

**CULTURAL RESOURCES COMMISSION
SPECIAL MEETING
AUGUST 5, 2004**

A. CALL TO ORDER

The special meeting of the Cultural Resources Commission (Commission) was called to order by Chair Lori Sablas at 9:20 a.m., Thursday, August 5, 2004, Lahaina Civic Center, Lahaina, Maui, Hawai'i.

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

Ms. Lori Sablas: Mahalo. Again, thank you. We have a sign-up sheet here, up front, and I'd like to remind you all, I know we have some issues here that others have already testified on, and if you have testified on an issue on the agenda item, and if you have nothing new to add, know that we have all your testimonies previously on record. Because we have many things on the agenda today, in the interest of time and also in the interest of fairness to allow, you know, all of you to express new views, keep that in mind when you come up that if you've come up before and it's on record, that you refrain from coming up unless it's something new.

So I'd like to start off this meeting with our public testimony on any agenda items. For those of you who feel you would like to give your testimony at this time and must leave for any reasons, we'd like to open up the time. I remind you also that we will allow three minutes per person and our Vice-Chair Keeaumoku Kapu will be the timekeeper, so he said he brought his stopwatch, okay, everybody, and respect him when he says that because really I would like to have -- I really appreciate seeing so many of our public here, and this is what our government process is all about, to be able to see the community out here, but also, again, we have to get our business done. So I'm going to ask everybody to be respectful, please, as you do your point of views and respect our vice-chair here when he says your time up. So try to think about what you'd like to say in the three minutes and wrap it up, okay, now. Okay?

So do we have anyone who would like to testify on any agenda items at this time? Okay, I have the sign-up sheet there. Could I -- could someone pass it up? I had several hands raised that you would like to testify at this time, right? So can I -- by the order, I guess, that they signed up. Is that okay? Well, okay. If you have three minutes for something new, so the floor is open. May I also remind that you if you testify now, this is your time and we, you know, to -- in the interest of fairness for others, you won't be able to come up later, okay? Thank you.

Mr. Charles Maxwell: Aloha, Chair and members of the Commission. My name is Kahu Charles Kauluwehi Maxwell. I was born in Napili and raised on the slopes of Haleakala. I'd like to refer you, and you know what happened the last meeting about the Honu, this

is what I'll be talking about, what is called the "Honu." This is a direct indication, in today's *Maui News*, of the insolence and the disregard of the Hawaiian culture. We asked this Mr. Cronshaw, three months ago, when we met with him to meet with the people of Lahaina to explain how the process would take place, and he ignored us, as I said in the last meeting.

We have no choice, and I'm sorry, Barbara, I have to use the word "haole." I'm sorry. Because we have Hawaiians; we have haole. This is the insolence of the haole businessman that come to Lahaina and think they can override our culture and disregard what is pono, which is correct, and what is not pono. This is a perfect example. This is why we in Hawaii are very threatened, we're threatened, our lifestyle, our land has been taken over from the mountain to the ocean, and this is a perfect example of it. It gives us no alternative, if the Planning Department, if the laws will not protect our interests as Native Hawaiian people, then we have to use the Articles of the Constitution of this United States by protesting, and the Hawaiians say, "We must ku'e kakou." We will block him. We will do it in a legal way giving him -- we'll go with wheelchairs, if we have to, with the makua, and we'll block his access to the ocean, and then we'll attack him at the State, with the State level where he is entering the ocean, we feel, it's illegally, which supposed to be only for the small boats, which I said at the last meeting and I won't repeat it, but this is why we are threatened, from the mountain to the ocean, and this is the perfect example why we clash, our culture clash with this new western values that is coming to us that's degrading. Molokai and Lanai said, "Oh, we don't want to be like Maui." We used to say, "We don't want to be like Waikiki." We are becoming like a little Disneyland from Waikiki. Thank you, ladies and gentlemen, for listening to me. Mahalo nui loa.

Ms. Sablas: Also, when you come up, can you identify what item on the agenda you're testifying on, please.

Mr. Glenn Kaliikoa: Aloha and good morning. My name is Glenn Kaliikoa. I'm one that uses many hats. I'm just now introducing myself because I'm prepared to do battle now, in a positive sense, not with this, but this is to get other people's attention.

Anyway, I'm involved with the construction industry. I'm involved with a thing called "KIDS," which is Keiki, excuse me, Keiki Intervention and Development Services. As we know, you know, our youth is just running amuck, so I commit myself to the youth and it stands from, you know, my -- me having children. But, anyway, getting back on the subject of this yellow thing that runs up and down our roadways --

Mr. Dudley Akama: Mr. Kaliikoa?

Mr. Kaliikoa: Yes?

Mr. Akama: What agenda item are you testifying on?

Mr. Kaliikoa: The Honu, yeah? Is that pono? We're all in agreement? Maika'i. I'm offended, quite frankly. You know, here, on the one hand, in order to survive and provide for my family, and there's other people in the community that we provide for, I have to exercise my left brain, which is the western mind set. Of recent, you know, I also have a right brain, I realize, and that's the Hawaiian culture, values, and so on. So I take offense. And I'm happy to be here. I'm angry to some degree simply because it's always stemming from a point of exploitation. The use of Hawaiian things; the use of the culture to benefit somebody else's monetary gain. So the truth of the matter is this, how does it benefit the Hawaiian's? How does it benefit the citizens of this community? I ask you that. So to you the operators, you may not want to hear what I have to say but I have to share this today, but thank goodness I'm not that crazy Hawaiian I used to be. So, you know, you folks that -- it may have been a good idea, and I'm sure it's from the standpoint of generating positive cash, and that is fine, but that is not for Maui. I cannot speak for the other islands. Who's the owners? Are the operators here today by any chance? So my question to these people, and if you know them, you guys should go back and tell them this, that Glenn said, you know, are they involved with any charity groups on this island? What percentage of those earnings come back to our community? You use all things Hawaiian, our Hawaiians have issues that we have battles on our hands, what are you doing to accommodate us? Cause, simply, it is the Hawaiians that you are selling and we're tired of it. I'm trying to maintain my composure but there's powers I cannot control, and I'm talking about my ancestors.

Mr. Keeaumoku Kapu: Three minutes.

Mr. Kaliikoa: Thank you.

Mr. Hans Michel: My name is Hans Michel. I'm testifying for breaking down the Pioneer Mill. My concern is if it's possible, you would start on the south side of Lahainaluna Road, with the boiler, brick house, and the batch plant from the concrete company before. If that could be the move at the beginning, we could continue finish the planning for Wainee Village affordable housing where everybody has friends that spend their money and buy affordable house, stay and live there, and not speculate and sell them three months later for the hundred thousand dollar profit. That's all I have to say. Aloha.

Mr. Richard Hoopii: Aloha kakahiaka kakou. . . . Richard Hoopii from Kahakuloa Village. I'm here and speaking on behalf of the -- of the group that's called Na Kupuna O Maui and they're cultural arts and craft, which is He U'i. There is a letter here, a notice from the County of Maui from the Parks and Recreation, on the 26th they wrote this letter, and then the Department of Planning got it stamped on the 29th, and, finally, they faxed it to Theo

on the 2nd, and here, today, is the hearing. Gosh, what kind of palapala is this for the consideration of this?

My main topic is about, in addition, food concessions will not be permitted due to numerous violations with our no cooking rule. I don't see any palapala of all the infractions of the violations. So, on this particular subject, I ask this committee here to table this rule and come back with some factual things so that we can look it over. I'm talking about the concession booths. Now, for 30 years, the Lahaina Arts Society had this particular area called "The Banyan Tree Park." Four years ago, the Na Kupuna O Maui asked to be part of that; to put their cultural things in it. At the same time, they considered all ethnic groups to be part of that, run by the Na Kupuna O Maui He U'i Cultural Arts Craft. In this consideration, at any Hawaiian craft fair, the food is part of that culture. The food is part of that culture. You must have food within any pa`ina of celebration. Now if the County can prove or the committee can prove any infraction of these, then we should really talk story about it. Now I move that this committee will table this subject until further notice that they can come up with proof of infractions concerning the food booth there. I have a question for the committee; any one of the committee. Can I have some kind of answer there?

Mr. Akama: It's not appropriate to ask the Commission or board any questions at this time. This is public testimony and you don't have any jurisdiction to make any motions either, Mr. Hoopii.

Mr. Hoopii: Well, thank you for that answer, but that answer is not in consideration. Sir, you have an idea?

Mr. Sam Kalalau: Yeah, this is for Corporate Counsel, are you saying that we can't ask these people questions?

Mr. Akama: You can certainly ask questions but he cannot make a motion. He's not a member of this board.

Mr. Hoopii: Two commitment you made to me: you cannot ask questions to the board, and you cannot make a motion. I take back my motion, but I can ask questions to the board, right? I'm asking that question. Would you, as a committee, consider the factor to table this part of the motion and bring it back on the table again when such fact has been proven about infractions of the food concession?

Ms. Sablas: We would like to, you know, again we appreciate --

Mr. Kapu: Three minutes.

Ms. Sablas: We appreciate your mana`o. We would like to again take all the testimony under consideration and we will have a time for discussion at a later point. Our purpose now is to hear testimony, but not to deliberate on discussions at this time unless there's questions.

Mr. Hoopii: Thank you very much.

Ms. Sablas: Mahalo.

Mr. Hoopii: Thank you. Can I have three minutes because I asked the committee a question and I needed some answers. I consider everyone in here to consider that very, very important to table this particular subject and come back the next time for proof that we can fight back in talking about this particular section. Thank you very much, committee. Mahalo. God Bless all of you and everybody in here.

Mr. Henry Ariyoshi: Chairperson Sablas and members of the Maui County Cultural Resources Commission, my name is Henry Bruno Ariyoshi and I'm here to testify on the proposed demolition of the Pioneer Mill structures. I'm a resident of Lahaina and I'm involved in the Wainee Community Advisory Group. I'm the chairperson of the group's Land Use Committee, and like other participants, have been actively involved with the master planning for the Wainee area. Our master planning efforts are focused on the two hundred plus acres of land in Wainee owned by Kaanapali Development Corporation, south of Lahainaluna Road. These lands are currently vacant except for the old mill structures on the property, which has not been used since the closure of the mill several years ago. As part of our planning process, we were given the opportunity to master plan the area with no restriction from the landowner. Former Kaanapali Development Corporation Director Jim Wriston, who recently passed away and who we all miss, gave the group a blank piece of paper and said to master plan the area. The only suggestion he had was for us to consider a mix of housing types with a focus on affordable housing, senior housing, public park and open space areas, and limited commercial.

Since our master planning project began in November of last year, we have never included keeping any of the mill structures in Wainee, and the entire area's being planned for affordable and market housing, senior housing, possible expansion of the west side resource center, and other non-profit housing entities, community gardens, parks and open space, a parking lot to service Lahaina Town, and limited neighborhood commercial use.

I support the proposed demolition of the structures and request your favorable recommendation for demolition. While I appreciate the importance and significant contributions of Pioneer Mill and the plantation era has on the history and cultural of our island community and State, much of the history and culture are being preserved through the oral history of Pioneer Mill and other efforts that are currently underway by Kaanapali

Development Corporation such as the preparation of the historical architecture report and accompanying report by a historian.

The proposed demolition has been discussed in many venues and meetings that are open to the community. At these meetings, there have been some opposition to that demolition, primarily with the smokestack, however, as you know, the smokestack is not being proposed for demolition.

Thank you for this opportunity to testify before you today.

Mr. Stuart Kahan: Good morning and aloha everybody. My name is Stuart Kahan. I'm going to address two issues. One is the demolition permit for the Pioneer Mill. I'm requesting the Maui County Cultural Resources Commission to focus on TMK 4-5-9:10, and not consider 4-5-9:7 at this time because the stack is on that property.

The second is the Honu. I, myself, has seen this vessel go into the water at Mala Wharf. My understanding, as President of Mala Wharf Fishing and Recreation Association and a member of the Lahaina Mala committees that have to do with harbors, is that we were restricted to 15 permits. The 15 permits had been filled. This person has come in after the 15 permits. We really don't understand how he got a permit. The vessel is much too large for Mala Wharf. It needs to be scrubbed. Thank you very much.

Mr. Foster Ampong: Aloha committee and the general public. My name is Foster Ampong, I'm from Lahaina, and I come before you as a po'e kanaka Hawaii, just as a simple man of Hawaii. And I want to first acknowledge the committee and its members. In legal terms, I recognize you for who you truly are and that is a non-judicial entity, and I will explain this further in my presentation, actually, towards the end.

What I'm here to share with you is about the Pioneer Mill and its demolition permits. As others have mentioned, the permits are taken out to demo the mill except for the stack. Quite frankly, the entire mill, including the stack, needs to be removed. To keep it for whatever reason, whether it be commercial, cultural exploitation, what have you, is nothing more than an insult to every Hawaiian that has survived the genocide of the missionaries, and the oligarchy, and the overthrow, the territory, and the State of Hawaii, and that's, simply, that's putting it simply.

The other factor that I want to share with you is that we, in Hawaii today, the State of Hawaii, and I know this is going to sound freaky to some of you, but the State of Hawaii is an illegal entity. In legal terms, we were never made a state or part of the union of the United States under international law, under laws that the United States has signed off in 1945 when the U.N. was formally formed in San Francisco. Everything I'm telling you right now is actual facts and anyone can challenge me to dispute this. Attorneys know this; the

judges know this; State politicians know this; that's why I recognize the committee, and I don't mean none of you any disrespect, personally, I like, you know, I respect all of you, but you're a non-judicial entity; therefore, everything that's taken place, since 1959 up until this very moment, is really just a bunch of us making believe that everything's fine, let's go through the motion, let's have discussion, debates, hearings, and then what happens in the end. Okay? I'm being real here. I have to speak for my kupunas. I have to speak for my family. My family comes from Lahaina. My hanau piko is ahupua`a o kahoma. I can recite you 25 generations but I'll spare you today my mo`o kuawao, but what I'm saying for all of you is to look at our island today. What we need to do is we need to work and come and find remedy. We need to apply this remedy because everything that happens impacts and affects the Hawaiians and the non-Hawaiians that live here today. I'm not here saying, "Hey, you know, let's stand up and fight and beat down the oppressors and the bad guys, and then we take everything and runaway." No.

Mr. Kapu: Three minutes.

Mr. Ampong: Okay, so, please, I ask you, let us come together, find the remedy, but respect the culture. Honor the culture. Don't exploit it. Mahalo.

Ms. Peggy Robertson: I'm here to talk about the Honu and also the health of the Banyan Tree. First of all, that yellow --

Mr. Akama: Your name please, excuse me.

