, the decision, and this will go after this hearing, this goes to DSA, and the decision is, as is our current practice, we will forward you copies for your records of SHPD determinations concerning projects located in Maui County when we receive similar letters from Maui County indicating a determination, we will no longer issue a similar letter back to the petitioner and we'll file your original determination letter in our files. Okay.

Mr. Fredericksen: And so this sounds like it's primarily coming out -- will be coming out of the Architectural Branch.

Mr. Solamillo: It's architecture only.

Mr. Fredericksen: Okay.

4. January 6, 2011 CRC Meeting Agenda

Mr. Solamillo: For item 4, January 6, that is our next meeting, 2011, okay. You want anything on the agenda, you gotta put it to a vote.

Ms. Marquez: But you have ongoing ones, like the Molokai will be ongoing ...(inaudible)...

Mr. Solamillo: Yes. I will make a specific effort to have some progress made.

Ms. Marquez: Thank you.

Mr. Fredericksen: Brandis, do you want the indigenous architecture just kept on under Director's -- would we handle that at Director's Report or no, Stanley?

Mr. Solamillo: No.

Mr. Fredericksen: Ongoing discussion? Should we make it a discussion item again or --

Mr. Solamillo: It depends on her.

Ms. Sarich: I'd like to wait till February because it's just going to be hard to talk to people through the holidays.

Mr. Fredericksen: No. And that's fine.

Ms. Sarich: yeah.

Mr. Fredericksen: Okay. But just so we don't lose sight of it and everything. Any other Commission Members want something on the agenda? What do we have at this -- oh, Rhiannon?

Ms. Chandler: I just have a question about the document that we reviewed at the last meeting that then gets sent up to Council after its finished in the Planning Department.

Ms. Solamillo: All the comments from Planning have to be in the mayor's office I think by December 24.

Ms. Chandler: Okay.

Mr. Solamillo: And then it's going to hearing.

Ms. Chandler: Okay.

Mr. Solamillo: So it would be good to have some representative from the CRC ...(inaudible)...

Ms. Chandler: Okay. I was wondering.

Mr. Solamillo: So as soon as -- I'll find out and we'll get that information to you.

Mr. Hutaff: I'd like to revisit something we started -- we took over -- started to take over two years ago that's been going on for about 15 years I guess and that's having a planner in Lahaina.

Mr. Solamillo: Okay, the West Maui planner?

Mr. Hutaff: Where we talk about if the planner was in Lahaina, at the historic district, with an office and some of the issues that we have before us of after-the-fact permitting and would have not occurred and some of the issues of where things have gone unchecked and at will would not have been in place today, and some of the permits that were approved under certain conditions never have been followed through when they deviated from those conditions. I don't know exactly what to call it so is it a planning commissioner or planning department head within Lahaina? It was something that was started and almost made it to Council?

Mr. Fredericksen: Rhiannon.

Ms. Chandler: Ray, is that different than the enforcement officer you were talking about before or is that same?

Mr. Hutaff: Yeah, it's the same.

Mr. Fredericksen: The planner/enforcement officer, whatever, it ...(inaudible)...

Mr. Hutaff: Right.

Ms. Chandler: I think the budget is terrible right now but I think it's also important to just keep saying that we need it because as long as the Commission just always says to the Department we still need this, we still need this, we still need this, eventually, when there is money, hopefully they would grant that position because, Stan, you know more than anybody else the condition of the nomination -- I mean the --

Mr. Hutaff: Part of the bringing this back on track is a funding solution. The people who carried it as far as they could carry it and watched it disappear into nothing, actually has a funding solution for it so it could actually be attached together where, hey, here's some means for County funding and here is a planner/enforcer need combined together.

Mr. Fredericksen: That is funded by -- this was the parking lot solution that Keoki Freeland --

Mr. Hutaff: Yes. Absolutely. Yes.

Mr. Fredericksen: Yeah.

Mr. Hutaff: Plus the fact that there actually is monies today owed to the County that hasn't been paid for seven years. It's not that that has anything to do with this --

Mr. Fredericksen: For using the parking -- the one, the gravel parking lot?

