

**CULTURAL RESOURCES COMMISSION
REGULAR MEETING
FEBRUARY 4, 2016**

** 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, One Main Plaza, 2200 Main Street, Suite 315, Wailuku, Maui, Hawai'i. **

A. CALL TO ORDER

The regular meeting of the Cultural Resources Commission (Commission) was called to order by Chairperson Janet Six, at approximately 10:37 a.m., Thursday, February 4, 2016, in the Planning Department Conference Room, first floor, Kalana Pakui Building, 250 South High Street, Wailuku, Island of Maui.

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

B. PUBLIC TESTIMONY - At the discretion of the Chair, public testimony may also be taken when each agenda item is discussed, except for contested cases under Chapter 91, HRS. Individuals who cannot be present when the agenda item is discussed may testify at the beginning of the meeting instead and will not be allowed to testify again when the agenda item is discussed unless new or additional information will be offered. Maximum time limits of at least three minutes may be established on individual testimony by the Commission. More information on oral and written testimony can be found below.

Mr. Keeaumoku Kapu: *...(Due to audio difficulty, the beginning portion of Mr. Kapu's testimony is inaudible)...* the Historic District 2 application, which is the whaling era, the mill era, and all that, then we going start teetering away from why Lahaina is really important. So I just wanted to encourage this. I went in front of the County Council also to stress my points about the National Historic Register. Everything that is debated comes from, you know, this totem pole, and you part of the totem pole, that strong recommendations should be given on any revitalization project for the benefit of Lahaina, the Lahaina Town area, and I'd just like to encourage this body to make sure that the recommendations stay strong, and we not try to allow these holistic ideas to be a part of our character of our town because I think the fear is we're going to lose it one day, the National Historic Register, where it's going to affect everything, not just the town, not just the architectural design that happens, but the people. They still waiting. I still waiting. And I mahalo you guys for giving me this time to testify. Thank you.

Ms. Owana Salazar: Could you explain what you mean when you say "holistic ideas?" We have an --

Mr. Kapu: Well, you get a lot of commercial operations that are happening in the town, yeah, you get tattoo parlors coming up, yeah, all these kinds of things. You get, you know, like Cool Cats, you get all these kinds of other things and, to me, yeah, that's a commercial business but what are they doing to enhance the place that they work? I don't see anything. The biggest issue for me is now we have like the Lahaina Town Action

Committee, you know, Boat Day is the biggest thing that happens in Lahaina where they cater to one boat holding a capacity of 1800 people but they don't stay in town. They load them up in buses and they take them someplace else. So that's what I talking about. The holistic idea of what everybody wants to see and try to portray in a historic town. That ain't it. Everything else boils down to commercialization of eco-tourism, you know, all these kinds of things that has nothing to do with the character of our town. The town, which is known -- I mean, when you come into Lahaina, you see one -- the capital of the Kingdom of Hawaii. Nothing reflects in that in the commercial area. So that's why -- what I meant about holistics.

Ms. Salazar: Thank you. Mahalo.

Mr. Kapu: Thank you.

Chair Janet Six: Thank you very much. Is there any other public testimony on any of these agenda items? Okay, thank you very much.

C. APPROVAL OF MINUTES OF THE SEPTEMBER 3, 2015, OCTOBER 1, 2015, and NOVEMBER 5, 2015 MEETINGS

Chair Six: We're going to move on to approval of the minutes for September 3, October 1, and November 5, 2015. Does anyone have any comments or changes to the minutes? Can I get a motion to approve?

Mr. Frank Skowronski: Move to approve.

Ms. Bridget Mowat: I'll second.

Chair Six: There's been a motion and second.

It has been moved by Commissioner Skowronski, seconded by Commissioner Mowat, then unanimously

VOTED: to approve the minutes of the September 3, October 1, and November 5, 2015 meetings.

Chair Six: And it's approved. So it's time for the Director's Report? I'll turn it over to the lovely, Annalise.

Ms. Annalise Kehler: Well, we were going to move --

Chair Six: Oh, that's right. I'm so sorry. 'Cause they're going to come up. That's right. I'm sorry. We're going to move agenda item 4 up at -- before so we can -- 'cause we have some people here in the audience, so we're going to do the update on the State Historic Preservation Division efforts to survey residential properties on the island on Maui. You're ready to go? Come on up. Sorry about that, Annalise.

D. DIRECTOR'S REPORT

4. Update on the State Historic Preservation Division's efforts to survey residential properties on the island of Maui. Surveying to occur February 29 – March 2, 2016 in Pā'ia, Kula, Hali'imaile, and Wailuku

Mr. Kaiwi Yoon: Good morning and thank you, Madam Chair, Members of Commission, for moving us up on the agenda. I'll get to the reason why shortly. As you know, Act 89 appropriated \$100,000 for this fiscal year and next towards the statewide architectural survey. We are starting on the island of Kauai, secondly, Maui, and I will brief you on where in Maui we're going to, and then, lastly, the Big Island. In effect, we have been actively meeting with pertinent legislators, county divisions, in informing them, also the Office of Hawaiian Affairs, informing them that the team will be out in the communities taking pictures of residential areas; the concern being is some of our communities can be very passionate about private property, so as the team is out there taking pictures, we just want to be sure that, you know, our representatives and our community members know what's going on and why.

I do want to say, Madam Chair, that if there is any community concerns regarding what people can or cannot do with their property, this survey has nothing to do with that. It's just getting a baseline documentation of the properties.