Ms. Robertson: Oh, I'm sorry, Peg Robertson, 191 Wahikuli Road, Lahaina. That truck is the biggest embarrassment for any historical district that I can imagine and I really feel it's dangerous. You know, when you drive your car down Front Street, you have to be so careful that you don't run over any tourist, you know. You have to be very careful. And a child can step out in two seconds if that mother is not watching, and that truck is so big, that I can't imagine that it can even see underneath those things and in back, so I say it's dangerous. It's dangerous in a historical tourist area and that is one reason you can use to get rid of it.

Second of all, I'm going to talk about the health of the Banyan Tree, if that's what we're here to discuss. One of the things is the Banyan Tree health. I'm here to say that it's doing much better after the sprinkler system was fixed, it had been broken by the County for three years, and also we had drought for three years. Now we've had this wonderful rain this winter and it was preceded by that the year before and the tree is doing fine. As you know, the Arborist Society comes and sends people out to trim the tree. Well, if it wasn't growing -- if it wasn't growing so much, why would they have to trim it? So right there, there's a healthy tree; just use that as a reason because they wouldn't have trim it, otherwise.

It's been there for 35 years. It had many artists and tourists that have used this park and it has not been affected by the art or the people walking on the sidewalk. If anything, the art tables have stopped people from walking across any of the large areas that are not protected that don't have a sidewalk on them; that's another reason.

The art weekends also have been the stimulus that brings friends and tourists into town on the weekends. In just one day we collected signatures of a hundred tourist who love the art weekends. They come back every year; year after year. It brings people to town to have lunch and shopping at the -- all the shops on Front Street. If art weekend was stopped, it would change the balance of business drastically in Lahaina, which I do not think would be a good idea. I mentioned this to my daughter and she said, "Oh, mom, the town would be dead on the weekend if people didn't have that idea like we're in Napili, we're going to go see the art and crafts in Lahaina on the weekends." So, please, realize the tree is very healthy and don't let anybody tell you it's not. Thank you.

Ms. Sablas: A friendly reminder. I notice some of you were putting off your cell phones, so those of you who still have your cell phones on the "on" position, please put it on the "off." Thank you.

Ms. Annie Kekona: Hello everybody. My name is Annie Kekona. My maiden name is Kaihui. I was born and raised in Kokohua. I'm here to talk about the Banyan Tree. We are Hawaiians. I belong to Kanaka mo`oli. My bloodline goes all the way back, all the way back to Kamehameha, and I am asking those that has arts at the Banyan Tree consider the kupunas, the He U`i. We're entitled to be under there too because I'm going to show you a picture way back. This is the Protestant Church that they had their aha or the get-together of all churches from all over the island. This is in the '30's. Reverend Kukahiko, who used to be the Minister for the Protestant Church in Lahaina, he had people from all over the island to come and have their aha, the gathering under this tree. And in the early years of my school year, Kam III used to have their May Day Program under this tree. So everybody is entitled to the tree, not only certain arts; it's everybody. Thank you.

Ms. Sablas: Yeah, again, I remind you that only those of you who are leaving, we want to be able to testify. So if you can stay here, please let us, you know, go on. We would like to accommodate those who have to leave for whatever reason, but, again, if you can stay when this item comes on the agenda, please wait for that time, so thank you.

Ms. Patricia Nishiyama: Aloha kakahiaka. Good morning. Na Kupuna O Maui sits and stands with Uncle Charlie Maxwell to remove the Lahaina Honu.

Mr. Akama: Aunty Patti, could you give us your name for record. This is being recorded. Thank you.

Ms. Nishiyama: Patricia Nishiyama. Mahalo. Since the Maui Cultural Resources Commission granted permission for twice monthly He U'i Cultural Arts Festival in the Banyan Tree Park for four years, we have been under constant attack with individuals and organizations challenging the Hawaiianess of our event. We are very weary of these attacks and tired of defending our actions. It appears to be some sort of relentless obsession that is fed by personal poison coming from within. For 30 years Lahaina Arts Society has been under the Banyan Tree, every weekend and all holidays. Now Na Kupuna is there perpetuating our culture, we ask what is going on? We take that these attacks come from individuals who have lost site of the concept of aloha. The Hawaiian people have opened their hearts, their homes, and their aina, with aloha, since foreigners sailed to our shores.

We find it ironic, indeed, that we are challenged because we open our He U'i culture event to all races and nationalities with aloha. And I question, whether or not, it is Hawaiian. We have been asked to remove the word "Hawaiian" from our kupuna na'au. What an insult. We dare those questioning us to remove kupuna as an authority of what is Hawaiian and what is not. We know these questions and attacks bear witness to the extent of their greed and ignorance. We suggest that these same individuals become culturally educated before making such ridiculous accusations. Learning more about the Hawaiian language, the culture, and the true meaning of aloha because if they truly understood its meaning, they would never have challenged the Hawaiianess of our open event.

We pray for your healing and entitlement. We ask ke Akua to help and bless you and to make you understand who we are. We are Hawaiians. Mahalo.

Mr. Albert Tom Dizon: Aloha kakou. Good morning, commissioners. My name is Albert Tom Dizon. My piko comes from Puukoli'i. I reside at Kau'aula, I'm a decedent to Kau'aula Alakupuli. I'm talking about the Pioneer Mill first, and then the Honu. Being a third generation of sugar industry, that whole place should be demolished because the struggles that Japanese, the Portuguese, the Chinese, and the Filipinos went through. I have seen the eyes of our sugar people. I used to hold my own spoon and plate when we had strike. I have seen the eyes, when I came back from the service, that I was a chairman for Pioneer Mill the last 17 years, I've seen the struggles. I've seen they use Hawaiians against Hawaiians.

That mill is a bad remembrance for kanakas and people that was migrated to here, in Hawaii, because of the struggle, because of no safety. Until the union came, there was no safety. They would go in the mountains to cut the water, use dynamite, and yet to run out before the dynamite went off. So the people that died for that plantation, we uwe. Every time I think about the plantation, I cry because of the struggles the kanaka went through and all these immigrants that came here to work the sugar lands. It's a bad reminder for me. It's really a bad reminder and I hate it. That was the only honest work

that was around before the hotels came. And even then, Sheraton, when I was born in 1949, 1959 they started to excavate Sheraton Maui. Our kupunas were thrown into the mill next to the train station, all the bones was in there. I was ten years old. I seen the desecration done when I ten already, and there's more desecration done now, 2004. I hate that -- I hate to look at that ugly stack. I hate it cause all the people that went struggle and die and it really piss me off because the lives -- the things we had to go through and we're still struggling. Sugar went down because -- not because they went broke, because they made enough profit, that's why they left; that's the big deal about it, they made enough profit and it's sad. Every time when I look at it, I cry for my dad and my grandfather, and all my mo`opuna - even now we struggle. Yeah, we're the koko of this place. We should be respected for that.

Mr. Kapu: Three minutes.

Mr. Dizon: As for the Honu, it's an eyesore, okay. It's an amphibian that is not used for recreation; it was used for war. Every time I look at that Honu, it pisses me off because they use the name "Lahaina." A`ole Lahaina. You know what is "Lahaina?" It's not that big thing, let me tell you right now. And to use "Honu?" How can you use a kanaka name for your profits? A`ole. There's nothing given back to the community.

Mr. Kapu: Mr. Dizon, your time is up.

Mr. Dizon: Mahalo.

Mr. Glen Kaliikoa: Hello again. Aloha. I'm here for the removal of the smokestack and everything that represented the -- what do you call those guys that came over here to do good? The church guys? The missionaries. Glen Kaliikoa, once again, 216 Lilolilo, Wailuku. You know now that we're all aware on how Hawaiians feel, you know, maybe that'll give you guys some food for thought about the next venture that you guys thinking about doing here. There is going to be a board to supercede anything you guys are looking at opening that's especially using Hawaiian names, so you guys have to think hard about this. So, we're putting you guys on notice now, and to further Brother Foster's thing about sovereignty, I stand before you as a true being and citizen of the reinstated Hawaiian Government, so it is happening, and then for you that are in denial, you need to wake and smell coffee. Although we're splintered, on a spiritual level --

Ms. Sablas: Excuse me, Mr. Kaliikoa, we want to be fair, you had already come up and testified and we need to move on to other, so thank you very much for understanding.

Mr. Kaliikoa: Okay.

Ms. Sablas: Thank you.

Mr. Kaliikoa: But that mill gotta go and then replaced with a plaque paying homage to the workers. Thank you.

Ms. Sablas: Okay, I hope that we had given enough time to those who need to leave, and I'd like to move on with our agenda because we do have a lot of business at hand, and many of you are here, time is important, so in that spirit, I'd like to again go back to our agenda items, and we have under item B, Permit Review. Now I was asked earlier to, by Na Kupuna, I mean, I'm sorry, by Lahaina Town Action that Na Kupuna wanted to move up the agenda to bring item c. and d. up. We would like to not do that because we want to respect the time also of the agenda items, that's item a. and item b., I think we would like to be able to discuss that. We had given people time to -- is that okay? Okay, so next on the agenda is Historic District Applications, item a., Mr. Monty Carpenter.

B. PERMIT REVIEW

1. HISTORIC DISTRICT APPLICATIONS.

- a. MR. MONTY CARPENTER requesting Historic District Approval for storefront alterations at 825 Front Street, 3C, TMK 4-5-001:003. Commissioners will review the proposed alterations with SHPD and staff recommendations. The CRC will approve or deny this application. Public testimony will be accepted. (D. Duensing)**

Ms. Dawn Duensing: Thank you, Madam Chair. The application is for Historic District Approval for the storefront at 825 Front Street, and I have provided you with a copy of a photograph and also with the plans that were proposed for this application. This is being brought to the Cultural Resources Commission because, as per your rules, the amount spent on this renovation is more than 25 percent of the building's assessed value so that Cultural Resources Commission has the authority to approve or deny this application.

In addition, after going out for a site visit of this structure, the building has been significantly modified over the years and what I would like to do, as your cultural resources specialist and also with the advice of Historic Preservation Division architects, is try to restore this building to its more original look, I'm not saying that we're going all the way, but we're going to do what we can.

The applicant has worked with SHPD and with staff to come to a good conclusion for this and under our analysis, I would just like to point out the following: we will try to restore the building's original door and window openings to better reflect the structure's historic character, which was very symmetrical. We have abided by the Secretary of the Interior

Standards for rehabilitation, which state, "The historic character of a building shall be retained and preserved. The removal of historic materials or alteration of features and spaces that character a property shall be avoided." As such, we would like to replace the windows on the storefront to match those on the north-end of the building to improve the main facade and a uniform appearance.

One thing we are recommending that is not currently in the Lahaina guidelines is the use of accordion bi-fold doors. We feel that this will better reflect the character that existed when this building was used as Crispine's Pool Hall where bi-fold doors were probably made of plywood. Accordion door openings were common in the twentieth century plantation style commercial architecture, and will be recommended in the new Lahaina design guidelines that we are working on at this time.

So for the -- I'll go into the recommendations after, I guess, if we have any questions from the Commission. We also have the applicant here, Mr. Carpenter, who can also give you further information. Mr. Carpenter?

Mr. Monty Carpenter: Yes, I am Monty Carpenter. I'm the designer and the contractor for the project.

Ms. Barbara Long: Madam Chair, I have a comment. Hi, Monty.

Mr. Carpenter: Hi, Barbara. How are you?

Ms. Long: Fine, thank you. My recollection is that those accordion fold doors were made of one-by-twelves and my question is what are the new ones going to be made of?

Mr. Carpenter: Well, in trying to keep with what the existing architecture is, we're actually going to use the same doors that are down on the other half of the building and those are actually made out of -- it looks like a two-by-six with the slats in them, in other words. So our plan at the moment is to follow the architecture of the other portion of the building. It's called a panel door. The top part has a divided light window and the bottom part has a recessed panel.

Ms. Duensing: And if I might add that the doors on the other side of this building are indeed very old and they do appear to have one-by-twelves on the bottom portion with the lights on the top. The plywood doors were probably predecessors to that, but what's on there now is extremely old and appropriate for what's there.

Ms. Long: Thank you.

Mr. Kalalau: Madam Chair, to Mr. Carpenter, I have Exhibit 4 here and Exhibit 3, and then another Exhibit 4 here, just so I'm clear about what building or what frontage of what area is going to be redesigned and stuff, is it just the corner?

Mr. Carpenter: Well, it's actually, when you're looking at that photograph that you're holding, it's the left-hand portion of that that has been, over the years, reworked to not match the right-hand side of the building. So that's what we're attempting to do is to take the left-hand portion and put the door back where the dent is above, etcetera, etcetera. So we're trying to restore the front of the building back to where it was back in the pool hall days, which was pre-70's.

Mr. Kalalau: Okay, so it's going to involve this other door here?

Mr. Carpenter: Yes. At the moment, there are two doors out in front of the place, we're going to combine that and make it one door so it has the same appearance as the right-hand side of the building.

Mr. Kalalau: Okay, thank you.

Ms. Sablas: Anymore questions, comments from commissioners? Anything more you wanted to add, Mr. Carpenter?

Mr. Carpenter: Oh, no, I just wanted to express my desire to, you know, to conform with whatever the historical district decides is best for the building and that's been our position all along is to try to accommodate what's going to make that happen and what works best for everybody so --

Ms. Sablas: Thank you.

Mr. Carpenter: Thank you.

Ms. Sablas: So, no further discussion?

Mr. Lon Welchel: Madam Chairman?

Ms. Sablas: Yes? Oh, I'm sorry.

Mr. Welchel: Comment. Mr. Carpenter's presentation here is -- his plans are a little difficult to read but seeing through that, the overall design is going to go back to the original design, closer than what we usually see, so I'm very pleased to see this approach. If you stay with the staff's recommendation, this should be close to perfection.

Mr. Carpenter: Well, perfection, I don't know what that means, but we're going to do the best job we can, and, as Barbara knows, I've done work on her store before and so she knows that I'm capable of pulling this off so --

Mr. Whelchel: It's going to be original design?

Mr. Carpenter: Yes, that's the -- that's the object of this exercise is to put it back into -- to give the building some symmetry, which it has lost in the last ten years due to other remodeling, etcetera, so this is going to put the building back in what it looked like 30, 40 years ago so --

Ms. Duensing: If I may add one point is that the window design probably is not original for this building, but at the time, with the photos we have available going back 20 years or so, this is the best we can do. And it's also important to note that we don't want to have to make the other guy tear out all his windows especially when we don't know what was there. But the symmetry of the building is very important and by restoring the door openings and the window openings on the south or the left side of your sheets there, it will go a long way towards making that building look better. And I would agree with Mr. Carpenter, he's been extremely cooperative in meeting the wishes of the SHPD architect and also your staff.

Ms. Sablas: Do we have any public testimony on this particular agenda item at this time? Are you going to testify on this item, sir?

Mr. Kahan: Excuse me, the idea is --

Ms. Sablas: Could you identify yourself please?