Mr. Hutaff: The sale of it and some other things there. I don't have -- I have all the paper --

Mr. Fredericksen: Well, we can certainly have that be a discussion item next time, yeah.

Mr. Hutaff: Yeah, maybe we could just at least discuss the potential of moving forward.

Mr. Solamillo: Alright, take a vote. Motion.

Mr. Fredericksen: All those -- oh, sorry. Somebody make the motion.

Mr. Hutaff: I make the motion that we vote and say yes.

Mr. Fredericksen: You can't do that, Ray.

Mr. Hutaff: I know. I just like doing those things. I move that we put this on our agenda for the next --

Mr. Fredericksen: Second?

Ms. Marquez: Second.

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

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

VOTED: to place on the agenda the item discussed by Commissioner Hutaff regarding the planner/enforcement officer position in Lahaina and the funding of the position.

Mr. Fredericksen: Any other agenda item request? I'm not sure how to frame it but I would be interested, and I think I brought this up at one point before, but there have been a couple what I would consider real positive culturally theme articles that had come out, like one was in the Hawaiian Airlines mag, whatever that's called, and I think it might be worthwhile to just briefly look at that as an example, or one of these other ones, and just maybe write them a brief letter saying we wanted to acknowledge that this is a really good culturally -- cultural article or article that, yeah, had some educational value about the Hawaiian culture. It's not like the tiki stuff or Mardi Gras, whatever, and all of that, it's --

Mr. Hutaff: You know, I think that's an unbelievably good idea, okay, that we establish those kinds of things where we compliment people when they do it right, so when they don't do

it right, we can go, hey, you missed this one this time and have a better reaction. If we just come off as this ogre that, you know, doesn't want tikis and all these kinda things like that, it could be, you know, considered that's who we are, but if we compliment, let's say, an article before that had real value, real information, and do that on a regular basis, we could nominate, you know, bring in for our end of the discussion thing new business and nominate certain things and gives a brief discussion at the next meeting to do that. I think it's an excellent idea.

Mr. Fredericksen: It was really, really a good article. Of course, now I'm trying to remember where I put it, but I had it to bring in. But if we could put that on the agenda, I think that it'd be worthwhile, either next month or if we don't have enough time next time, defer it to the following month, just to have that out there.

Mr. Hutaff: Excellent idea.

Mr. Fredericksen: Anybody wanna make a motion? I can't.

Ms. Marquez: Well, you are the Chair. However, you know when we read these things, Erik, when we read these things in *Holo Holo Magazine* or whatever you call them, and I fly a lot, we -- I read, and then I say, "Who's writing this article?" "Who's interpretation is this?" It's just like the tiki thing. You know, some people came and say, hey, how come you folks using all this ...(inaudible)... you folks all know that one. So I like that idea, it's just that you ask yourself, and I think we should ask ourselves: Where is this coming from? You know, who's interpreting this? Just to be on the side caution, yeah? But good idea.

Mr. Fredericksen: Yeah, this particular article dealt with kinda some more recent - I don't know if "events" is the term - but with archaeology and the younger generation that's coming up and traditional views of archaeology. It was really an interesting article.

Mr. Hutaff: So I just heard you make the motion.

Ms. Marquez: So I move -- what am I moving? I move that we agendize your mana`o regarding mana`o from publication alluding to positive Hawaiian culture.

Mr. Hutaff: Second.

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

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

VOTED: agendize the Chair's mana`o regarding mana`o from publication alluding to positive Hawaiian culture.

Mr. Fredericksen: Okay, motion carries. Okay, any other thoughts or anything?

Ms. Chandler: Chair?

Mr. Fredericksen: Yes, Rhiannon?

Ms. Chandler: I have one question for Stan. Stan, probably a year ago or more we were talking about identifying cultural resources in different areas, like mapping them, almost like a GIS kinda thing so that it would be more on the preventative side of things if development was going to occur in that area, that we would be proactive, not for the next agenda, obviously, 'cause we are probably -- just in a distant future, I'm thinking, but if we could revisit that at some point in time through probably a public forum, like inviting people to dedicating meetings just for people to come and nominate sites or share history or whatever, if we could make a meeting just out of that, and at least it would be a record, like written record, after we have our meeting and then we can take it from there and try and map that.