So there are two parts to the SASH, the "SASH" stands for Statewide Architectural Survey of Hawaii. So there are two parts to the SASH; one is RLS level, reconnaissance level survey of the properties, so Anna and Lexi and the interns will be going out taking pictures and recording the properties, but the other side of that, where you guys come in, are the contact studies. So this was never affirmed more after meeting with Senator English that, you know, in addition to the RLS data, you know, it's the written and oral histories of these areas that make it really relevant and pertinent to the community. So just yesterday I prepared the application for the CLG reviews, those will be coming out shortly for your review. We will be trying to meet with the County Finance Department after this to understand -- to better understand the process. We have been working with NPS to understand their approval process because, historically, what I understand in the past is that it's the finance approval process that kinda holds us back from doing good projects. So 2016 is going to be about, you know, understanding what are the processes that are holding us back, how do we get through them so that come time for fiscal year 2016 CLG

funding, you guys can offer some great projects and we can get it done. That's the bottom line. After County Finance today, at 3:00, we'll be meeting with your Mayor to update him on the same issue, and then, you know, ask his opinion of how to better go through the process because we really need some victories with the CLGs. We believe that they're incredible projects and -- out there in the state and we just want to be more supportive and proactive about the way and manner in which we're supporting them. If there's nothing else, no questions for me, Madam Chair, Anna will update you on where in Maui.

Ms. Salazar: I have a question 'cause acronyms are easy to say but could you please, for the sake of folks who don't know what a "CLG" is and the other M -- you said another acronym, MBS --

Mr. Yoon: Oh, NPS? "NPS" is the National Park Service, which is -- oh, and "CLG," Certified Local Government.

Ms. Salazar: And then the NBS?

Mr. Yoon: NPS.

Ms. Salazar: NPS.

Mr. Yoon: "P" - National Park Service.

Ms. Salazar: And --

Mr. Yoon: So -- so --

Ms. Salazar: Government.

Mr. Yoon: So they're the federal agency that has some oversight over the SHPOs, nationally, they do --

Ms. Anna Broverman: "SHPOs" are the State Historic Preservation Office --

Mr. Yoon: Sorry.

Ms. Broverman: Which is SHPD in Hawaii. Yeah.

Ms. Salazar: I know that one.

Mr. Yoon: One more thing, Madam Chair, I wanted to mention is that there might be an issue, you know, Anna reminded me yesterday that there's a 40% match that has to come

from the CLG. Is that correct? Yeah, 40% match that has to come from the CLG, whether you can or cannot do -- make that match, we are working with NPS, National Park Service, to try and figure out if we could use Act 89 monies as the match. So in the event that you guys say, eh, you know, Kaiwi, I can only do 10%, well, we're going to try and argue with NPS that can we, in effect, use Act 89 money to supplement what we need to do.

Chair Six: Well, I didn't know we had any money. You're talking about the county?

Mr. Yoon: Yeah.

Chair Six: Yeah, I was going to say like --

Ms. Salazar: ...(inaudible)... Act 89, please?

Mr. Yoon: Okay. I'll let Anna.

Ms. Salazar: Yeah, I mean we're not the only ones listening. The audience in there are listening too and support can certainly come from the public as well as I'm sure.

Ms. Broverman: Right. So the Certified Local Government, CLG, is what your Commission is part of. It just means that whenever a county becomes certified, they support preservation and the commissions are formed to overview permits, you can do National Register nominations, there's a lot of things you guys can do. So you guys are, in essence, the CLG, along with Annalise and the county government. Through that program, the National Park Service gives our office \$57,000 a year for the CLGs to use for projects, and that's anything except for bricks and mortar, which has some changes in it, but we are trying to get more projects through those funds, but as part of the 57,000, you guys can imply the project and we can pay for 60%, through the grant, and then the county has to match 40%, or else you can find other grants to get that money from. And we've heard in the past that the 40% match from the county can be an issue, so we're trying to figure out creative ways to get that money, and some of that is volunteer hours you can use, if you have a venue donated, you can also have that count as a match, so things like that. Any other questions so far?

Chair Six: No, I was just, well, thinking about the context and how -- do you have a plan on how you're going to be gathering information from certain people in the communities or?

Ms. Broverman: So what we're planning on for at least the SASH survey is we are trying to make contacts in the communities before we go out, and we've been getting contacts through legislators, through the County Planning Department, through OHA, and we're contacting those people beforehand to try and setup some meetings, and also, when we're in the field, they can meet up with us and also get their word out in their community. We're

also planning to setup shop for a couple of hours after our survey for people to come talk to us. So whenever we are out there and they might be upset we're taking pictures of their house, we can say, you know, you can meet us in an hour at this place and let's talk story and have a better understanding of what's important to you.

Chair Six: Well, I conducted my PhD research on plantations and I found that certain groups are very renaissance in wanting to talk. They might know everything, but they don't always want to talk about it.

Ms. Broverman: Right.

Chair Six: So I just wondering if you had the strategy but, you know, I think some people are very much wanting to pass on their mana`o, and, definitely, I know the council members that were with me on that trip to Lanai, where they wanted to demolish those house, and they talked about the 11 children being born there, and the history of the house, and that just it that all different context and just being a decrepit looking plantation house, so I think that's really key, so thank -- very commendable. Thank you very much for that.