Mr. Kahan: My name is Stuart Kahan. I'm a Lahaina resident. I'm really baffled by the fact that we have many kupuna who could be accessed to find out what that building's frontage actually looked like and we certainly have enough people to casually draw something out so that Mr. Carpenter and the Cultural Resources Commission could come to some agreement regarding that block. Thank you.

Ms. Sablas: Thank you. Any other public testimony on this particular agenda item? If not, I'd like to move on to staff recommendations please. Testimony is closed at this time on this item.

Ms. Duensing: Yes, I would just like to point out that, as part of my report, I did speak to several people who do remember the building and it was quite a fixture in Lahaina. A lot of people did remember it. But, again, we do not wish to make the entire storefront be removed to accommodate or to change at this time.

So the Planning Department's recommendations are as follows: Number 1, to approve the plans as revised and submitted by the applicant on July 26, 2004;

Number 2, to approve the use of accordion bi-fold doors for the new doorway. Commissioners may want to -- I said, "accordion doors," you may want to add "bi-fold" into that please. The doors shall match those installed on the building's other entry;

Number 3, that wood-frame true divided light shall be used for the windows and doors;

Number 4, that lighting shall comply with the *Sign Design Guidelines for Lahaina Historic Districts, Maui, Hawaii*, it doesn't quite comply at the time but, again, the applicant is willing to change this;

Number 5, all exterior construction and finishes shall match the existing structure;

Number 6, we would like to point out that the building may be eligible for the Hawaii Historic Register and the owner should consider submitting such a nomination.

And, number 7 I have added, that no merchandising shall be placed on the doors in the door entrance. Why don't we say, "No merchandising shall be allowed on the doors and entrance."

Ms. Long: Exterior?

Ms. Duensing: Exterior, yeah. I'm saying on the doors actually because the doors fold into the building; they're not necessarily on the sidewalk, but you can see it from the street front so I do want to say, "on the doors and the door entrance," yes.

Ms. Sablas: Are you okay with those recommendations, Mr. Carpenter?

Mr. Carpenter: Yes, I am, and, particularly, the situation with the doors because it seems to be some of the merchants like to hang things on the doors and use them as a display area which detracts from the actual visual impact of when you walk into the store, so I agree with that.

Ms. Sablas: So questions, comments? Commissioner Long?

Ms. Long: What about lighting and signage shall comply?

Ms. Duensing: If you noticed in the report, the Island Gold sign hanging on the storefront received its Historic District Sign Approval on March 3, 2003, so it is already in compliance.

Ms. Long: They're not going to do anymore.

Mr. Kalalau: Madam Chair, yes, question for Dawn on number 6, The building may be eligible for the Hawaii Register of Historic Places. The owner should consider such a nomination. When you mentioned "the building," is it just that particular shop or that entire building there on Front Street?

Ms. Duensing: It would be the entire building, and it's important to note that it is in a County Historic District at present, it's also in the National Landmark Historic District, but that does not eliminate the possibility of the building being individually eligible for the State Register of Historic Places. And, again, it's just a suggestion to encourage the owner to do that.

Mr. Kalalau: Okay, thank you.

Ms. Sablas: If no questions, can I have a motion from commissioners, please?

Ms. Lisa Rotunno-Hazuka: I move that we accept the recommendations.

Ms. Sablas: Do I have a second?

Mr. Whelchel: Second.

Ms. Sablas: It's been moved and seconded that we recommend the recommendations as stated here by the Planning Department.

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

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

VOTED: to accept the recommendations of the Planning Department.

Ms. Sablas: Motion carried. Mahalo.

Mr. Carpenter: Thank you for your help.

Ms. Sablas: Moving on to the next item, under Permit Review, item b.

- b. MR. KERRY RINGROSE requesting Historic District Sign Approval for a building sign at the Six Fathoms Buildings, 612 Front Street, in Lahaina, Maui, TMK 4-6-008:048 and 053. The CRC will approve or deny this application. Public testimony will be accepted. (A. Cua)**

Ms. Duensing: I'd like to point out to the commissioners that Ann Cua has been handling the permit. This is a new building that was recently finished on Front Street, and she handled the entire project, and she is now handling their comprehensive sign plan.

Just to tell you a little bit about the project application, we do not have the applicant with us today, I think we have a substitute. Do we have Mr. Kerry Ringrose or are you somebody else?

Mr. Jerry Lefear : Yeah, I'm Jerry Lefear representing Mr. Ringrose.

Ms. Duensing: Okay, thank you, and again I'm trying to handle Ms. Cua's report as best I can. The applicant is requesting approval of a 20 square-foot building sign to read "Six Fathoms, 612 Front Street," which will be placed on the building's facade at 612 Front Street. It will be sandblasted on cedar wood. The raised border will be dark green, and the background color will be cream. The applicant has submitted a comprehensive signage plan for the newly constructed building. The Sign Design Guidelines for the Lahaina Historic Districts, and this why you are approving this, do not permit building identification signs for property other than five shopping center properties, which are specifically mentioned in the Lahaina Historic District and the sign design guidelines. The sign design guidelines provide for a single shopping center sign either in the form of a ground sign or a building sign.

So what we have here is this is not technically a shopping center, not allowed, so this is a special request. In Ann's analysis, she had stated that the proposed building identification sign follows the sign design guidelines because it is built of cedar wood and sandblasted, and the background colors are also recommended colors. The sign will be located on the building parapet on the Front Street elevation of the building. The building frontage is 52 feet. The width of the proposed sign is 10 feet. The sign and placement of the sign are proportional to the building. The original lighting plan for this signage at the Six Fathoms Building propose fluorescent light bands to be located below the tenant signs, but the applicant has already installed gooseneck fixtures which conform to the design guidelines.

In the analysis, number 5, the proposed building sign should include the year when the building was built to illustrate that this is a new building constructed to conform to the

character of the historic buildings that exist in Lahaina. And we've also added a statement to number 5 here, "that there shall be no address on the sign." Number 6, it is noted that individual tenant signs will also have to obtain Historic District Administrative Approval, and Ann's already going to be working on that. The Planning Department will use the comprehensive signage plan as a guide for reviewing the wall and hanging signs for individual tenants. And, currently, the proposed location and design specifications of the tenant signs conform to the sign design guidelines. Any questions?

Ms. Long: Yes. In the comprehensive signage criteria, miscellaneous tenant signs shows promotional banners. Am I wrong in thinking that, on page 7 of the sign design guidelines, banners are prohibited signs?

Ms. Duensing: No, you are not wrong, Commissioner Long, and they have been notified as such and there will be no banners. In fact, there were already some banners and signs installed in the building and they were asked to remove them and they have.

Mr. Lefear: We've amended that on the signage criteria. Some of those banners were put up because these people are trying to get certificate of occupancy.

Ms. Long: Thank you.

Ms. Sablas: Anymore questions? Is there anyone here who'd like to testify on this particular agenda item, now is your time?

Mr. Lefear: I've just brought a amended version of the criteria which does take out the provision for banners.

Ms. Sablas: Thank you.

Mr. Lefear: And shows the new lighting program as well.

Ms. Sablas: Thank you. If no testimony, we'll close it at this time. Yes, sir?

Mr. Kalalau: Yes, Chair, I got a question. Are the applicants the owner of that entire building?

Mr. Lefear: The applicants for --

Mr. Kalalau: For, I mean for applying for this signage?

Mr. Lefear: Yes.

Mr. Duensing: I believe that Mr. Ringrose works for the sign company and he's --

Mr. Lefear: He owns Pacific Signs. I'm manager ...(inaudible)...

Ms. Duensing: Yeah, okay, so the applicant is actually the sign manufacturer but he is representing the building owner.

Mr. Lefear: Correct.

Ms. Duensing: Right, and that's the way it's stated on his application.

Mr. Kalalau: Okay, I just had one concern because, you know, on this diagram right here, I know it doesn't have a number of signs that can be put or placed upon this building. If they have this three feet by six-inch sign, right there in the middle, could they possibly put two more three-and-a-half foot signs in between the other two tenant signs in case they lease some of the space out to other vendors or other business people?

Mr. Lefear: I don't believe -- there's space for four tenants and, according to the owners, there's no provisions for subleasing to other tenants as well, so the only signs that will be up are shown on the diagram and those will be for the tenants only.

Ms. Duensing: And that is all controlled by the sign design guidelines. So each tenant is allowed a certain amount of signs in addition to what's being proposed for the building sign.

Mr. Kalalau: Right, that is what I wanted to make sure I'm clear with because what you're saying right now is that the other tenants could come up and put a three feet by six-inch signs and replace their little ones with bigger ones.

Ms. Duensing: They'd have to get Historic District Sign Permit approvals and that's what Ann has put in her report is that this is for the building itself and then as tenants come in and put businesses in this building, they will also come with a sign application for a Historic District Permit approval, and each tenant has to do that before they're allowed to put the signs up.

Mr. Kalalau: Yeah, I understand that and they also could put in a three feet/six-inch signs too so, eventually, we could have instead of one large sign and four small ones, we could have five large ones right across the front of that building. Correct?

Ms. Duensing: No, they are limited by signs in the sign design guidelines and I believe it's 12 square feet.

Mr. Lefear: Correct. That is correct, yeah.

Ms. Sablas: If no questions, can we call for a motion please? Oh, I'm sorry, recommendations first.

Ms. Duensing: Okay, staff recommendations. We recommend approval of the 20 square-foot building identification sign and we have several conditions and one of these is going to be modified.

Number 1, that the sign shall be constructed in accordance with plans and specifications approved by the Maui County Cultural Resources Commission on August 5, 2004.

Number 2, and this is where we have a change, that the proposed building identification sign shall include the year of the building construction, that is 2004, the sign shall not include the building address.

Number 3, that full compliance with all other governmental requirements shall be rendered.

Ms. Sablas: Is the applicant okay with the recommendations?

Mr. Lefear: Definitely, yeah.

Ms. Sablas: Okay. Further discussions.

Ms. Long: Are we being asked to approve this comprehensive plan as well? No?

Ms. Sablas: It's just the sign, the building sign is what we're making a decision on. The sign that you see here.

Ms. Duensing: You're being requested to approve the building sign because this is out of the ordinary and not generally allowed for the comprehensive sign plan and for a building of this nature. It would only be allowed on a shopping center. And the way we are looking at this is, traditionally, when buildings went up and, you know, 1920 structures, for instance, Lahaina Store, it said "Lahaina Store" with the building construction date of 1911, and that's what this sign is, basically, following in line with historically. Buildings had their names on them and that's why we're asking for approval.

Ms. Long: It would make sense though, wouldn't it, to approve this comprehensive, the revised one without the banners because that would commit the building owner to doing this?

Ms. Duensing: Ann is doing that administratively.

Mr. Lefear: And that would also allow the tenants to get their certificate of occupancy because they're being held up on this.

Ms. Long: Yeah, so would that be a good thing to approve this?

Mr. Lefere: That would be a great thing.

Ms. Long: I don't --

Ms. Duensing: It isn't required though. Ann is handling the comprehensive sign application and she will be approving it subject to this Commission approving the building sign, so that when this is approved, she can move on with finishing her processing and they can get all the appropriate permits, occupy the building, and have their signs go.

Ms. Long: Okay, well, then I'm a little confused as to why we got all this material.

Ms. Duensing: That I can't answer because this is her project.

Ms. Long: I see. Okay, as long as that is going to happen and expedite the C.O.'s, that would be fine.

Ms. Sablas: Okay, anymore questions? If not, are we ready for the motion?

Ms. Long: I'll move to approve the recommendations.

Ms. Sablas: Thank you. Second?

Mr. Whelchel: Second.

Ms. Sablas: Okay, it's been moved and seconded that we approve the application before us.

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

It has been moved by Ms. Long, seconded by Mr. Whelchel, then unanimously

VOTED: to approve the recommendations.

Ms. Sablas: Motion carried. Mahalo. Okay, we're going to be taking a five-minute break and reconvene. Thank you.

(A recess was called 10:25 a.m., and reconvened at 10:45 a.m.)

Ms. Sablas: Okay, thank you everyone for the long five-minute recess. Sorry about that. So are we ready to reconvene? Okay, I'd like to move on again and we are doing a little slight adjustment on our agenda and, at this time, we're going to be addressing item C., Communications, Lahaina Honu Tours. Mr. Foley will be doing a presentation. He has another commitment and he needs to be leaving shortly so we'd like to have him address this item at this time. Mr. Foley, please?

C. COMMUNICATIONS

2. LAHAINA HONU TOURS: Mike Foley will respond to the CRC's 7/8/04 request regarding Lahaina Honu Tours. Public Testimony will be accepted.

Mr. Mike Foley: Thank you, Madam Chair. The issue that I wanted to briefly address is this Honu Tour and you have a copy before you of the letter that I wrote to Michael Lam, who's one of the attorneys representing Brad Cronshaw of Lahaina Honu Touring Company, and, for the benefit of the public, I'll just read this letter. I think you have some other letters that probably were addressed to me and to the chair and probably to Dudley, the Corp. Counsel, regarding this issue, but the letter that I wrote to Mr. Lam, which was dated August 3, reads as follows:

Dear Mr. Lam: This letter is in response to your letter dated July 29 concerning the tour's offered by Brad Cronshaw of Lahaina Honu Touring Company in an amphibious vehicle. After reviewing relevant County regulations and discussing this matter with Deputy Corporation Counsel, Dudley Akama, I have concluded that a special management area (SMA) permit is not required. The Cultural Resources Commission does not have jurisdiction over this operation and there's no justification for the Honu Tours to be discontinued. Please feel free to contact me. Signed, Michael Foley, Planning Director.

Mr. Foley: Are there any questions?

(Unidentified Speaker): Are we allowed to ask questions?

Ms. Sablas: No, you'll be allowed to give public testimony. For now, it's questions by the commissioners at this point, thank you. Do we have any questions, comments from the commissioners at this time?

Ms. Long: Yes, ma'am. Director Foley, what was the first opportunity the department had to review this Honu thing? Has it just been recently or was it earlier before or when they started operation?

Mr. Foley: I believe Dawn can probably answer that better than I can, but they have contacted us months ago. This isn't just recent.

Ms. Duensing: As I told you during the last meeting, the tour operator contacted me in February and we began discussions at that time. He let me know what was going on, and then they started operations in March.

Ms. Long: My memory of that is that when you met with them, you gave them forms to fill out, County forms. Is that correct?

Ms. Duensing: I have never met Mr. Cronshaw, I've only talked to him on the phone, and I did fax him the forms for the SMA application and the Historic District Permit application, you know, not being able to answer whether he needed those, but those are typically the forms we give when people do business in Lahaina, and he was faxed those in March.

Ms. Long: I know that anyone who, since the SMA law changed a year or two ago, anyone doing business in the coastal zone, changing a use, changing any kind of a structure, would normally fill out an application and a determination is made by the County Planning Department whether it's exempt, or minor, or does require a full SMA. In this instance, I recall you said that you -- okay, you faxed him the forms but they never sent them back.