Mr. Fredericksen: Well, here's one thing that the County has done, and there was a study commissioned in pretty much what you were just saying, this study, and I don't -- has that been finalized yet, Stanley, the archaeology ...(inaudible)....

Mr. Solamillo: I mean we got the document. I've got comments that are going back. It was a survey inventory that was supposed to be an update of the '84 survey was it?

Mr. Fredericksen: Yeah, of cultural, basically, cultural resources.

Mr. Solamillo: And it leads into something called the "Cultural Resource Management Plan" that I have to author next year. So things are supposed to have been mapped so that they can be put into GIS layers, but as far as, you know, so that -- the information and the data is there but as far as given the workload, cutbacks, furloughs, it's not planned.

Mr. Fredericksen: Is the information that was provided by the consultant in a finished form?

Mr. Solamillo: Yeah.

Mr. Fredericksen: Okay, so that part of the project, so to speak, is pau?

Mr. Solamill: Yeah.

Mr. Hutaff: There was also a lady I remember came before us that asked the same question to us, and I guess she was putting together -- or came to us to ask us if we know of any places or who to speak to - I don't remember her name or what organization she was from,

but I think that that would kinda be someone to talk to to see how they've come along that ties it all together. We're asking the question. She asked us the question. So --

Ms. Sarich: Wasn't that the woman who came here about the bridge project? She was gathering information for the bridge at Honolua?

Mr. Hutaff: I don't think it was the same person. I don't remember. I'll go and read the minutes and try to find it. Yeah, give me a couple of months.

Mr. Solamillo: I mean, technically, just the nomination issue, as a Certified Local Government, which we are -- we're required to submit at least one nomination every year, and I've been doing them either two or one a year. One a year was like Lana'i, which was to --

Mr. Hutaff: How is that?

Mr. Solamillo: That's tabled.

Mr. Fredericksen: But it was submitted?

Mr. Solamillo: It was submitted and it was returned -- it was returned without prejudice because the community wanted a larger district, which included the baseyard. We had one of two meetings, which had been scheduled. The second meeting didn't occur. That has to happen. And probably, at this point, the citizens who backed the district nomination need to -- you know, they can almost with their addendum and say we want this instead. But, typically, Maui County has produced nominations and given the fact that the CRMP is due out next year, we also have to rewrite the NHL and update that, which includes all the plantation architecture that's never been included, early modern period, and stuff like that so -- but that carries on a different track because it's not that it's important, you have to be a landowner and we all realized, just after the Lana'i fiasco, you've got so much energy in putting together a nomination only to have it scuttled back and the property owner doesn't want to have anything to do with it, so I'm a bit leery about taking mana'o from people who aren't vested with ownership rights because there's no -- there's no way I can get site protected really.

Mr. Hutaff: I thought there was movement on Castle & Cooke side?

Mr. Solamillo: At the time, but that was what - nine months ago, six months ago?

Mr. Hutaff: They have the ability to stall to oblivion.

Mr. Fredericksen: Yeah.

Mr. Solamillo: Yeah. So --

Mr. Fredericksen: Stanley, I have a question on -- about the scenic roadways.

Mr. Solamillo: Yes?

Mr. Fredericksen: And I don't remember if I asked this before but I think I may have, but when the discussion about Honolua Bridge came up and, you know, the possible demolition of it. Has anything been done to look at the roadway as it exist, in some places it has been widen, to the north of that Honolua Bridge, nominating that as it goes into Kahakuloa?

Mr. Solamillo: I've got them both. I've that and the pali actually, the old pali, on the list of possible. But right now, I'm putting out fires on the Hana Belt Roadway because that's a district and I've got both State Department of Transportation as well as Maui County trying to essentially mess a bridge that's already nominated, supposedly, protected, and part of a district.

Mr. Hutaff: Which bridge?

Mr. Solamillo: I don't have a name to give you. But it's like this, okay, we went through this, it's supposed to be protected, we've all acknowledged that we've got this comprehensive bridge, you know, preservation plan, and you're submitting applications to do what? So all of a sudden I've gotta do this whole rollback, pull everything out, and write a small masters thesis to tell these people that you're idiots, you know. Sorry.