Ms. Salazar: I have a comment. Have you considered, well, two things: One is that try and talk with them before you photograph their houses because that might create an intrusive feeling that would set off that, you know, not -- well, who are you, why, you know, but to talk to them first and then the door can open for the camera, the one-eyed monster that ...(inaudible)... and also, number two, really I have to acknowledge this, the people right behind you, the gentleman behind you because they are the center of Aha Moku, and if you want to, you know, maybe -- maybe something can work with --

Mr. Kapu: ...(inaudible - not speaking into the microphone)...

Ms. Salazar: Okay. There you go. So, you know, there might be some connections there that can be utilized to help and maybe that would, you know, the whole community aspect would open up and then that would be probably a good reason to explain why you need more funding. A good demonstration.

Chair Six: Yeah, just to build on that, it's important, as Keeaumoku brought up, long before it was whaling and plantation, after the Kingdom of Hawaii, so there's this layering that historians call ...(inaudible)... this layer, so when you look at Sand Hills, Old Sand Hills, you see a lot of old plantation style housing but most people know, especially in this room, the ...(inaudible)... Sand Hills, so I think it's important that that whole history is taken into consideration as much as can be known and what people are willing to share. I think that's important.

Ms. Mowat: I think too, just to add on, I don't understand why would you be going to the legislature and going to OHA when you're talking about people's homes?

Mr. Yoon: Madam Chair, the reason going to the legislature is because of Act 89. It's a legislative appropriation and then so --

Ms. Mowat: Okay, so it's just appropriation and not to get funding then to --

Mr. Yoon: Yeah, one of the very first ones that the legislature has actually demonstrated that they're interested in doing something like this so --

Ms. Mowat: Oh, okay.

Mr. Yoon: To your question, Madam Chair, strategically thinking, the strategy for this first year, this first round, is to work out what works and what doesn't work. We would love to reach out to the community on a broader level but we, at SHPD, need to show some good momentum that we can actually execute in appropriation given by the leg. So because, you know, history's -- I mean SHPD's history hasn't been, you know, stellar in a lot of the legislature's eye so, you know, getting a good project underway and demonstrating that ability I think is going to be strategically very important for us, and, of course, reaching out to Keeaumoku and others in the community will be instrumental in part of the survey.

Ms. Salazar: Go ahead, Bridget.

Ms. Mowat: Yeah, I think the approach is really important, and if you come in as an agency or a government agency, they don't understand so they kinda like, you know, do it with fear or not sure, so the approach would be really, really important --

Mr. Yoon: Yes.

Ms. Mowat: So they understand what this is all about.

Mr. Yoon: Yeah. And to that point, Madam Chair, to humanize what we're trying to do, which is exactly your point, you know, I would relate to the legislators and other partners, like if they say, you know, Kaiwi, why even do this, right, it's like aside from getting the baseline, it's like, okay, if you remember what a crack seed store is, if you remember Yick Lung, if you remember, Sunday Manoa playing, and these things, that's what we're losing. That's what our children are losing. I tell my kids, my oldest one 14 years old, I tell her let's go crack seed store, she has no clue what I'm talking about. That's alarming to me. So, you know, to Keeaumoku's point too, I mean, that history, all the way up until the history that I just said, we have no, you know, real good documentation architecturally of what was

happening 'cause I tell you one crack seed store looks very different than some of the stuff that's been put up now, and I miss that stuff. I do. So that's --

Chair Six: There's still one in Hilo.

Mr. Yoon: Yeah, yeah, yeah, yeah. So to humanize it, we agree that we cannot come as an agency, we have to come as those that really miss these things and want to document for our children 'cause that's what's the most important thing.

Madam Chair, I want to say one more thing. It seems that all the words that I said, NPS, CLG, Act 89, you know, if this Commission would like an informational briefing to go slower, like a -- you know, we'd be happy to come back and provide the Commission with a briefing.

Ms. Salazar: Thank you.

Mr. Yoon: Which is outside of Sunshine, right.

Chair Six: I think also what Owana said is that because it's recorded and shown on Akaku, we also want to just think about people that are not on the Commission that don't know. Yeah, we can always -- we're always down for a little education.

Mr. Yoon: Yeah. So we have time, like I said, we're starting on Kauai. We're going through - what's that radio over there? Ron Wiley's, and then Garden Isle, of course, to try and get the word out.

Ms. Salazar: You know, you might try KKCR.

Mr. Yoon: Okay.

Ms. Salazar: KKCR is their community-based radio station, it's one of those public radio and you can get on there really easy I'm sure.

Mr. Yoon: Okay.

Ms. Salazar: And I'll be happy to share some contacts with you there.

Mr. Yoon: Great.

Ms. Salazar: And I liked, especially, I want to just hana hou what our Chair pointed out about, and we had previously discussed it at another meeting where it's not just about the homes, it's the place.

Mr. Yoon: Yep.

Ms. Salazar: So the Sand Hills. Even if you take pictures of the hills, you know. You don't have to ask them can I have your permission.

Mr. Yoon: Yep.

Ms. Salazar: That's where it can be a proactive movement too ...(inaudible)...

Mr. Yoon: I think to that -- to that point, it's not really a place. I mean let's talk about the whole pae`aina and come down to Maui, and then come in, instead of going small and going out, right, so, yes, we're very excited to reach out to the community.

Chair Six: And I'm just going to add one caveat is I would try to do some community outreach, not just with the politicians or the different organizations, that maybe have some informal informational meetings, with food --

Mr. Yoon: Yep.