Mr. Foley: They weren't required to make an application. And you're incorrect when you say that all new businesses in Lahaina need to fill out applications --

Ms. Long: No, I mis-spoke then.

Mr. Foley: We have hundreds of new applications.

Ms. Long: No, I meant for changes of facades and things like that.

Mr. Foley: Well he's just operating -- he's occupying an office at 505 Front Street and I don't know that any of the businesses at 505 Front Street have individual SMA applications, and this business is not required to have an SMA application, so he was never required to submit an application.

Ms. Long: How would you suggest then that what vehicles get to access the Historic District, the National Historic Landmark, can or should be examined, and decided whether they're appropriate?

Mr. Foley: Well, I don't think it would be appropriate for you to examine whether or not vehicles can drive in the Historic District. I don't think you'd want to review every Budweiser truck or every Ruffles Potato Chip truck that drives through Lahaina nor do you regulate the shopping vehicle, which happens to be a cable car. The cable car has no more historic relevance to Lahaina than the Honu Tour bus or tour amphibious vehicle. This simply just isn't in the review criteria of the SMA permit or this Commission. You could attempt to change the State law regarding shoreline management areas but I think that would be a waste of time.

Ms. Long: Well, I hear what you're saying and I appreciate the basis on which you've made your opinion, but there is a huge public outcry about this particular thing.

Mr. Foley: Well, Barbara, this isn't a popularity contest and nor is it a beauty contest. You know, we're not judging whether or not this vehicle is attractive, nor are we judging whether or not this vehicle is historic because many of the vehicles in traversing the streets of Lahaina have no relationship to the history of Lahaina or the island --

Ms. Long: Yeah, but --

Mr. Foley: And, you know, that may be unfortunate but most of the businesses in Lahaina also are not related to the history of Lahaina, and there really, unfortunately, is a limited amount of things we can do about that. You know, I, personally, am offended by the size and appearance of large trucks and buses, and I don't think buses should be allowed on Front Street but, you know, that isn't in my jurisdiction nor is it in this Commission's jurisdiction.

Ms. Long: Thank you.

Mr. Foley: And if you don't like the laws, we have to change the laws.

Ms. Long: Yeah.

Mr. Foley: But the law now doesn't allow me or the Commission to regulate this business anymore than it's already regulated. He has -- he has permits to operate that vehicle in -- he has more permits to operate that vehicle than most of the vehicles on Front Street, you know. We should talk about the beer trucks, and the buses, and the cable car, and vehicles like that if you want to talk -- you know, we can't single out a particular vehicle because we don't like what color it is, or it's large and unattractive. If the Police Department considered it dangerous, they wouldn't have given him a permit.

Mr. Kapu: I'd like to comment to that last comment that you made based on the beer trucks and everything else. That's a personal comment based upon that the beer trucks

doesn't have a sign that says, "Follow me to the bar." The Honu has a sign in the back that says, "Follow me to Lahaina Harbor." So based upon our responsibilities as the Cultural Resources Commission, I addressed this concern before based upon the sign guidelines, and upon whatever the sign guidelines are that is specified in a Historic District area, now you're telling me that Cultural Resources Commission has no say as pertaining to what this vehicle can and cannot do in our town?

Mr. Foley: That's correct. If you'll look at the taxis, a lot of the taxis have signs on them as well and the sign guidelines and the County regulations do not regulate signs on vehicles. If they did, you know, we could limit the size of the sign on the Budweiser truck or the Coors truck. We shouldn't pick on Budweiser. I don't happen to drink beer so I guess I'm prejudice against beer trucks. But we don't regulate the signs on vehicles and -- unless they're parked in a parking lot with a big billboard in the back with an arrow pointing at the restaurant, and we've busted that restaurant several times already, but we can't regulate what's on a taxi cab and we can't regulate what's on a -- what's on a vehicle that says, you know, "Free shopping shuttle to Lahaina," or, you know, something of that -- it's just not in our regulations, State or County, and I'm not sure it can be.

Mr. Kapu: Okay, now, as pertaining to our responsibilities as the Cultural Resources Commission to listen to a lot of concerns based on public testimony, recommendations from the Planning Department as pertaining to what we do with all these testimonies. I mean you're telling us that we need to accept public testimony but then, at the same time, to deter from this matter based upon we do not have any jurisdiction on these matters?

Mr. Foley: Yes.

Mr. Kapu: There's a public outcry out there that's trying to tell us, otherwise, that from one little cataclysmic event may turn into something else that, basically, the people that live in this area ain't going to like.

Mr. Foley: I have sympathy for the people who testified against this project but it's not in the jurisdiction of the Cultural Resources Commission, so you've merely provided them an opportunity to vent their frustration. And if they would like to, you know, do something about the laws, then there's opportunities to change the laws, both the County regulations and the State regulations. I think, in this case, it would be futile, but there's always an opportunity to change laws and it, you know, it -- this just simply -- this is no more in the jurisdiction of the Commission than the individual fishing boats in the Historic District, or the buses, or the trucks that, you know, it's a vehicle. It's not -- it's just not covered.

Ms. Rotunno-Hazuka: I have a couple questions. If it would have been concluded that an SMA permit was required, then we would have jurisdiction?

Mr. Foley: No. It would be reviewed, depending on whether it was classified as a minor permit or a major permit, it would either be reviewed by the staff or by the Planning Commission.

Ms. Rotunno-Hazuka: And what steps did you go through to decide it wasn't?

Mr. Foley: All you have to do is read the SMA rules that define development and this very, obviously, is not a development.

Ms. Rotunno-Hazuka: Okay, and then there was that -- someone made a comment about that there's a certain amount of permits that are allowed for Mala Wharf and that they couldn't see how this one received a permit. Would that be something that you guys handle or is that --

Mr. Foley: No, that's a State jurisdiction. I've never heard that before but if there is such a regulation, it's State regulated, and the shoreline is, of course, public property and it's -- we can't prohibit access to the shoreline either. But that's a State jurisdiction, not County jurisdiction.

Mr. Rotunno-Hazuka: Okay, thank you.

Mr. Kalalau: Madam Chair, yes, I'd like to say something on that too. The situation that I see we have here is defined in this vehicle, you know. It's call an amphibian, it's not a taxi, it's not a bus, it's not truck. The truck does not drive into the ocean. The taxi does not drive into the ocean. This thing does. And this thing goes and anchors off or goes and floats in the most pristine water areas out there in the ocean and I'm surprised that nobody has asked this company to do an SMA. It is alright for this so-called vehicle, which was designed for battle, it's a war machine. My veteran buddies would like to drive their tanks down Front Street, you know, load the boys on; hey, let's go cruising. So right here, I think there's a fine line of do we let war equipment run down our streets whenever they want to. I mean I know this is a business opportunity thing and we're concerned about the historical district of Lahaina, my personal feeling is I think this thing should park on the outside of the historical district, have a mini-van, take their clientele through Front Street, and then bring them back and put them on this thing, and go wherever they have permits to go into the ocean, but even that, I feel, should have an SMA permit.

I think the State here has really dropped the ball on this thing and because as Cultural Resources Commission and we're only here as an advisory capacity and yet we gotta deal with the hoopla from the public, it really saddens me because the earlier people who testified had some really good points about some of the things that are on this agenda today and we could not ask them questions. I felt that I cannot make my decisions real fair

if I cannot ask those individuals testifying what they really mean about, you know, why they don't want this to happen or why they want this to happen.

It's real important that, in the very near future, that I think the County should be, and the State, should be more aware of, you know, first time new operations that is happening in the whole State of Hawaii. Maui, in Lahaina, we don't have too much room for anymore of those yellow ducklings going up and down the streets. We have one now. What if we have three tomorrow? You know, there's other ocean activities. People would look at that thing and go, "Eh, that would benefit my company. I'm going to get one and I'm going to run one because these guys are running theirs now." How do we stop that? And, right now, listening to the Planning Director, I think we don't have no grounds as the CRC people; I think it's the public that has the power to take this to further on. If it has to come to a public lawsuit against this operation, or against the State of Hawaii, or against the County of Maui because they have not have this operation done an SMA permit or other permits that would be for the benefit of our community.

I was really sad that I could not ask testifiers questions because I had questions about the Pioneer Mill. There was the guy that came up here and talked about if they do demolition, they should start on the south side of the project. I wanted to know why he was trying to say start on the south side. There was another person that came here and talked about the permits, about the boat ramps, and --

Mr. Foley: Excuse me, when you get to that item on the agenda, there'll be plenty of time to ask questions of the people who testified and --

Mr. Kalalau: No, but those people are all gone. I mean there's one here, but a lot of them that testified earlier is gone.

Mr. Foley: Well, we're now wasting a lot of time and we could be talking about Pioneer Mill. You know, we need to move on, but there will be time for people to testify on Pioneer Mill, and there'll be able to testify on the Banyan Tree as well. And during those times, they can ask you questions and you can ask them questions.

Mr. Kalalau: But my whole idea is that majority of those people who spoke earlier is not here. So when the agenda item come up, they won't be here to be questioned because they testified earlier. That's my concern.

Ms. Sablas: Are there specific questions from commissioners on this, please? Specific questions.

Ms. Long: I would like to --

Ms. Sablas: For Mr. Foley.

Ms. Long: Yeah. Mike, under Chapter 12, Powers and Duties of the Cultural Resources Commissions, number 6, one of the powers and duties is to provide design review for projects, it doesn't say development, provide design review for projects affecting any building, structure, site, or district, which would be the Lahaina District, eligible for listing on the National or Hawaii Register, so that it would seem to me that an interpretation of that, maybe loosely, would give the CRC the ability to at least look at the design of a project --

Mr. Foley: Barbara, this isn't a project anymore then it's a development. We've already made that determination.

Ms. Long: I'm disappointed that the County determined something that, obviously, denies the opportunity of this Commission to do what I think its mandate is and that is to preserve the character, the historic character, of Lahaina and the National Historic Landmark and the Historic District. And I would hope that if anything like this comes up in the future, the County will not be so cavalier.

Ms. Sablas: Are there any specific questions again for Mr. Foley from the commissioners?

Mr. Kapu: Yeah, I get one more comment.

Ms. Sablas: You have a question, Commissioner Kapu?

Mr. Kapu: Yeah. Question to Mike. Now that this one has gotten through the gates, how many more we gotta worry about? Did we actually cause a cataclysmic event now, at this point, at this moment, not allowing some kind of review by especially people like us, we're volunteers over here, to try to make sure that we do things that is pertinent, that is right, that is pono for the people that live on this side as well as Maui as a whole? What have we done? I need clarity as pertaining to that and how our future ...(inaudible)... after this event. What do we see tomorrow? That's a pertinent question that I'm asking the Planning Department. That's a simple question. What is going to happen from this is what I'm concerned about.

Mr. Foley: If somebody wants to do a similar tour, you and I don't have any jurisdiction to stop them. If they can get a permit from the Police Department and the Motor Vehicle Department for a vehicle, they can do that, just like they can do the submarine tours, that aren't related to the history, and they can do the glass-bottom boats, and they can do the, you know, the kite surfing or whatever it's called off Kaanapali. This vehicle is not parked in the Historic District, and we don't have jurisdiction over what enters the water, what doesn't enter the water; that's a State jurisdiction. So, yeah, it's possible for somebody

else to do another tour in Lahaina, maybe it'll be a bird next time, but, you know, it's -- hopefully, the people will get the message that there is public opposition to this kind of thing.

Mr. Kapu: Then I really need some clarify as pertaining to why I'm sitting here.

Ms. Sablas: If we do not have anymore questions for Mr. Foley at this time, I'd like to entertain public testimony on this item, please. Have you testified on this item before, sir, and --

Mr. Kahan: I may have some more information ...(inaudible)...

Ms. Sablas: Would I be able to entertain those who have not yet spoken first, sir? I do have someone who had signed up. Tammy Harp?

Ms. Tammy Harp: Aloha, my name is Tammy Harp, and I wasn't going to come but changes occurred. So, but anyway, I think I got more questions than I do suggestions or whatever, comments, but one of the questions is what is the weight of this amphibian vehicle?

Mr. Akama: Excuse me, Ms. Harp, we don't have any answers here for you and it's not appropriate for testifiers to be asking the Commission questions. If you can ask the questions, and if there are any answers by the commissioners later, but the applicant is not here.

Ms. Harp: So maybe could the Commission maybe take the questions into consideration if it sounds reasonable? Okay, about the weight, and then also too is -- has a site evaluation of the condition of the Mala Ramp been documented, like an underwater view or pictures or anything to document what is the condition of the part of the ramp that is in the water? Also too is the Mala -- was or is Mala Ramp designed to accommodate the weight of such a vehicle? And also too, how much is DLNR involved in this process? I mean in this issue? Also too, my concern is with the marine environment part and with tires, as was stated in the *Mau'i News*, but they cannot say that the trailer boat's tires does the same because the trailer boat tires only go in and then they come out - this one goes in and how far in do they drive before they, you know, float or whatever? You know, I'm a wahine, I'm not supposed to know all these things; that's why I gotta ask.

We've had sedimentation problems for many years. Stuart has played a big part in trying to get funds to dig it up, I mean to take it out because of what had happened above, and the Army Corps of Engineers haven't really took full physical responsibility in trying to help us fix the problem.

But, anyway, that is -- you know, on the part about cultural impacts to cultural resources, or whatever you guys want to call it, there is cultural impact to our cultural resources, I mean negative impact to our cultural resources because that area, for generations, you know, it's culturally, traditionally, everything is -- part of me is in there besides my dad folks and all those before me that was down there, and I've seen that our resources down there is not as good as it was before due to pollution from the land, and the mentality of how people gather, you know, there's a number of things and why, you know, you go by hotels, why do they have real white sand in front of their, you know, along their shoreline in the front of them.

Mr. Kapu: Three minutes.

Ms. Harp: But, anyway, there are impacts and I'm sorry to say that I find fault with the State of Hawaii and with the County of Maui for poor past management of our resources, both on land and in the sea. And I think that we're going to have to look at this in a much more -- I'd to see my answers, I mean I'd like to see my questions have some kind of answers because I don't go to meetings for nothing, for over ten years, to just come here and then have no -- I don't see, you know, it does impact us and it does impact our resources, and, culturally, we are negatively impacted for, I'm sorry to say, but exploitation. Why can't we think about things like this, yeah?

Ms. Sablas: Times up, Aunty Tammy, sorry.