Mr. Hutaff: That's not the bridge they're working on now, right?

Mr. Solamillo: If they're working on a bridge right now that's just coming out of town, out of Hana where the road forks, they better not be.

Mr. Hutaff: No.

Mr. Solamillo: Okay. But it's really frustrating because you think that things are protected and that everybody understands because Dawn Duensing did a lot. She wrote a great nomination. She got HAER involved. They came and did this whole bridge study, documentation project, and it's like what don't you understand? It's simple. Hello. Yeah, so it's really -- it's very frustrating from that standpoint. So, yes, I'd love to do the road because that's, you know, the way to Kahakuloa and very special places that remain in the island but it's like -- and the other thing we don't know, a new administration coming in and we don't know how it's going to go, whether they wanna be proactive ...(inaudible)... maybe not. I can't make that judgement call at this point.

Mr. Fredericksen: Well, I'll bring that up again. Any other questions, comments? Warren.

Mr. Osako: Yeah, getting back to the archaeological inventory. I only know about on Lana`i and when Paul Cleghorn was there to do the update, I took them to some sites that were not on the inventory and he, yeah, he took down the ...(inaudible)... coordinates and stuff but they're still -- there's probably more sites that are there that are not on the inventory. Starting next month sometime we're going to start doing inventory survey on the Kaa area where the proposed wind farm is going. It's funded by OHA. I think we're going to start doing a helicopter aerial survey second week of December, and then have a field school for -- because we're going to use mostly local people to work. And then actually start field work probably January sometime. So I think, you know, in things like this, it should be coordinated so that, you know, the County doesn't have to spend the money and then these sites that are documented can go on the inventory. And even that -- when I asked you last week and you to talk to Hinano about that one area, which is kind of moot now 'cause the person that was proposing all of this is no longer on Lana`i, but, you know, those sites are not on the inventory 'cause I contacted Paul and asked. So there are still, you know, lots of sites that are not on the inventory and if we can coordinate things like that, you know, whether it's, you know, a private survey or something, they're still documented.

Mr. Solamillo: Absolutely. In fact, I'm moving more in that direction now that the people who know.

Mr. Osako: In fact, Cultural Surveys will probably be the lead in this survey that we're doing so I'll talk to them. I'll talk to Al and see if the information can be passed on.

Mr. Solamillo: It'll need to be passed, seriously.

Mr. Fredericksen: Yeah, the challenge I think for any time you're trying to identify archaeological sites is the private property issue because there's tons of sites here on Maui - Ulupalakua Ranch, Haleakala Ranch on their ranch, on the ranch, another, you know, other ranch lands, there's lots there but there's never been any survey work done 'cause they're just grazing cattle, they're not changing land use.

Mr. Osako: Well, this is a two-edge sword really because I think Castle & Cooke is allowing it because then if they progress with this thing and have to complete the EIS, then they can use this information. I think -- I'm sure the agreement.

Mr. Fredericksen: Okay, well --

Ms. Sarich: My last thing was, when we were looking at the wall, right, there were pictures of violations and so who turns those in? And that's what you're talking about somebody who

walks around and does that, or do we have a responsibility now that we see them to do something about it?

Mr. Hutaff: Well, the person I'm talking about should be there before the fact...(inaudible)...

Mr. Fredericksen: It should be somebody dedicated.

Mr. Hutaff: Then go in and find out, oh, 'cause maybe some of the pictures there are permitted, even permits by mistake can happen. But are we obligated? I would assume we are and I assume we did in the meeting, and I assume that when you say, hey, are these permitted? Somebody has to answer that question.

Ms. Sarich: Okay. But I mean there's also a wood fence that's not painted that was in one of these pictures and so on, and so now that we've seen those, are we -- do we do something about it? I'm not quite sure.

Mr. Hutaff: That's an excellent question and --

Ms. Chandler: I think the reality is probably the staffing issue with the Planning Department that they don't have an enforcement type of person so Erin wasn't able to answer those questions at the time, and I don't know that there is any -- Stan, can you tell me if there are any planners who dedicate time to researching properties to find out, like after the fact, if in cases like this permits were issued?