Chair Six: In the areas so people will come 'cause if they do -- I think if people see cameras, including myself, walking around, they're going to say what, you know, are you doing? Are you buying this, or you're just demolishing it, and what's happening? So make sure that would be -- I think that definitely helps, you know, and I, for my little bit of working with the community, you learn a lot from the community. You notice that they're a huge part so if you can get them to work with you and also just inform your research, sometimes, you know, they have ideas that you haven't thought of so --

Mr. Yoon: Yep.

Chair Six: And they know who knows everything.

Mr. Yoon: Yeah. And also briefing the legislator -- the legislature is that it took us a while to get the money appropriated and assigned, I wanna say over eight months, so if I was a legislator, I would be like, eh, you know we gave you guys this money, what are you guys doing with it? So we wanted to just let them know that we haven't forgotten the appropriation and what that means. And to that point, Madam Chair, if the Commission feels compelled to reach out to their legislators here in Maui, to tell what a good job SHPD is doing, we'd appreciate that as well. If there are more questions, Madam Chair?

Chair Six: Thank you so much. Any other questions? Thank you so much.

Mr. Yoon: Thank you.

Chair Six: And these are the areas now or -- yes?

Mr. Kapu: ...(inaudible - not speaking into the microphone)... for public testimony?

Chair Six: Sure. Yeah. Let's open it for public testimony. Absolutely.

Mr. Kapu: Mahalo for mentioning Aha Moku O Maui. I going put on my other hat now. I'm the CEO for Aha Moku O Maui, Inc., and what I gave him was he can go online ahamokuomaui.org, and on our website has all the contacts for all the moku representatives so if they do go in those areas. What I noticed on their handout was there are three mokus, yeah, Wailuku, Kula, and Hamakualoa. I don't know if Haliimaile is in the Hamakualoa, Hamakuapoko moku.

Chair Six: I think it's in loa, but I'm not sure.

Mr. Kapu: Okay, so then you have four mokus. So if you go on the website, ahamokuomaui.org, you just go click the islands -- I mean the different mokus, you going find who the contacts are that can help you with being in contact with the general community of that moku, and possibly setup meetings with a lot of the elders. So I just wanted to mention that. Mahalo.

Chair Six: Thank you for that. That's great.

Ms. Salazar: Got that? Them guys.

Chair Six: Okay.

Ms. Salazar: I have a question. Is -- not for you, I'm sorry, for our Chair. Thank you. Mahalo. Good job.

Chair Six: Is there any other public testimony on any of these agenda items? Or should we go on to the next one, which is the hawking?

Ms. Salazar: I just -- I have a --

Chair Six: Yes?

Ms. Salazar: Something to ask just about this one that we're still on. Is it within our doings to generate a letter of support that can go into their packet to -- as they go about to meeting with the CLGs and NPSs? I don't know.

Ms. Thomson: It's fine for you to do a letter of support if that's what you wish to do. I know the department can do that too.

Ms. Kehler: Sorry, can you repeat that?

Ms. Salazar: I was asking if it's within our capacity, and it looks like it is, to generate a letter of support from the Cultural Resources Commission that can go into their folders and packets as they visit the CLGs and NPSs.

Ms. Kehler: Yeah. Yeah. I think we can get together -- do something about that. Yeah.

Chair Six: So we don't have to have a motion on that or anything just -- okay. Great. Is everyone okay with a letter of support?

Ms. Salazar: Absolutely.

Chair Six: Alright, so we'll close this item out and move on to the next, which is the update on the hawking and enforcement in the County Historic Districts 1 and 2, Lahaina, Hawaii.

1. Update on hawking and enforcement in County Historic Districts 1 and 2, Lāhainā, Hawai'i

Ms. Kehler: We have a member of our Zoning and Enforcement Division here today, Kai. He can fill us in on some of the details about a settlement that we reached between the county and some of the merchants on Front Street regarding hawking. I passed out these, you each have one of these. This is the details of the settlement, but he can answer any questions if you have any additional questions regarding this settlement.

Chair Six: I just have a -- I mean if they're standing on private property and hawking at me, it's still like noise pollution, it's still an invasive thing, and I'm just trying to walk down the street, so even though they're on private property, having to verbally attack me, whether it's someone selling me a whale watch, someone selling me a timeshare, or someone selling me expensive face cream, I just find that to be not really inline with the Historic District No. 1 and 2, and perpetuating of the Kingdom of Hawaii and historic so that's -- is that -- 'cause that's not really addressed by this. It says they can stand on private property.

Ms. Salazar: It doesn't say anything about noise.

Chair Six: Yeah, and, you know, and kind of still address people on public property.

Ms. Kehler: Kai, do you know the details of this?

Ms. Salazar: This is already done.

Mr. Kai Wright: What you have in front of you is the settlement agreement that was reached and whatever is here is all that I can go forth with as far as enforcement goes. So, yeah, if you're walking down the street and somebody from a store wants to try and talk to you, I can't stop them. There were several things that were brought up and this is what it boiled down to in the end. I can't really speak much more to it. You know, I wasn't there in the room when these negotiations happened, and the settlement was reached, so as far as exactly what was said and so on and so forth, all that I have to go with, unfortunately, is what's in front of you.

Chair Six: Yes?

Ms. Mowat: I can totally understand that. I mean, you know, you're just the person that tries to follow through, yeah, the enforcement, and I can understand. I don't know how they adhere to this, but they have their rights as people who are leasing or who own that property, and if they're going to be yelling to, you know, I mean there's no way to stop that.