Mr. Kahan: My name is Stuart Kahan. I just wanted to bring some information for your interest. The issue of the permitting at Mala Wharf was done under Chuck Pencue, the former District Manager of the DLNR. There was quite intense discussion about setting a limit of permits for Mala Wharf and that limit is 15 and is part of the DLNR rules for small boat harbors and ramps. Secondly, there is a sign at Mala Wharf that says, "No power off on or off Mala Ramp." In order for this vehicle to get in the water, he's gotta power on, and he's gotta power off, which destroys our Mala Ramp area.

The fact that this vehicle rides through town is an affront to this historical essence of our community. This vehicle is not a bus; it's not a beer truck; it is an oversized Ford 750; it's not even a military vehicle. This vehicle has no place here in our community.

Ms. Sablas: Commissioner Kapu, you had mentioned -- someone mentioned, oh, Kalalau, that you didn't have the opportunity to question people who had come and testified before. Would you like to have that opportunity now?

Mr. Kalalau: Yes, I want to ask Mr. Stuart, Stuart, during the permitting of that vehicle, was there any public hearings on them?

Mr. Kahan: No, sir. As a matter of fact, the Lahaina Mala Wharf Advisory Committee, which established the 15 permit limit, has been, how shall we say, "in limbo." Because we've had a change in district managers. And the new district manager is also in limbo, so we've not been able to get anything more than what we've created during the '90's.

Mr. Kalalau: When you speak of district managers, are you talking about DLNR managers?

Mr. Kahan: Yes, I am.

Mr. Kalalau: Has anyone -- has DLNR does any, like that earlier speaker Tammy, she talked about that vehicle going into and exiting the ocean, because it's a drive into the ocean and drive out of the ocean, and she had a lot of good questions about the weight limit and the impact that vehicle will do to the bottom of that ramp, where the ramp's -- has anybody done any studies on that?

Mr. Kahan: There have been no governmental research into the effect of this vehicle on the ramp. However, in creating the limit of 15, we never foresaw that there would be a vehicle that would actually drive in and drive out of the ramp. The drive -- the powering on and off of the ramp is an HRS statute. I don't have the number with me in my head, but if you go down to Mala Wharf, you can see the sign. It says do not, you know, upon certain penalties, and there is an HRS number on the sign, and the DLNR is not enforcing this either so --

Mr. Kalalau: You understand that, as a Cultural Resources Committee person, that we're very limited in, actually, helping anybody on Maui, and that we're only here with an advisory capacity, anyway, I just want to thank the people that came forward today to testify against this --

Mr. Kahan: Mahalo.

Ms. Sablas: Do we have anyone else again who would like to testify on this subject who has not yet testified?

Ms. Michelle Miller: Yes, my name is Michelle Miller, and I don't know very much about this subject other than what I've heard at this meeting. I'm appalled. I'm absolutely appalled. I've been here 30 years and I have never thought our government would do this to us. Are you trying to tell me that the County has to go through the State in order to work? I thought it was the people, the County, the State. Who is DLNR? And do you, Planning Director, are you State or County?

Ms. Long: County.

Ms. Miller: So you can go to your upper level with this information, with these petitions, with this information here that we've written down that we testified? You can take that to the State? Would you please do so? Would you let them know that we are not happy? It's offensive. This machine, this weight of this machine, our wharf, our ocean, and we say can't have gambling boats here? Excuse me. You've got to take this. And how do we know you will? What meeting do we have that tells us that you will do this? I would, please, I'm being very honest with you, I am as local in my heart as I can get without my skin being brown. I wanna know. How do we know you'll do this?

Mr. Foley: I'll write a letter to DLNR asking them to enforce any regulations that relate to this vehicle and I'll send you a copy of the letter.

Ms. Miller: I would very much appreciate all of us getting a copy of this letter. Can it be put in the paper as information to us?

Mr. Foley: I don't think it can be put in the paper, but I'll send a copy to the CRC.

Ms. Miller: We cannot have a notice?

Mr. Foley: You want to send out a few hundred letters?

Ms. Miller: No, because we pay taxes and we can't afford stamps.

Mr. Foley: Really?

Ms. Miller: Well, obviously, I mean we can't get you to go to the State.

Mr. Foley: I just told you I'll go to the State.

Ms. Miller: Well, honey, I know you told me but I had to get up here and embarrass myself to get you to say.

Mr. Foley: I was planning to write a letter to the DLNR when Stuart said that they have jurisdiction.

Ms. Miller: Okay, so we can have another meeting? I can request another meeting to this issue? A follow-up meeting?

Mr. Foley: Sure. You can have a meeting as often as the Commission wants to have a meeting.

Ms. Miller: So I can submit to that? Thank you very much.

Ms. Sablas: I also would like to remind the public that Akaku is video taping this entire meeting so what Mike Foley said, it's on record for the public to hear, and if you -- they said they'll be running this in about a week; if not, call Akaku at 873-3432 to find out the exact airing time. So it is public record; it's for the public to know too that Mr. Foley had made that commitment to you.

Ms. Long: Madam Chair?

Ms. Sablas: Yes?

Ms. Long: May I, officially, request that this item be placed on our next agenda in September? At which time I think it might be appropriate for a discussion of whether any changes to the CRC's rules, regulations, whatever, County rules, whether if -- okay, I'm thinking on my feet here - if the department would present us at that meeting with some options that we could consider to avoid this sort of thing in the future and nip future things in the bud.

Ms. Duensing: May I address this, Madam Chair and Mr. Foley? One of the things that I was hired to do was to staff this Commission and one of things, as a former commissioner and as a culture resources planner, I entirely realize that Historic District ordinances for this County are decades out of date and they desperately need to be revised. I have been through the County ordinances and I have many ideas on how we can make suggestions to the County for improving those ordinances, and that will be one of the upcoming tasks that the CRC and me will be working on.

And as far as agendas, you know, we can -- we need to remember that, you know, there's a lot of work to do, you know, your September agenda is already full, just like this one is, so we'll just do the best we can with scheduling these meetings and these topics on our agendas.

Ms. Sablas: Can I hear from other members of the Commission if you'd like to have this, I mean if you'd like to have this have on a future agenda.

Ms. Rotunno-Hazuka: Definitely.

Ms. Sablas: Okay, so just so note that the commissioners request to have this on a future agenda, and we would like to have it for discussion, and I think the suggestion -- with a suggestion also is to have someone from the DLNR, Department of Land and Natural Resources here because a lot of the specific questions we had was addressed to them and I think we need to have some answers. So is that okay with the commissioners? Okay, I'm sorry, we are in public testimony.

Mr. Kapu: I have a question. Should we call this to a vote?

Ms. Sablas: Counsel said no need so --

Mr. Akama: The suggestions of the commissioners will be noted and Mr. Foley, as represented, he will be writing a letter, and I think that's all that is necessary at this point in time. This is not an action item; it's merely a communication item. So if we could continue with public testimony.

Ms. Sablas: Okay, next, we're on public testimony.

Ms. Uilani Kapu: Aloha, my name is Uilani Kapu. I just have a fast one. Mr. Cronshaw was here earlier. I stopped him outside because I wanted to know why he was leaving. Because this is a hot item, and now hearing that you folks have no jurisdiction and wasted your time on two meetings, but you guys have no say, which is wrong, now I understand why he said that he's leaving because Mike Foley will inform the public and the CRC that they have no jurisdiction. And Mike Foley clarified it. It took them three days, Cronshaw's attorney and Mike Foley, to sit down and say, "Okay, you folks have all the right permits. There's nothing that the CRC can do." Why was it brought to them? That's my question. Why are you saying that we have no jurisdiction on this when we are the community? We're voicing it out. And a good point was, do we have to sue the County and the State? Does this have to turn into a lawsuit because of -- they are doing -- but we're not asking them to do? I mean this is a big issue. This is an environmental impact. This is a historical district. Everything. And Mr. Cronshaw feels he's not against the law. He's not doing anything wrong. Well, we have big points, and it needs to be heard, and it needs to be brought up, and we'll see how far it gets at the next meeting. But I wish he stayed. He said that he didn't want to be faced under a firing squad and a lynch mob. Come on, we're civilized people. This is a public hearing. We all voice out our own opinions. If you can't handle it, then I'm sorry. We all have our own voice, and we voiced it out strongly, and that's what our right is. So it's sad to see that he can't be here to face all of this, and to sneak behind and sit in the back and not recognize or have himself recognized as who he is, was very sneaky, and something should be done about it, and I hope it's continuing, and I hope -- I'm glad that everybody came out and voiced it, and I think he should also. Mahalo.

Ms. Sablas: Thank you. Anymore public testimony? And this is really what this portion is about is to -- for the Commission to receive public testimony.

Mr. Kahan: I have ...(inaudible)...

Ms. Sablas: Real, real short. This is -- keep it very --

Mr. Kahan: Really short.

Ms. Sablas: Okay, real, real short.

Mr. Kahan: I think what's been brought up here is a bigger issue. We have so many large vehicles going through our Historic District, some of which are services, like the beer trucks and the potato chip trucks. The buses are not a service. They are invading our Historic District. They are compounding the congestion at Lahaina Harbor. You have no idea how many -- instead of parking in County lot areas over on Prison Street, these buses, which are not service vehicles, come behind the courthouse and line up six deep on boat days. So maybe the issue has to do more with what the purpose of the vehicle is in the Historic District, plus the DLNR. There's two issues: County issue, State issue. Thank you.

Ms. Sablas: Thank you very much. Again, we're -- okay, this would be -- again, state your name please.

Mr. Brian Debry: Aloha kakou . . . Brian Debry. On the Honu subject, it might be okay to have all the required permits and passes and everything else in the rest of the world, but this is Lahaina, it's a little different here.

Ms. Sablas: Thank you very much. Well, folks, thank you for coming out and expressing your view on this very, very important issue to Lahaina community. I think you've heard, in some respect, our Commission, our hands are tied, but that does not mean, I think, you know, we need to go according to advice from -- but I encourage you, the public, to continue what you're doing, to voice your opinion. This is our town, this is your town, this your community, and thank you for being here and taking the time to present your point of view. And, as a Commission, I think we'll try to do the best we can with the powers that we have, and so thank you again. I'd like to close this part of our agenda and move on to the next item because we do have quite a -- more business to cover. So we're moving on and the agenda item, again, under Permit Review, Historic District Application, 1.c.

B. PERMIT REVIEW (CON'T)

1. HISTORIC DISTRICT APPLICATIONS

- c. USE OF THE BANYAN TREE PARK FOR ARTS FAIRS AND SPECIAL EVENTS. This item was deferred by the CRC at its March 4, 2004 meeting. CRC members asked for additional information, including recommendations from the Maui County Arborist Committee. Commissioners will review and discuss for approval or denial a revised policy for the use of Banyan Tree**

park in the Lahaina National Historic Landmark District, TMK 4-6-001:001. (Members: Please refer to previously distributed materials.) Public testimony will be accepted. (D. Duensing)

Ms. Duensing: Thank you, Madam Chair. What I would like to start with is the deferral from March and give a little bit of background information. The proposed revisions are for Banyan Tree Park in the Lahaina National Landmark District, which has been the site of ongoing arts and crafts fairs for more than three decades. Over the years, the Parks Department, as well as the Maui County Arborist Committee and Cultural Resources Commission, have expressed concerns of the increasing use and commercialization of Banyan Tree Park.

From time to time, there have been complaints and that's when the Cultural Resources Commission decided to take this item up again. And because it's a deferred item, I'm not going to go into so many of the details. But on March 4, 2004, the CRC did consider proposed revisions to the use of Banyan Tree Park for arts and crafts fairs. After public testimony and due deliberation, the Commission deferred action. The Cultural Resources Commission requested the following: number 1, they wanted recommendations from the Maui County Arborist Committee, and attached to the commissioners' report is the letter of the committee, the Arborist Committee met on two separate occasions and discussed this issue.

Secondly, the commissioners expressed that Banyan Tree Park should be made available to all organizations. They expressed concern that only two organizations are currently being granted permits to use Banyan Tree Park.

They also requested that the Department of Parks and Recreation identify other locations for art fairs and similar activities.

And, fourth, they requested that Lahaina Town Action Committee, Na Kupuna O Maui, and the Lahaina Arts Society cooperate in identifying other suitable venues for their activities.

And I would like to report to the Commission what has been gathered since this March 4 deferral. You do have a letter from the Arborist Committee. The committee, on July 21, again noted its concern for the Banyan Tree's health. The arborist recommended that Banyan Tree Park be used for art fairs no more than three weekends in a row with the fourth weekend to be used as rest for the tree as well as a passive park for public enjoyment. The Arborist Committee agreed with the Department of Parks and Recreation's recommendations that events be limited to 25 vendors. Furthermore, the Arborist Committee recommended that increased park permit fees should be considered by the County Council. They recommended monitoring and enforcement of the rules for the park, which they established, I believe, it was in the year 2000. And they recommended an

annual testing to monitor the tree's health. This annual testing would be for the purposes of future assessments to see what's going on and find out if any further revisions need to be made to policy for park use. The Arborist Committee reiterated the rules and regulations previously adopted for the use of Banyan Tree Park. So that is the first issue that the CRC wanted.

As far as the Maui County Department of Parks and Recreation, they recommended that events under the tree be limited to 25 vendors and that no food concessions be allowed because they say that there have been numerous violations of the Parks no cooking regulations. The County Parks Department does not support the designation of another park site for arts events because its administrative rules forbid this. In other words, if the Commission wanted another place to be specified for these arts and crafts events, it would have to happen at a place that is not a County park because it's already an exception in the Parks rules that Banyan Tree Park is being used. Finally, Parks requested that the CRC review the events in Banyan Tree Park on an annual basis. It did not address the issue of opening Banyan Tree Park to other organizations; however, the deputy director stated that a lottery is used in other venues and could be implemented for Banyan Tree Park as well.

I'd also like to point out that I did send the same information detailing the situation in Banyan Tree Park to the State Historic Preservation Division. They do -- they verbally expressed that they have concerns about the activities being held in this public park, which is located in a National Historic Landmark District; however, I did not receive any written correspondence from them.

The other thing added to your report, in addition to the March 2004 report, was the West Maui Community Plan from 1996 does urge that the community have a development of a cultural park for visitation and education. The analysis also points out that public testimony at the March 4, 2004 meeting of the CRC focused on three main points.

First, the Lahaina Town Action Committee, in cooperation with Na Kupuna O Maui as well as the Lahaina Arts Society, emphasized the importance of the Banyan Tree Park as a venue for their programs, which are a substantial component of fundraising activities. Some Lahaina citizens also testified that events under the Banyan Tree unfairly compete with nearby retail merchants and commercialize a public park. And, finally, there was additional testimony in favor for protecting the tree and park noting that activities should be held in other locations such as Kamehameha Iki Park, the Lahaina Civic Center, or the harbor area.

The CRC did, in the March 2004 deferral, request that nonprofit organizations cooperate in locating other venues for their activities, and they did not locate another site. They did

submit, and this is Exhibit 3 in your report, the pros and cons of what their assessments of other sites were.