Mr. Solamillo: I think it's if they get a specific case, you know, and there's request for services, they go out and they get called in for violations or complaints, which is, you know, the reason why the fence or wall, excuse me, the wood wall came to us in the first place. But it's manpower, enforcement, you know, the whole situation as I've tried to convey to this Commission of how Lahaina got to where it is today from 1961, you know, it's this process of kind of neglect and kind of like, you know, we gotta have development, we gotta -- because it's a moneymaker. Lahaina is a moneymaker for the County. We have actual buildings that should have been granted some level of tax relief because of residential properties and they're contributing buildings, but unless your property owner knows about that and actually comes to the County and files the application every year, they don't get that, you know, and they're kind of --

Mr. Hutaff: There is actually a component that can help you and help us with that. It's called the "anonymous complaint."

Mr. Solamillo: Yeah. But Lahaina, trust me, it's like a terrible stepchild.

Mr. Hutaff: That's not a bad -- I gotta ponder that ...(inaudible)... question. That's a really good question.

Ms. Sarich: Alright, 'cause the fence next door is a vinyl -- the wall next door is a white vinyl wall. That's really not okay.

Mr. Hutaff: Unless it's been permitted. I mean, I don't know, there's a way to go and find out about permits aren't there?

Mr. Solamillo: Yeah, you can go on to KIVA and ...(inaudible)...

Ms. Sarich: Yeah.

Mr. Solamillo: Lots of hours doing that.

Mr. Hutaff: What's it called?

Mr. Solamillo: KIVA. But I mean my biggest problem with Lahaina has been I watch wood windows disappear and evaporate over a weekend. And there's this one dude, you always know him 'cause when he trims his windows, he does these neo-Polynesian design so the window trims got diagonals on it, right, to let you know -- so I can go all around the island, I know that joker from Wailuku did that, you know, but the whole deal is like under X, Y brokerage company or management -- property management company. I lot almost a dozen buildings that were contributing to this kind of stuff and, man, it was amazing.

Mr. Hutaff: So KIVA's K-I-V-A?

Mr. Solamillo: yeah.

Ms. Sarich: It's just a permit information system. You can look up based on TMK number.

Mr. Hutaff: Oh great.

Ms. Sarich: Or address.

Mr. Hutaff: I got GPS.

Ms. Sarich: Yeah. The address will work.

Mr. Hutaff: I make no promises, but I have this curiosity about me that allows me to do really stupid things at least once ...(inaudible)... that's the problem.

Mr. Osako: Anonymous complainant.

Mr. Hutaff: My understanding is that I have to wait another three and a half years before I can go out there and say that's an illegal bridge because I won't be on the Commission. You know what I mean? It's kinda like hard right now, it's like -- some things -- now that I've learned some things, like I really wanna go out there but do I wanna answer somebody who used to do lots of editorials and I was like put the pen away, Ray, or James will be giving you a call.

Ms. Marquez: However, Ray, you can always step down.

Mr. Hutaff: I like this. I like you guys.

Ms. Marquez: Okay.

Mr. Hutaff: I learn so much here.

Mr. Fredericksen: Okay, let's go ahead and close it down. We just adjourn unanimous -- by unanimous --

Ms. Marquez: I move that all paul

Mr. Fredericksen: Okay.

Mr. Osako: Second.

Mr. Fredericksen: And we're gone.

F. COMMISSIONER'S ANNOUNCEMENTS

G. NEXT MEETING DATE: January 6, 2011

H. ADJOURNMENT

There being no further business brought before the Commission, the meeting was adjourned at 3:08 p.m.

Respectfully submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards & Commissions

RECORD OF ATTENDANCE

Present

Erik Fredericksen, Chairperson
Ray Hutaff, Vice-Chairperson
Rhiannon Chandler
Veronica Marquez
Warren Osako
Brandis Sarich

Absent/Excuse

Jacey Laborte (A)
Makalapua Kanuha (E)
Bruce U`u (E)

Others

Stanley Solamillo, Cultural Resources Planner
Erin Wade, Small Town Planner
James Giroux, Deputy Corporation Counsel