Chair Six: Well, there is noise ordinances. You can't just put a hard rock band across from Kimo's and blast music 24/7. Someone would complain of a noise ordinance. There is that.

Ms. Mowat: Right, but one person --

Chair Six: Or a mechanic shop, which is causing ...(inaudible)... motorcycles in Lahaina would probably be considered noise pollution.

Ms. Mowat: Okay, but a band and one person is two different things.

Chair Six: I don't know. I just -- see what you're saying but, to me, I understand what you're saying, and I understand you had to reach this agreement, at least they're not coming out and shoving the cream in your face on a public sidewalk, which is fine, but it's just, and I'm not from Hawaii but I lived in Lahaina since '78 and it's sad to see that it go that way, but it was also different vendors, you know, like the timeshare and a lot of, you know, kind of calling out so, anyway, that was just my point. But, yeah, I understand your point too as well.

Ms. Salazar: You know, I'm sure in our minutes there's something about -- we talked about noise. I don't believe we read our reports before doing this agreement and it was already -- well, April of last year. It's signed is April 10, 2015.

Chair Six: At least they can't reach out and grab people. It says they may not reach out and grab people and touch passersby. So that's an improvement.

Ms. Salazar: Unfortunately, some people didn't really research what had been -- thank you.

Chair Six: Yeah.

Ms. Salazar: You know, we know this is --

Chair Six: This is a done deal. Thank you very much for trying to enforce it.

Ms. Salazar: Too bad.

2. Further discussion on the installation of temporary chain link fencing at Malu Ulu O Lele Park to secure the area for an ongoing archaeological inventory survey, County Historic District 1, Lāhainā, Hawai'i, TMK (2) 4-6-007:002

Chair Six: Okay, I understand that item no. 2 is going to be removed from the agenda?

Ms. Owana: Oh yes. Let me speak to that. Thank you. Yes, that was a error. The fencing project already got resolved. Whatever the communication that need to happen, actually took place fully on January 4 on the property, and I happen to be there, but there was 1, 2 -- 2 or 3 members of the church's board of trustees, there was Blossom Feiteira was there from the Moku`ula, Friends of Moku`ula, as well as Wendy Taomoto and Baron -- and Baron Somida, and, yes, Tamalani was there 'cause, you know, he was very concerned about the fence that went along the church, and it was a very good meeting, walked the entire perimeter, and resolved anything and everything, whether it was where the fence would be or whether if there would be a gate there or not, and so it was resolved, so we can take it off the agenda. And fencing's just about done either by today.

Chair Six: One thing that I was interested in and the reason -- one of the things we put this on here, we were concerned about the placement of the fence, we think it's a good idea, obviously, as Keeaumoku mentioned, this place ...(inaudible)...

Ms. Salazar: Yes. And dogs.

Chair Six: But also, I was very interested in -- I spoke a little bit to Tanya Lee-Greig, the archaeologist that's working on the project about their findings on the ground penetrating radar they had conducted in the area, and sometime they allow people to park on -- the church allows to park on what was formerly the dump, and so I was kind of interested in

getting -- finding out the results of that ground penetrating radar because it might have implications for use of that area. Obviously Blossom's already said it's not going to be a parking lot.

Ms. Salazar: Yeah.

Chair Six: Which is even using it as temporary parking if it does turn out that the cemetery did extend in that area.

Ms. Salazar: They're not going to use it. I mean --

Chair Six: Okay.

Ms. Salazar: Ultimately, that has never been -- someone put it out there but it's not official.

Chair Six: Okay. As long as it's -- okay ...(inaudible)...

Ms. Salazar: Also, no, the GPR, the ground penetrating radar can now really commence that the fencing is up 'cause her -- the work of the archaeologist will remain undisturbed, and she can walk away and come back, and everything will still be where she left, ideally, which is what the fence is serving. So that GPR will be part of the AIS, architectural --

Chair Six: Archaeological inventory survey. Okay.

Ms. Salazar: Archaeological inventory survey, thank you, so it's forthcoming, and we will be seeing it when it's complete.

Chair Six: Cool. Thank you. Any other comment on that? No?

Ms. Salazar: Well, I just want to say one thing. I'm sorry. May I?

Chair Six: Yes.

Ms. Salazar: Because this really speaks to even what the SHPD guys came we're talking about is to communicate with people before you go having it on an agenda somewhere because that really seem like the cart before the horse, it put alarms up that didn't need to be there, so once that ultimate communication happened, all at the same time, people who have great concern in the same at the same time really walking and talking together, it made world of difference.

Chair Six: Thank you. So the next item on the agenda.

Chair Six read the following agenda item into the record:

3. Corporation Counsel's discussion on the Cultural Resources Commission's authority to approve the construction of a Maui County employee parking lot at the Wailuku Union Church mission grounds, County Historic District 3, Wailuku, Hawai'i, TMK (2) 3-4-014:005

Chair Six: And we also had some testimony that was written that was submitted that the Commissioners have, and we'd also like, at this time, to ask for any public testimony.

Ms. Salazar: Hi, Dana. Would you like to sit down?

Ms. Dana Naone Hall: Good morning. I understand that you won't be making any decisions today but --

Ms. Salazar: Could speak into the microphone as best as possible then we can all hear you.