Also in the Planning Department's analysis it's been pointed out that each of the organizations that currently are using permits at Banyan Tree Park also have retail operations within the Lahaina Courthouse. Again, the Maui County Planning Department recognizes the historical and cultural significance of the tree, which was planted by Lahaina resident, William Owen Smith in 1873. The Planning Department again emphasizes that no organization has exclusive rights in perpetuity to any park facility. And although the Banyan Tree itself appears to be healthy and is withstanding the ongoing heavy use of the park, it is necessary to consider how the continual activities might impact one of Lahaina's most renowned historic treasures.

Ms. Sablas: Questions, comments from commissioners at this time. Maybe, while you're thinking of questions, I'd like to call for public testimony and move it on. So those who are in attendance now, who have been very patient waiting, thank you, it's your time now to speak on this agenda item. And, please again, identify yourself. A reminder, we have a three-minute time. We'll call the names cause many of you did sign up so we'll go by, I'm sorry, we're going to go by order of who signed up first, okay?

Mr. Akama: First name on the list is MaryKay "Mimi" Parker, Lahaina Arts Society.

Ms. MaryKay "Mimi" Parker: Good morning, my name is MaryKay Parker. My nickname "Mimi." I am the new gallery manager for Lahaina Arts Society and I'm here this morning to speak on behalf of a number of the membership who've asked me to go down a list of points that we would like to have you consider. There are a number of people here who may not speak and I would like them acknowledged at some point at the end of this.

The items on the table, regarding the health of the Banyan Tree, are important to us. We consider the Banyan Tree a very beloved landmark just as everyone here. We take no issue with the concerns that are here but we would like to address the facts that we believe that stand to show the health is in good health of the tree. The environmental studies that we are aware of indicate, one is Clean and Green Landscape Services, dated March 22, it's on file with you. It shows that the report indicated good health of the tree. In fact, potentially and possibly the help of the arts fair have limited any detrimental use that may be subject to it by lack of monitoring. We are aware of a study by David Sakoda, with the Maui County Arborist, that says that there was no issues with soil compaction. And there's a lot of details within those studies that I'm not going to go through because I know you have it before you, but there's no proof that we see on any of these studies that the public has had an impact negatively to the tree.

I believe, if you could refer to the minutes of the last meeting, that the Parks Department had a statement by the Mayor suggesting that the use of the -- activities and the art fairs be left as is and I'm not -- I asked that question really and I'm told that that is so.

The impact studies that we have seen, again, don't show, to our knowledge, a detrimental use by the activities that are currently underway. We are aware that further studies could be merited and that would take time and we would certainly agree with that if that's the case. Our goal here is that the health of the Banyan Tree also be protected. We don't take lightly the fact that you've entrusted that use for us for 33 years. And we respect all of the associations that now do that special events and the He U'i Cultural Festivals. We want this to work, and we want this to be a win and an add to the community, and we believe that we do bring that.

One of the things that we would like to point to about ourselves is that we are a nonprofit and we're also a charity, and we have outreach programs that do go out to the community and touch at-risk kids. There are a number of different people that could speak to that that have been part of that work that goes out into the community. We have total respect for --

Mr. Kapu: Three minutes.

Ms. Parker: Okay. Anyway, in conclusion then, we would like to say that examine our record, please, and know that we are a service organization that wants to do the right thing and do good things. We believe we bring something to the community, and we thank you very much for taking the time to re-examine this matter.

Mr. Akama: Next person is Ulysses.

Mr. Ulysses: My name is Ulysses. I represent someone looking from the outside looking in. I don't mean to ruffle any feathers, but I think I will. I've never seen such a convoluted bureaucracy as LAS. I had the unfortunate experience of my fiancé and I trying to be part of this organization and questions were not -- our work was put up on the wall and questions were more of where we were selling, not about the artwork, and I'm just kinda giving this to you guys. I think that what's going on right now is there's only one reason why they're so entrenched there is because of money.

And what is 25 as opposed to 26? Why does it matter if there's 27 vendors or 23? If you're saying the tree is damaged and you're reducing it to 25, that's an arbitrary number. Why not move the site; let the tree stay pure; let people congregate there. Why not find a different location? There are many craft fairs. Trust me, I drive hours a day to them.

I don't know if any of you have had a dream, but when you run up against a huge, gigantic bureaucracy that only cares about itself and who's helping each other and who's doing the

right thing. Who's not ruffling feathers. I have a week or two to wait to see if we're accepted in LAS and I think Groucho Marx said, "I don't want to be a part of any club that would have me as a member." And that's what I feel like right now. I don't want to be any part of that thing. It's sad to me because stagnation is what will happen if you hold it at 25 people. You're going to see the same vendors there every other weekend. How can new blood come in and have a vibrant art community like other parts of this country, this world if you hold it to 25 people because you're worried about the tree? Then move the site. Let it -- go to a bigger site, have it like -- I sell here at the civic center. Why not have another site and have a lottery system. You have a dual-monopoly going on right now. And I'm not Hawaiian. I've moved here to follow a dream. This is a beautiful place. There are beautiful people here. But there's also a lot of resources here. And when you have a lot of resources, you're going to finite people, you start fighting over those resources. It's not community. It's like a bunch of wolves ripping apart a sheep. And all I represent is someone that came here because it's the third largest art market in the entire world. Paris, New York City, Maui County. There's a boat. Boats drop off people right at that Banyan Tree. They pull right up and they tend to those people. They go right up into that -- right up to Lahaina. Right there in the center, the first thing they see is that Banyan Tree. This is the third largest art market in the world; that's why we came here. I know my three minutes is almost up.

Mr. Kapu: Three minutes.

Mr. Akama: Ellen Levingly. Levinsky, all right, I'm sorry, Levinsky.

Ms. Ellen Levinsky: Aloha and good morning, Cultural Resources Commission members, Mr. Foley, and others attending this meeting. Thank you so much for having the meeting here in Lahaina. My name is Ellen Levinsky. I'm an artist who's lived in Lahaina over 20 years and I've been a member of Lahaina Arts Society since 1985. I have also been an art teacher with Lahaina Arts Society with their children's program for the past ten years. The experience of working with children at-risk is both rewarding and frustrating.

Some of the children have no markers or crayons at home to use. Some of the children are so young they don't know the names of different colors and they learn that in the class. Some of the students develop into good artists. Some of them develop the joy of doing art. Sometimes a child comes to art class obviously upset or angry at something. I've had many children open up to me and tell me personal things. Sometimes they have no other neutral positive person to confide in; that is one of the many benefits of our free children's art program. There's also many national studies correlating doing art with improving testing scores, doing math, doing science, so it's multipurpose teaching art to them.

I spoke on the telephone yesterday with David Sakoda, who is the Maui County Arborist, and he's been working for the County for at least five years. I wanted to hear his

observations on the Banyan Tree's condition as I did not see a letter or report from him the Planning Department's paperwork for the Cultural Resources Commission. David Sakoda does periodic testing of the soil under the Banyan Tree. He said to me, "At this point in time, there is no indication of soil compaction." This is very good because we're all concerned about the tree. He also said nutrients are periodically given to the tree. He and the rest of us are concerned about the health of the tree right now and also in the future. He also stated that the six-year drought and the damage to park's irrigation system had a very negative impact on the tree. With the normal rains we have had this past winter, the tree has shown some improvement. David Sakoda also talked about how important the rules and restrictions for the use of the park are. Who enforces these rules? On the weekends, it would be the nonprofits using the park are responsible. During the week, there really is no one who enforces any of the rules unless someone happens to report something to the police.

The County collects \$150 each day the park is used as an event by a nonprofit. That is a minimum of \$1200 a month. I suggest that some of that money be used specifically for the park and the tree. I suggest \$50 --

Mr. Kapu: Three minutes.

Ms. Levinsky: From each day would be used for the park. Perhaps a community -- a County sponsored volunteer community group could monitor park use throughout the whole week. But whatever rules and regulations there are for the tree, they should be for anyone in the park every day, all the time, to protect the park, and thank you again for coming to Lahaina.

Ms. Sablas: Thank you. Again, a friendly reminder, we have a lot of people wanting to testify so I'd like to remind you if you have testified before, please if you have something new to offer, fine, but we have on record previous testimony, so just to keep it going. Okay, the next on the list is Michelle Miller.

Ms. Miller: Aloha. I'm a member of the Lahaina Arts Society about 25 years. I'm not active but I did show there. I'm kind of a little bit confused. If the word "park" means public gathering, then the Banyan Tree is safe. If the word "park" does not mean that, then we need to rope the tree off and make it a site seeing event. Not confuse the issues. And cooking, you're not allowed to cook at a park. Is that the rule that you spoke of? I don't know what the number of that rule is or what that rule meant, but I wrote down that someone said you're not allowed to cook no food because you're not allowed to cook. So if we don't cook, we can still eat there because eating there doesn't mean you're cooking; it means you brought a sandwich or you bought a sandwich or something, so that seems pretty simple to that, so we can do that. Fees, we pay a lot to be there so why not have everybody be there that's nonprofit. So if I want to help a child in need and I want to join

that nonprofit, then by working at Lahaina Arts Society event and at any other event there, then it should be lottery. There's no other way to do it but lottery. I want to help whoever I want to help and you want to help whoever you want to help, so, therefore, in order to do that we need lottery. We all want to help someone in Maui and it isn't in our pocket, it's helping others helping Maui, and let's not forget that. Thank you

Ms. Susan Sato: Good morning. It's nice to meet all of you. It's very interesting to be here. This is the first time I've ever been in a meeting like this. But I'm here on behalf of Evelyn Goo, who's a promoter that does some shows here at the civic center and throughout other places in Hawaii, and, you know, I've working with Evelyn for many years now and I've seen a lot of the good that she does here for different nonprofit organizations here. I know of at least 12; she's probably got more than that on her list that I'm even aware of. And, I guess, you know what we're here for is to allow other nonprofit organizations to benefit from shows underneath the Banyan Tree. It doesn't seem fair that it is limited to only two for all these years. It also gives us an opportunity as crafters and artists to show our products in other areas because we, coming here all the time or in Kihei, we tend to get the same customers and it would be nice to get down into Lahaina and have that opportunity for ourselves too. I won't make that it's not going to benefit me as well, it will benefit me as well. I'll be able to make a little more money for my family that I need to raise here in the islands as well.

If there's a problem because of the tree and the care of the tree, if there is going to be new promoters there, I think we should all be educated as to what we can do to keep the tree safe and thriving. Oh, I also thought that, you know, because a lot of the people that do Evelyn shows also have commercial products, if you wanted to limit that to only hand-crafted art and products, you know, things that the seller actually makes, to me, that sounds like a really good idea because I know of all the high rents that everyone in Lahaina pays for their stores and they're selling commercial products that are imported from Indonesia and China and Philippines and such. We could probably undercut a lot of those, you know, store prices and that wouldn't make anyone in Lahaina paying \$10,000 a month for the rent happy so, you know, we are --

Mr. Kapu: Three minutes.

Ms. Sato: Okay, well, we're willing to, you know, just keep it crafty and artsy and comply with any restrictions for the tree and more than willing to be educated in the care of the tree. Thank you.

Mr. Akama: Diane Wydock.

Ms. Diane Wydock: Hi, my name is Diane Wydock, I'm the Program Director for the Lahaina Arts Society Outreach Arts Program. We are a nonprofit, and I just want to make

that very clear that I know some of the other organizations are not that are testifying here today. The outreach program currently provides free fine art classes to at-risk children at 15 sites island-wide weekly. We are serving over 1,000 children monthly and hope to enter in a partnership with Maui Youth and Family Services. Our target population are children in low-income, no-income families, as well as children who are experiencing severe family issues such as drug and alcohol abuse, domestic violence, one or both parents incarcerated, homelessness, not to mention the extreme peer pressures they encounter daily. We provide these children a rest-bit from their emotional hurdles as well as a constructive way to express feelings that are inside and might otherwise exhibit in ways that would be detrimental to themselves and to the community they live in. Although we do receive County grant funds, this only accounts for 21 percent of our total program budget. The Lahaina Arts Society funds the remaining 79 percent, which if they would lose or be required to cutback on their art fair income would severely limit the funds they would be able to use toward the average arts programs causing cutbacks in classes, or worse, the loss of the entire program. You might be wondering what real impact that we have on the children, and I would like to share three instances where I became aware of the profound difference we make in the community.

This past Christmas, one of our instructors taught a class right before Christmas. She is a part of my Hawaiian culture series and teaches lauhala weaving. She was approached by one of the children after the class and the little girl was crying and thanked her that it was the only Christmas ornament she ever had. Another site, the instructors picked up what they believed was an expression of child abuse, through a picture, very explicit picture she had drawn. Lastly, when I first started teaching, I always encouraged the children to take their art home and I ended up with quite a very large collection of art because they just would never take it home. Finally I got the courage to ask them why, and they told me, "My mother will just throw it away anyway." I'm happy to say, as the year has gone by that I've been the director of the program, more kids are taking their art home. We've even had some of the parents participate in the program, in special events, and in classes as well.

Please consider all the implications to the decision that you are about to make as these decisions will affect our future leaders and the very ones that will be making the decisions for us five, ten, or fifteen years from now. Show them that count and help us give them all the chances that we can in this difficult world.

Mr. Akama: Gary Cendejas.

Mr. Gary Cendejas: Good morning. My name is Gary Cendejas. I represent Maui's Best Gift and Craft Fair, LLC. We came here last time to try to open the eyes of you guys that --

Mr. Akama: Mr. Cendejas, only if you have something new, please. You testified the last time.

Mr. Cendejas: So we are not allowed to put forth our feelings on --

Mr. Akama: You've already testified. Your testimony's recorded. It was already told to you many times by the chair and you were here from the start that unless you have something new, we need to move on here, so if you have something new, then proceed; otherwise, yield to the next person, please.

Mr. Cendejas: I guess I'll have to yield. Thank you.

Mr. Akama: William Tully.

Mr. William Tully: Good morning, my name is William Tully. I was board member of Lahaina Arts Society. I was elected in January. As it took me a short time to detect serious ethical problems that exist in the society. As it wasn't hard to see that the executive director had no oversight on the financial dealings and controlled the finances of the organization. As there were incredible both lack of internal controls, nepotism, and tax evasion. Now for my effort to -- I was the only, the only board member who took on these very powerful entities that all came from American Cancer Society: Mr. Watson, Mr. Lavene, and Mr. Hoe. I was the only one that had the guts to take on these guys in that. Now my methods may be in question. I've had five police reports taken out on me. I've had one arrest. And I am currently suspended from the Arts Society, and put on a year probation. I will address these matters in appropriate setting.