Ms. Hall: Good morning. My name is Dana Naone Hall. I understand you won't be making any decision today on this matter, but I did want to testify, in any case. Okay, there is no final environmental assessment for the County of Maui employee 67-stall parking lot, and the draft EA submitted to the Office of Environmental Quality Control in March 2012 is nearly four years old, outdated and, in any event, inadequate. Even so, the draft EA acknowledges in the preface, on page 1, and again on page 5, that the project site is located within Wailuku Historic District 3 and Historic District Approval is required.

As stated by the County Cultural Resources Planner, Annalise Kehler, in the June 4, 2015 meeting minutes of the CRC, "The CRC has the authority to approve all plans in the county historic districts." This authority is explicit in Chapter 19.52.020, of the County Code, entitled "Review of plans."

Four historic buildings occupy the western or mauka half of a 2.65-acre parcel of land owned by Wailuku Union Church. The county parking lot project is proposed for the eastern or makai half of the parcel. It should be noted that the proposed project area is approximately 30,000 square feet in size - well over a half-acre. The parking lot will extend from Aupuni Street to Main Street causing significant visual impact in the heart of Historic District 3.

In addition, significant effects on air quality, due to emissions from vehicles, as well as noise impacts from vehicles, especially during daylight hours, will be visited on preschoolers and staff at Punana Leo o Maui, the Hawaiian Language Immersion Preschool, located in a building immediately adjacent to the proposed project area. The

preschoolers will also be subjected to the chemicals contained in runoff from the proposed parking lot up-slope of their playground.

Compounding the negative impacts already mentioned are significant historic, archaeological, and cultural impacts of the project. Now, one of the reasons why the EA can't be finalized is that there has been no accepted AIS for this project. So without an archaeological inventory survey accepted by the State Historic Preservation Division, this project cannot proceed. A draft AIS was submitted to SHPD but rejected as inadequate by letter dated March 30, 2015, and returned for numerous revisions. Because this is a government-funded project, SHPD, by law, HRS 6E-8, must issue a written concurrence before the parking lot plan can move forward. Okay, this differs from private development projects where SHPD is required to be consulted for its review and comment. When it comes to governmental projects, SHPD must actually give its written concurrence. And if they don't, that means that there's a negative impact.

One of the inadequacies noted by SHPD in the draft AIS was an absence of consultation, as required by HAR 13-276-5. Through this testimony, I wish to notify the archaeologist, hired by the county, that I would like to be consulted as an interested person. I also suggest that Kili Namau`u, the Director of Punana Leo o Maui, be contacted.

A distinguishing feature of Historic District 3 is that the ordinance governing properties within its boundaries contains a section on protection of trees. Historic District 3 is characterized by the many fine trees that now exist in the historic area and are deemed invaluable to the historic setting. I mean you know that anytime you drive from Kahului to Wailuku, you always breath a sigh of relief when you hit that avenue of monkeypod. Before any large tree can be removed, the CRC must give its written approval.

Finally, off-street parking, like the current parking lot contemplated by the county, must be "in connection with the erection or increase in size of any building or structure in historic district 3." Since the proposed parking lot is not connected to the erection or increase in size of any building or structure in Historic District 3, the project is inconsistent with this regulation, and the CRC, as the agency with the authority to approve all plans, must reject it. Thank you.

Chair Six: Thank you. Any questions? Thank you very much. So now we're going to get a -- any other public testimony?

Ms. Thomson: Okay, so I just wanted to remind everyone that you do not have an active application in front of you right now. When that application is complete, if and when it's complete, it'll be brought to you, so these comments are really more general in nature as far as the CRC's authority over the historic districts, and this is a very short presentation here. I'm going to point you to Maui County Code 19.52.020A, "For any building or" --

Ms. Salazar: What page number?

Ms. Thomson: It was in the Maui County Code so --

Ms. Salazar: Yeah, but we have it here don't we?

Ms. Thomson: I'm looking at -- I'm looking at something different. I'll just -- I'll read it to you though and then -- so, "Review of Plans. For any building or structure within an historic district," so that's all three historic districts, "and for any building or structure of historic significance in the Lahaina Historic District, the CRC has the authority to approve all plans." So you have broad authority over plans relating to buildings or structures, which are defined terms in the historic districts. So if and when the parking lot plans are finalized, then that will come to you so -- but at this time, you don't have an active application.

Ms. Salazar: And that would be prior to them taking it to apply for a building permit?

Ms. Thomson: Right.

Ms. Salazar: Okay.

Ms. Thomson: So, basically, the way that it goes is plans are submitted, they're deemed complete, and it comes to the CRC for review and either approval or denial, and then it goes -- if you issue an approval letter, that goes to Public Works, and then they work on the building permit after that time.

Ms. Salazar: Thank you.

Chair Six: So, right now, we do have authority when there's an active --

Ms. Thomson: If and when there's an application made, so it's application for a permit to construct, alter, repair, modify, move, or demolish any building or structure in a historic district, that application is made first to Public Works, Public Works transfers it to the CRC, and then you have a time limit in which you have to review the project and make a decision on it. You can decide to approve, recommend denial, or you can work with the applicant and tell them it's deficient in these certain ways, would you like the opportunity to fix it and come back to us, so those are, basically, the way that an application would be processed.

Chair Six: Okay, so they came before us but they don't have an active application right now, and they won't forward and told us of their plans and I know that a number of the members on the Commission asked for additional information, to meet with the engineer, or to see -- to talk about things of concern, drainage, access, the fact that there's known burials immediately adjacent, so there's been a number of different concerns, and so will

we get a chance to -- will they come before us or they would just submit an application? Because we did ask for certain information.

Ms. Thomson: That I don't know the answer to, exactly how the agency's going to process the application, but I think what the good thing, as far as the discussions that you've had kind of under the auspice of reviewing the archaeological inventory survey, some other issues did come to light, drainage and the other things, so you've pointed out to the applicant that these are issues that you're interested in, so I would assume that when they come back to you with an application, they will address those issues for you.

Ms. Salazar: If I may, it just seems like such a tremendous waste of funds to go ahead and do plans that take engineers and stamps and, you know, they're educated people and they have to do the whole plan, and yet we know that the parking lot will not be, you know, the trees are not there, I mean I guess we gotta go through those steps, huh? Spend the money.

Ms. Thomson: Well, one of the things that I would caution you about is, until you have an application in front of you, you should try not to prejudge your decision because you don't have all the information in front of you, so try to refrain from making too many judgements until everything's in front of you, and then make the decision based on the law and factors that you need to follow. But in general, that's my comment.

Chair Six: But I think one of things that was of concern to us was that it didn't seem to enhance the historic district at all, in fact, it seems to be for one specific use, which is for county workers to park, in this area, we have very limited areas in these historic districts, and so I think our concern was this seemed to be, I'm not speaking for the rest of the Commissioners, but it seemed to be a concern that, not just we didn't have the full design or the full plan in front of us, but just the fact that is this the best use of that space, and so I think that was just -- I think Owana was probably speaking to that that we were all concerned in that fact that it was going to be using the historic district.

Mr. Skowronski: Is a parking lot considered a building or structure?

Ms. Thomson: Yes.

Mr. Skowronski: So when it does come in front of us again, it will be by means of a building permit?

Ms. Thomson: Most likely. Potentially a grading permit. It depends on the specifics but, yeah, it's a structure so, right, so ...(inaudible)...

Mr. Skowronski: It's a structure. The parking lot is going to be considered a structure?

Ms. Thomson: Right. That's as far as I know at this point in time. Yes.

Ms. Salazar: Oh, wait a minute. Hold on to that one.

Mr. Skowronski: Wait, wait, wait, wait.

Ms. Salazar: Yeah.

Mr. Skowronski: Is there any opportunity for DSA or Planning Department, or any other agency within the county to define this improvement not as a structure so that it would not require a building permit and, therefore, not come before us again?

Ms. Thomson: It's a lot of hypotheticals, but let me read you the definition of "structure," and I think you'll agree that it's a very broad definition, so this is the definition of "structure," it's in Title 19, Maui County Code, it's: "Structure" means a combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water." So it's an extremely broad definition.

Ms. Salazar: On, above, or below works for me.

Ms. Thomson: Right, and in a general sense, a parking lot fits that -- fits within that definition.

Mr. Skowronski: Okay. If someone were to propose a parking lot in, let's say, the Lahaina Historic District, not a construction, not a building, and perhaps not even in conjunction with any requirement for an improvement to a building, would that application for a parking lot, for a resurfacing of land in the Lahaina District have to come before the CRC as a building permit?

Ms. Thomson: Again, hypothetically, I believe so, and I believe that the reason that it would come before you is 19.52, what we talked about initially, an application for a permit to construct, alter, repair, so you can do certain minor repairs to an existing parking lot that probably wouldn't trigger review, you know, and this is hypothetical, but as far as putting in a brand new parking lot within a historic district, I believe that would come before you.

Mr. Skowronski: Thank you.

Chair Six: And another, I think, another concern too is that they were talking about it as a temporary structure, it would be a temporary parking lot for up to five years of use, so that was -- I think I remember that correctly.

Ms. Salazar: This one here?

Chair Six: Yeah, it was the idea it was to be a temporary parking lot.

Ms. Salazar: But then it would remain with the church thereafter so it's not temporary.

Chair Six: I know, that's why I was just kinda wondering if they're ...(inaudible)...

Ms. Salazar: Yeah.

Ms. Mowat: I think, for now, what Corporate Counsel is saying, because we don't have an application, I know I thank Ms. Hall for her hard work, and it certainly did present, you know, a lot of red flags that we, you know, have to be aware of and have to act on, when the time comes, but at this point --

Chair Six: Yeah, it's just information.

Ms. Mowat: Yeah.

Ms. Salazar: She wanted to say something.

Chair Six: Sure.

Ms. Hall: Dana Naone Hall. Actually, I understand Corp. Counsel's advice about not prejudging the project before it comes to you in all its details, however, you have had it twice on your agenda, at least, opportunities to comment on this very project: One had to do with when the EA was presented to you, the one that I refer to in my testimony, and, at that point, you certainly had every opportunity to say you like or you don't like the project in the context of the EA, whether it should be finalized or not; the other is the AIS itself. That's another opportunity to comment.

Chair Six: I think the EA was in 2012. I don't think any of these Commissioners were on the board in 2012.

Ms. Hall: No, no, no. I think it came to you.

Ms. Salazar: No, we were here.

Chair Six: Oh, I must have been traveling 'cause I don't remember that. And the archaeological inventory survey we did comment on that, we just didn't -- it wasn't final 'cause Tanya was here at the last meeting.

Ms. Salazar: And Wendy Taomoto was here as well. That's when we asked if someone could come and speak to us from Public Works and the powers that be ...(inaudible)...

Chair Six: About drainage, about access, about

Ms. Salazar: Yeah, we had specific questions.

Chair Six: Handicap spaces, about trees, all -- and in addition to being in the historic district. Yeah.