I have to remind the Cultural Resources of one thing. The relationship between County and a charitable organization is a privilege; it's not right. And if the society feels that they have the privilege to be a part of the old courthouse and the Banyan Tree and still operate in obvious -- obvious breaking of both State nonprofit laws and Federal laws in that you guys have to consider the validity of the organization that you're recommending. I've given you documentation to backup all my claims. Let me just finish with one short paragraph. This I believe is the solution:

If County still has faith in LAS and wishes to support it, I would respectfully suggest the County put LAS on a probation period.

Mr. Kapu: Three minutes.

Mr. Tully: This would give the board an opportunity to address serious lacks of -- lack of ethics in the organization, it would also give LAS a new start to prove its worthy of showing inside the courthouse as well as underneath the tree. If the society choses --

Mr. Akama: Mr. Tully, your time is up, Mr. Tully. Your time is up. We have your exhibits, thank you.

Mr. Tully: Thank you.

Mr. Akama: Next person on the list is Evelyn Goo, and, Ms. Goo, you testified previously also. Please only speak to new material.

Ms. Evelyn Goo: Aloha, my name is Evelyn Goo, and I am aware that I have testified twice before. I'd like to state that you do not have to be a nonprofit to back nonprofits, to give nonprofits money. I've been doing this for ten years and every show I have ever done has been given to a nonprofit organization. And I am tired of LAS and I am tired of the County continuing to say, "You are not a nonprofit." You do not have to pull out 501-3c paperwork to be a nonprofit or to support them. To be a nonprofit, you do excuse me, but not to support them, you don't. I've supported organizations. My very first one was Make a Wish Foundation. Everybody's heard of them. I'm quite sure you have. The Feline Foundation; Nine Lives; Homeward Bound; Humane Society; All Far Animals. The cultural end: Wailea Canoe Club, Kihei Canoe Club, the Hawaiian Fish Ponds Restoration. I mean West Maui Youth, Kihei Youth Center, Kihei High School, Lokelani Intermediate School. We have supported any organization that is worthy of support. And I resent people coming up here and stating we are profit, we are nonprofit, okay. That's all I have to say. Thank you for your time. Well, I do have one more thing. The County parks do need to put on a lottery system. It does need to be opened up. The Banyan Tree does need to be opened to other organizations so they may profit their organizations. Thank you.

Mr. Akama: Fileena Bahrís. Same admonition, if you have anything new, Fileena.

Ms. Fileena Bahrís: Yeah, that's what I was going to tell you. My stand is pretty much the same as it was last time so I will yield the floor.

Mr. Akama: Thank you. Theo Morrison, and, Theo, we've heard from you before also, so same admonition.

Ms. Theo Morrison: My name is Theo Morrison, I'm the Director of LahainaTown Action Committee. LahainaTown Acton Committee coordinates five special events at Banyan Tree Park: Ocean Arts Festival in March; Banyan Tree Birthday in April; International Festival of Canoes in May; Halloween in October; and the Lighting of the Banyan Tree in December. In addition, we support and work with the Kamehameha's Celebration in June, and the Aloha Festivals in September. LahainaTown Action Committee also partners with Na Kupuna O Maui on the twice monthly He U'i Cultural Arts Festival.

I would like to comment on four basic issues in regards to festival use at Banyan Tree Park. Limiting the number of booths to 25. LahainaTown Action Committee is strongly supportive of this measure. It should be noted that the Ocean Arts Festival, the Banyan Tree Birthday Party, the International Festival of Canoes, and the Kamehameha's

Celebration have all, this year, already been reduced to 25 booths, per day, per the Planning Department.

Requiring all music and entertainment to be live. LahainaTown Action Committee is strongly supportive of this measure and has always included live music and entertainment at all our events. We do hope, however, that this is not so overly restrictive that we cannot play recorded music during setup, breakdown, and on short musician breaks.

However, we do have some serious concerns about the next two issues. The Arborist Committee's recommendation to allow only three weekends of consecutive events at Banyan Tree Park. LahainaTown Action Committee strongly disagrees with this recommendation. As I understand it, the purpose of this recommendation is to reduce activity in the park. It is true this recommendation will reduce some activity in the park but it will also increase other undesirable activity. As a person who walks through Banyan Tree Park many times a day, everyday of the week, I can attest to the fact that the elimination of art festivals on one weekend will substantially increase other undesirable activity such as climbing on the tree, swinging on the roots, carving initials into the tree, drug dealing, alcohol consumption, sleeping on park benches, fighting in the park. These activities do not occur during an art festival weekend. Three weekends of festivals and then a dead weekend will confuse the visitors, baffle the residents, and delight the drug dealers. We are strongly opposed to this recommendation.

The Parks Department recommendation that food concessions will not be permitted due to numerous violations of the no cook rule. LahainaTown Action Committee strongly disagrees with this recommendation. There are food booths at three special events: Kamehameha's Celebration; Aloha Festivals; Halloween, and, occasionally, at the He U'i Cultural Arts Festival. A prerequisite to having a food booth at a County park is a health permit. All food is cooked in a certified kitchen and then warmed up on site. If the Parks Department has a different definition of cooking then the Health Department --

Mr. Kapu: Three minutes.

Ms. Morrison: Then that needs to be communicated since all food booths at the park have health permits and are in full compliance with the law. By implementing the 25 booth rule, activity at Banyan Tree Park will be reduced by 52 percent; that is a very significant reduction. No more needs to be done. Thank you.

Mr. Akama: Bryan Debris. Mr. Debris, same admonition. I think you did testify before.

Mr. Bryan Debris: I'd like to give you folks this photograph. If you could pass it along ...(inaudible)... Good morning, my name is Bryan Debris. I'm a local artist in Lahaina. That is a photograph of me taken a long time ago in Kenya in East Africa. And

in front of me, actually to my left, is a Banyan Tree, okay, Banyan Trees grown all over the tropical world. That particular Banyan Tree was home and host to an organization that woke us up every morning, I was in the British military at the time ...(inaudible)... we used to have a group of guys come in with big pots of tea and they would serve us tea and pastries and they would take our laundry. The Banyan Tree was the laundry for our particular unit. So what these guys would do, they'd wash the khaki shorts and shirts, and they would starch them, and they would hang them in the tree, and the starch would tripple over the tree and everything else. Also they had a crafts kind of fair that they -- where they sold their wares to the troops and everyone else who seem to pass by. The point I'm getting at is that the Banyan Tree is used, not just for art fairs, but also for business all around the world. It's an Indian tree. Banyan actually means market.

And one of my experiences as an artist under the Banyan Tree is, on occasion, we get tourist from, usually Canada, but tourist from Indian, who are born in Indian where the Banyan Tree originated, and they're so curious as to why we only have a fair on weekends because the Banyan Tree is host to fairs and markets seven days a week, 136 days or whatever, 375 days a years, the figures are just figures, basically, but a Banyan Tree is occupied, in the rest of world, by, you know, practically everybody, practically everyday.

We love our Banyan Tree here. It's quite common for especially Lahaina people to treasure their -- what's the word? Resources. Anyhow, restricting to 25 is my concern. I'm not sure if the Arts Society would cease to exist if we have to cutback to 25 from the normal group of -- around the 50 area. I'm getting slightly off the subject here, but I thank you for your listening and thank the Cultural Resources Committee for their decisions. Aloha.

Ms. Sablas: We have a request by Akaku. They need to have a two-minute break because they need to change tape. And, again, this is a very important issue and I think the community at large needs to hear them so I hope you don't mind, we're going to accommodate their request. We have about one, two, three, four, five more and -- just so you know, when we reconvene, we'll have John Buck from Parks to come up here because I know you have a time restriction so the commissioners can ask you questions.

(A recess was called at 12:12 p.m., and reconvened at 12:20 p.m.)

Ms. Sablas: Aloha, everyone. Commissioners, if you could please take your seats. We're going to reconvene. We have a lot of business at hand. Okay, again, in the interest of time, I'm going to just ask John Buck from Parks to be here and, commissioners, if you have specific questions to him, I'm sure you have, he has a time constraint too, so, John, would you like to offer your comments before we --

Mr. John Buck: Basically, our position is as was before. I think, at the time you guys adjourned, that every weekend is what was our recommendation is status quo with the limitations on the 25 vendors. The food concern came up last minute, and I'm just the messenger, if there are some questions with regard to that, then I don't -- I didn't have a chance to discuss it with the director as far the comments in regards to the food. But there seems to be concerns that there's still some heating going on underneath the Banyan Tree and there was some concerns about that. The only comment I want to make is that whatever restrictions, I think it's because the Na Kupuna group is coming up for their permit review, that we're not -- I'm not -- the department's not here trying to pick one organization against the other organization, okay. Whatever restrictions is for one, it's for all; all activities that takes place under the Banyan Tree.

And my last time I made a comment was that those who are doing activities under the Banyan Tree, need to get along. I made that quite clear that they needed to work together for the betterment of cultural and artistic values that they're offering to the tourists and the local citizens of Maui County. However, since that time, there seems to be still some infighting between the groups. One group trying to make trouble with another group, and also infighting within the groups themselves. The position of the department is if you cannot cleanup your act, then you will not be underneath the Banyan Tree because we are not going to be in the middle of a fight between groups or be referees amongst individuals in the groups. I hope you guys take that seriously because if it comes to the point that we have to renege on permits that'll be the fault of the organizations and not the department or the County.

There's a question as far as enforcement. You have to remember that the Parks Department has probably about 15 to 20 special events every weekend and we do not have the staff to check them all. I should introduce at this time Mr. Bob Straub, who's our new special events specialist, and he will be trying to go out and follow-up on all the special events, if it's physically possible, and I think one of the things he will be taking a look at is to, because we have gotten complaints about what's going under the Banyan Tree, that'll be one of his areas of focus.

We also, because of the ocean recreation activities that are taking place, and our concerns and our job with that, is basically the same thing; people doing business under -- in the parks, be it nonprofit or commercial, making money. We will be, probably by the first of the year, we'll be having two enforcement officers. They'll either be like a security guard, but they will be, besides doing ocean recreation, checking to be sure all those people have permits. They'll be also probably be assigned to follow-up on some of the special events especially if Bob can't make all the areas, and they're focus will probably be special events in Lahaina and the Kihei area cause that's where we've be concentrating the enforcement on the old ...(inaudible)... which is the ocean recreation activities permit.

And as far as the fees, there was a misquote, it's not \$1200 a weekend, it's only \$300 a weekend, most times. And I should say that none of those fees that are collected go directly back into the park but it goes into the general fund and every year, at budget time, we have to beg for our money, just like any other department. So, yes, you pay for the park, but that doesn't mean that money goes back into that park or any facility that you rent throughout Maui County.

Ms. Long: Question. I'm sorry you don't have a deeper understanding of the food issue. I understood you to say that there was heating of food.

Mr. Buck: That's from my understanding that there was still some heating of food items under the Banyan Tree. I guess when it comes to warming up the dishes and items like that.

Ms. Long: Okay, looking at the arborist rules, the original rules, "no cooking or fires." I firmly believe that food is culture and vice-versa and that if people are having to keep food warm in something other than an insulated container, is there a method to do that that is not going to jeopardize the tree? The department's saying, "no food under the tree. Do you mean no eating under the tree?"

Mr. Buck: No, that's not what we meant. It's just the -- there were concerns about selling food under tree that required to be warm with, you know, like sterno, I think the possibility of catching the tree on fire.

Ms. Long: Okay, I can totally understand that so that anything that would require anything other than an insulated container would be not possible?

Mr. Buck: That's correct. And then if -- and the CRC has the task of either agreeing or disagreeing with our recommendations, and if they feel that's maybe too restrictive as far as -- then we would support any recommendations from the CRC.

Ms. Long: Thank you.

Mr. Duensing: I'd like to ask the Deputy Director a question about the food and the heating of the food. What if the food vendors booth was to just be removed from the -- from beneath the canopy of the tree? Would that be acceptable to Parks as a possible mitigation measure that would protect the tree?

Mr. Buck: I would have to take that back to the director himself. But remember anytime you have open -- anytime you're selling food, even though it has to meet certain Health Department -- we are also concerned about Fire Department regulations too.

Ms. Duensing: Yeah, I guess what I'm asking and getting at is if there was to be one food booth allowed, if it was no cooking and removed from beneath the canopy of the tree, if we could start looking at that as a possible way to --

Mr. Buck: That's a possibility.

Ms. Duensing: A compromise measure.

Mr. Buck: Yeah, why don't you just forward that request to the director.

Ms. Duensing: Okay.

Mr. Buck: Like I said, I cannot speak for the director, I'm just the messenger ...(inaudible)... I'm always open for a compromise of some kind, but I'm not the director.

Ms. Duensing: Thank you.

Ms. Sablas: Any questions for --

Mr. Kapu: Yeah, I get one question. Based on -- give me an understanding what the lottery is all about?

Mr. Buck: I, personally, don't want to go on that subject and I'll tell you the reason why cause our rules has only identified one site, and you're sitting at the site. And if we were to even think about going that way, we gotta remember that the LAS was conducting or having the art shows way before the administrative rules went into effect. So as we treat other organizations in regards to arts and crafts, they would be grandfathered in. So I think if we were to make any changes on that, then we would have to follow our administrative rules which has identified the Lahaina Civic Center as the site.

Now the question is what do we do with those groups that has more than 25 vendors? Well, that's the department's really concern, we're making the limitations. If you have 50 artists in your group and only 25 spaces, either you do a rotation on 25, 25 - 25 on Saturday, 25 on Sunday, or you do a lottery. Basically, what the lottery is we put up the dates, just like doing any type of lottery, when you do for homes or anything, we draw your name out, and you get to pick the date that you want, the one date. So, right now, the artists basically have 50-50 or with the five events that LahainaTown Action Committee has, and you have whatever. If we go lottery, LAS maybe get one day out of the year; the kupunas will get probably one day out of the year, unless they're lucky enough to have somebody else pull a number, but the LAS would only be able to pull one number under LAS, which would be a nonprofit, which would be lower fee, and then anybody else who

was representing LAS would have to go under a Type-5 commercial activity. So that's why I didn't really want to go in that direction.

Mr. Kapu: One more question. Pertaining to the cooking or food under the Banyan Tree, does that also include like say shave ice, ice cream, cookies, home-baked breads, certain items like that?

Mr. Buck: Like I said, I did not really write that letter and I don't what the intention is. I mean selling soda -- not being able to sell soda and water under the Banyan Tree, I will have to go back to the director and see if that's what he really meant. I can get back to you in the couple of days with a response.

Mr. Kapu: I just wanted one small little direction as pertaining to ...(inaudible)...

Mr. Buck: No, I know where you guys -- I know where you're coming from and as I start thinking about it, I don't think -- I don't think it would be healthy for us to restrict at least soda and water sales especially in Lahaina because it is the, as they say, the cruel sun.

Mr. Kapu: Well the reason why I brought that up is because a lot of, you know, like the schools and stuff, they do fundraisers and they sell cookies and things like that. What is the limitations in those areas to sell.