Mr. Skowronski: I'd like to, again, get the opinion from Corp. Counsel. When any project comes before the Cultural Resources, I mean it's obvious that we could raise issues that speak to its historic perspective, its cultural perspective, etcetera, is it an appropriate guideline to be considering questions of safety considerations, landscape considerations, economics considerations that are not normally the purview of the strict definition of "culture," but can get into issues of traffic, can get into issues of noise, can get into issues of pollution, are these normal concerns that would be appropriate to be raised by this Commission as opposed to, say, Urban Design Review, or Planning, etcetera? What the bounds? When do we get out of our perspective?

Ms. Thomson: That's an extremely good question. So you're right. The CRC has -- does play a specific role in its review, and your primary role is to look at a project in the context of the historic district. That said, when you look at Chapter 2.88, your powers are quite broad, so you have a lot of territory and a lot of considerations that you can really walk -- you can walk through that ordinance and, you know, see where your powers do lie; primarily, it is in review of how the project fits in or impacts the historic district, but things such as drainage impacts on other historic resources, things like that that you have raised, visual impacts, those are all within your purview, and whether or not you like or dislike a project, those are the terms that we generally just use in conversation, but the dislike of a project should be tied to those considerations that are within your powers. But, you know, from a practical standpoint too, once you get -- once you have an application for any kind of project within a historic district, you know, you can work within your discussion or with your corp. counsel, at that time, to identify the reasons that you support or don't support a project so that you're staying within your powers and within the law.

Chair Six: Okay, good. Yes?

Ms. Salazar: I have a question. This is not -- this particular instance, and it's not that project, but when the demolition occurred of that old building, is it a year-and-a-half or so, two years ago? Demolition must have a permit as well, right?

Ms. Thomson: Are you speaking of the post office, the Wailuku Post Office?

Ms. Salazar: I believe that would be the one, yeah.

Ms. Thomson: Yeah, so generally those does get permits.

Ms. Salazar: Did that come before this Commission?

Ms. Thomson: No, because I believe the boundary of the historic district does not include that area.

Ms. Salazar: Oh. Oh dear. Okay, thank you.

Chair Six: Alright, is there any other business? Meeting is -- oh, yeah? Yeah, come, please. Public testimony. Come, Walette.

Ms. Walette Pelligrino: I'm sorry?

Chair Six: I said come on up.

Ms. Pelligrino: Okay, my pleasure. My name is Walette Garcia Pelligrino, and I was born and raised in the shadows of all of these buildings right here, and I still have a lot of aloha for Wailuku and what I see happening. So I just wanted to share a couple of things with you. First of all, I really appreciate Dana Naone Hall's testimony this morning. That's a lot of information for you to absorb and to understand the legalities of what is happening, specifically, I'm talking about the Wailuku Union proposed parking lot on the grounds of the Alexander House. I'm the person who shared with Janet the photo from the '70s of the Alexander House here that shows the crypt.

Chair Six: Can we pass it around?

Ms. Pelligrino: Sure. I'm more than happy to share it with the Commission. I just wanted to speak to my concerns about this particular project, primarily because my concern is that the county goes about its business in such piecemeal fashion, and we're talking here specifically about a parking, a proposed temporary parking lot here, well within the historic district, but I'm just wondering if this particular Commission is aware of all of the other sections of Wailuku that have proposed parking lots in the works because I think that may possibly assist you as you discuss this specific project to decide if it is worthy of approval or not. For example, I gave, well, I call it "testimony," it was actually I think discussion to a cultural assessment company who is preparing the I'm assuming it's the archaeological impact statement, or whatever they're called, for this lot across the street on Kaohu because there is going to be some construction there to improve the parking facility for county employees, which is what it's used for currently. I'm sure there are other places in Wailuku that are being proposed for parking structures or parking areas as well. So it may behoove this particular Commission to get some information about those proposals. Yes?

Chair Six: Commissioner Bailey did ask specifically if they had other backup sites when it appeared we weren't very favorable for that as the best use of that area, and we didn't get information back, but he did say, in his experience, oftentimes they have multiple sites in mind and so we asked -- he asked specifically if there was other sites planned.

Ms. Pelligrino: Right.

Chair Six: If this was not approved.

Ms. Pelligrino: Well, I would encourage the group to try to find out a little bit more about what else is being looked at in terms of Wailuku whether it's within the specific historic district or in other sections of Wailuku because, again, that may help you make some choices and decisions regarding this one project. Okay, aloha. Thank you. My pleasure.

Chair Six: Any comments? Alright.

E. NEXT MEETING DATE: March 3, 2016

F. ADJOURNMENT

Chair Six: Meeting's adjourned. Oh next meeting is when? I already put it away. She already put it away.

Unidentified Speaker: February 4.

Chair Six: February 4. No, March 3rd. I will not be here so Bridget will have to fill in. I'll be on the Mainland. Meeting adjourned. Thank you guys. Thanks everybody.

There being no further business brought before the Commission, the meeting was adjourned at 11:37 p.m.

Respectfully submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards & Commissions

RECORD OF ATTENDANCE

Present

Dr. Janet Six, Chairperson
Bridget Mowat, Vice-Chairperson
Mikala Enfield
Owana Salazar
Frank Skowronski

Excused

Timothy Bailey
Christy Kajiwara-Gusman
Arleen Ricalde-Garcia

Others

Annalise Kehler, Cultural Resources Planner
Richelle Thomson, Deputy Corporation Counsel