Mr. Buck: Again, I think the basic reason was just the hot food and the chances of a fire starting, or taking the hot grease or hot water and pouring on the ground that may cause damage to the tree.

Mr. Kapu: Mahalo.

Mr. Buck: I do have to leave for another meeting in Council -- Council committee and if you do have any additional questions, if you maybe can give them Dawn and I can get back to you guys real fast unless you're going to make a decision today.

Mr. Kapu: I get one more question. This was based on -- how you say? Like a review that I did back in March, maybe April, and I did some walking around the Banyan Tree at the time when they were in operation, and I don't know how the County feels about this, but as pertaining to, you know, the protection of the tree itself, and I highlighted some areas in my little discussion with people around the area as pertaining to what to do with -- for the betterment of the tree and the protection measures of the tree, and came up with, you know, people gave me solutions as pertaining to what to ponder on and maybe you can give me some feedback. Based on building an internment wall around the tree and possibly, you know, given that, I hate to use the word "facade," but sort of a pre-contact type wall about three feet high and something to protect the mother root and suggested

planting some kind of taro or some of foliage to create some kind of buffer to keep people away from the tree, or jumping on the tree, or something, or climbing on the tree. What is your suggestions to that?

Mr. Buck: We're open up -- if everybody felt that was a pretty good idea for additional protection of the tree, we're open for those types of suggestions. I would have to go back to the experts as far as, you know, if you'll be growing taro with a lot of water, is it going to have any impact on the tree, and, you know, things like that.

Mr. Kapu: Well, dry land taro you don't usually use enough water, but maybe just looking in those areas as pertaining to just, basically, putting in an internment, some kind of a protection measure around the mother tree and probably some other areas, maybe asking some, you know, advice from the arborist also as pertaining to, you know, ideas in that area to sort of limit, you know, the ongoing detriment of this tree itself, the carving, the graffiti and all those other things. I don't know, just --

Mr. Buck: We can take a look at it. If anybody has any ideas or additional ideas, I can take it to our planning and maintenance division.

Mr. Kapu: Okay, the reason why I brought that up is because on our last public hearing here in March 4, a kupuna brought that up, or Mr. William Waiohu mentioned about taro being grown there long before so I, you know, two and two, yeah, sort of make sense. It provides the protect and buffer for the area, at the same time, it enhances the cultural aspect of the area itself.

Mr. Buck: We'll take that into consideration.

Mr. Kapu: Okay, thank you.

Ms. Long: John, in the Park and Recreation letter, Parks request the CRC review the events in Banyan Tree Park annually. In the recommendation, number 18, it's suggested that the CRC or the Department of Planning and the Department of Parks and Recreation shall review arts fairs on an annual basis. What's your feeling on that? Who should review it?

Mr. Buck: Well, I think if you wanted some consistency, I think the CRC should be maybe the ones who are involved with that. Of course, the Commission -- your Commission could change from, you know, whatever the term, but over the long-range, I think maybe there should be a collaborative effort, comments from Planning, comments from us, but I think the CRC should be part of that review because they're charged with the cultural resources of the area and, you know, we -- we'll do things that we think are maybe right or wrong, and

maybe the cultural people do not think it's right or wrong. So I think CRC should be part of that review process. What's best for the tree. What's best for all of Lahaina Town.

Ms. Long: Thank you. I appreciate that. The arborist also recommended increasing the park use fees and using that for monitoring. Now I know it goes into the general fund, but that's something that I think makes sense.

Mr. Buck: I agree with you.

Ms. Long: Is it possible?

Mr. Buck: With the old ...(inaudible)... the way they've set it up and it hasn't been implemented, but the way they had set it up was that all the fees that are collected for the permits, for the application and the issue of permits, go into a special fund for the enforcement. I don't make those ordinances. It would be something that if that's a recommendation from CRC that we look into, then we probably can go in front of the proper committees and maybe get that going. But we've, over the years, have tried to have fees -- certain fees designated for certain areas. If we can maybe tie it in -- if it's a concern about having somebody monitoring the tree on the weekends during the events and maybe it can spend through, with our enforcement people, we can probably -- because they have to be down at Kamehameha Iki checking on permits, I don't think it would be that much of an effort for them to swing by the tree, you know, couple times a day. But that's something we can look into that maybe part of the portion of all the rental fees go into the enforcement. We'll look into that for you.

Ms. Long: Thank you. I appreciate that. Maybe you can call it a surcharge and not a fee. And, finally, my fellow commissioner, Sam, had a great idea and I think it ties into what Keeaumoku was talking about protecting the tree. Would the Parks Department consider putting out an info card on the Banyan Tree with an aerial picture or whatever of tree on one side, a little bit of history and the rules on the other side that could be handed out at these events to everyone who comes there so that they will understand, first, the history of the tree, and, second, what they should and should not do?

Mr. Buck: I think we can. We'll look into it. Maybe part of that rental fee could pay for the cost of doing that.

Ms. Long: Thank you.

Mr. Kapu: I get one last -- and this is one of things I also put down in my little recommendations. It was about the signs. There was some small signs that talk about the tree, no climbing signs, and things like that. They're so small and they're facing the wrong way. The last time I went down to the Banyan Tree, the sign is like way tucked inside next

to the mother root but then it's facing, I don't know, it's facing the street but you can't see it unless you're standing at a certain angle, and I think that maybe some way, I don't know, more signs or bigger signs or something over there because you got probably about one sign that gives people warnings not to climb on the tree.

Mr. Buck: I'm going to make comment, okay. No, that's a good suggestion. We'll look at the placement of the signs. You can have a guy parked under the sign that says "Do not park in park." And he's in the park. Okay, so that tells you a lot about the signs. But if that's a concern, we will -- if it's something that we have there and it's facing the wrong way, we'll correct it. I don't -- we could look at more signs, but like I said, we've had people sit under a sign that says "No parking allowed," you know, so -- that's what we have to deal with on a daily basis.

Mr. Kapu: So it's based on enforcement then?

Mr. Buck: That's correct.

Mr. Kalalau: Madam Chair, yes, I got a question. I just wanna because I have a question from what Mr. Ulysses or whatever came up here and spoke earlier, my concern is why the County is not looking for another area or, you know, another space for more people to display their artwork or sell the artwork. Also, the concern was that, you know, for the newer people, it's like it's hard to get in, you know. There's a major concern there too that, you know, nonprofits versus nonprofits; profit versus nonprofits. I believe we are all the same citizens of this place and I believe the people can work it out over here in Lahaina.

I understand that LAS already has a space in the old courthouse and I think being the oldest group in town, I think it's best that you people, you know, try to help our the rest of the people that's trying to do the same thing that you're doing. It's just in all fairness, you know, it's, I guess Mr. Ulysses is right about Maui being the third largest art market in the world. I wouldn't think no matter where you set up in Lahaina because this is the third largest market in the world and people are going to go look for the specific art that they want to buy or the specific crafts that they want to buy. I know the Parks Department has a very difficult decision in -- because they are recommendations that were made by this Commission to -- for them to, I guess, to implement into a revised program or users program for the parks here and the Banyan Tree Park. I believe that, you know, artists are -- have a real pure mind of creation and --

Ms. Sablas: Excuse me, commissioner, can you speak -- specifically address the question to Mr. Buck, he has to go.

Mr. Kalalau: Right. Right. Okay.

Ms. Sablas: So we -- pose a question so he can answer.

Mr. Kalalau: The question is it has been recommended that both groups look for another site.

Mr. Buck: We did and every site that we looked at, both groups turned it down. Also -- also, if the report is that if we look at another site, our recommendation was not another site because then we would have to start following under the arts and crafts rule and we already have a site, which is the area you happen to be sitting in right now, according to our administrative rules.

Mr. Kalalau: Right, I believe that there's just these two sites but I also believe that I think just the recommendation that the County should look into another area or other possible areas that vendors here can display their artwork besides the two and besides the recommendation of the two organizations that are trying to control everything.

Mr. Buck: We do have a site right now and it's every other Sunday up here. They can display their artwork up here, so have that vending already. But if you want us to look at another site, we'll look at another site. Does that mean that we're going to move everybody from underneath the Banyan Tree? That's the question I need to ask.

Mr. Kalalau: What I'm trying to say, because there were people here testifying that, you know, it doesn't matter whether they went under the Banyan Tree or not.

Mr. Buck: We'll look into another site and we'll give you the recommendation. But the two sites that we're looking at, one was the Lahaina Rec Center, was one of the sites; and the other one we were looking at, Kamehameha Iki, but again that falls under the jurisdiction of the CRC.

Mr. Kalalau: Right, and have other groups or maybe individuals look at the private property owners here in Lahaina that might be willing to, you know, give them the space to do their --

Mr. Buck: Well, we're talking about private property owners and I don't think that's the privy of the Parks Department. We can make recommendations in our facilities, but as far as additional sites, that would be probably another agency or the various promoters or the various artists working with those landowners to provide a site, such as an art fair or a craft show.

Mr. Kalalau: Yeah, because I believe there's -- I know our concern right now is just with County properties and County parks, but I believe there's some private areas in this town here that would be perfect areas --

Ms. Sablas: Commissioner Kalalau, did you see Exhibit 3?

Mr. Kalalau: Yes, yes, I did, and it's real terrible because it's saying no more grass, a lot of dust, a lot of this, but why can't they spend money in making those areas very presentable for the people in this town to sell their products.

Ms. Sablas: Okay, I would like to hear from some of the other commissioners who have been kinda quiet at that end please.

Mr. Whelchel: I was curious if one of the Pioneer Mill sites couldn't be used for this purpose.

Mr. Buck: That's not my property. And I must apologize, I got to be in County Council at 1:30 so if you have any additional questions --

Ms. Sablas: Yeah, yeah, it has to specifically to Parks that we need to -- while he's here. Lisa, did you have a question? Specific?

Ms. Rotunno-Hazuka: No.

Ms. Sablas: Uncle, did you have a question for John before he has to leave? Okay, well thank you very much for your time and -- are you leaving? Thank you. Thank you very much. Okay, thank you again. I'd like to continue with public testimony. We just have a few more to go and the next person on the list is Lana Perry. Again, reminder, if you have been here before, and I think you have, Ms. Perry, talk about new issues cause it's -- really time is running and -- thank you.

Ms. Lana Perry: Thank you to the Chairperson, and the members, and public for coming today. I do want to address Mr. Tully and that some of the problems that he's talked with Lahaina Arts Society have been addressed. My name is Lana Perry, as she said. We have taken care internally of some of those problems. I, myself, show art with both groups and I see both groups as getting along very well, There are, as always, your wild mavericks that have problems. The artists under the tree are in long standing taking care of the building and the park. And if we bring in the other nonprofits, you will no longer have your momma and pappia situation where people that are accountable that are there all the time watching after things, which is a good reason for the way it is set up now which are two entities taking care of it plus LAC. I believe the other issue that we talked about today about the buses and that large vehicle have to do with tree.

Ms. Sablas: Excuse me, but that part is already closed.

Ms. Perry: I know but the problem --

Ms. Sablas: Oh, with the tree, okay.

Ms. Perry: The tree is, the two problems that I'm seeing be addressed are the pollution and the money-making. The pollution part, we can say that maybe 25 artists, 60 artists, however maybe artists, are damaging the tree, or we can also look at the other environmental things around the tree. The buses that sit there four, five, six in a row, fuming out the Pioneer Inn, the artists under the tree. If there is no wind, no trade, which is quite common in the summer, the pollution collects under the tree and it gives me, personally, a terrible headache. I can image what it's doing to the tree and to your people that are eating in the restaurants around the tree. So I can see that perhaps the problem with the tree is not the artists, it could possibly be the buses sitting next to it for hour after hour, which has proven to be unpolicable because the police do not have time to come down all the time and tell the buses to turn off. They sit there for as long as they need to sometimes at the corner waiting to make a left turn for 20 or 30 minutes fuming it. So I think that if we look at as the problem not only being the pollution created by the artists, but also by the buses that the other part of the problem is the income.

We, as artists, are only there eight days a month. Yes, this may take revenue from the stores on Front Street. But as a developing artist having been in the galleries for 20 years, I did not develop very fast in the galleries. I could not get instant feedback from the tourists about my art. In the last two years, with the two different groups, I have been able to develop very quickly because of the customer/artist connection that happens in the park where many of our famous artists got their start --

Mr. Kapu: Three minutes.

Ms. Perry: That turned Lahaina into the art center of the Pacific. Thank you very much.

Ms. Sablas: Next to testify is Lei Hough.

Ms. Rotunno-Hazuka: Can I ask a question of the testifier?

Ms. Sablas: Oh, I'm sorry. Sure. There's a question for you.

Ms. Rotunno-Hazuka: I was just curious why you think only the two groups are able to be sensitive enough to take care of the tree.

Ms. Perry: Because having done situations like this before on the Mainland, when you have a bunch of different groups coming through, they don't have the parent type qualities it takes to look after a property. You have a different group each week coming through. They don't care who's going to be there next week so they don't look after the actual

grounds. They don't come in and pick up the trash perhaps or do the things that a building needs to be looked after because they're not there week after week seeing the breakdown.

Ms. Rotunno-Hazuka: But why wouldn't they be there week after week if they're allowed to go?

Ms. Perry: Because every week -- every week it would be a different one. One week you'd have Ronald McDonald, the next week it would be the cat people, the next group would be LAS, the next group would be Na Kupuna; there would be no family feeling of a momma pappa organization looking over the place on a weekly basis who have already have the crafts and arts stores in the building, so they're there everyday looking at what's going on. When you bring in a new entity every weekend, it just, you know, it's like a restaurant or a motel, the people, the guest coming through don't look after the place, it's the people there each week that look after it.

Ms. Rotunno-Hazuka: But the point would be is to share the place so if everybody is sharing and coming on a different --

Ms. Perry: We do share. Lahaina Arts Society is open for all the artists to join. The gentleman that spoke that's waiting and pending, we've all gone through that process with either group. I think the point is really more which nonprofit, and as far as the other nonprofits like Ronald McDonald or the tree people, they have their own venues. They have places where they can do their thing. Lahaina artists have been doing it there and if you put them somewhere else, it breaks the continuity of being right downtown or something for 30 years, tourists keep coming back and saying, "Oh, I remember last year I was here, I gotta go see the artists under the tree again." It's an ongoing poll that people enjoy. They get out, they take a walk, and I think if we address the problem of the buses, you'll find --

Ms. Sablas: I'm sorry, we need to just stick to the question. Thank you. Okay, next to testify is Lei, Lei Hough. She's gone? And her husband, I guess, gone, cause they're gone. Okay, then Darshan Zenith, if I'm pronouncing it right.

Mr. Darshan Zenith: Okay, I'm Darshan Zenith. I live in Paia. I'm a member of Lahaina Arts Society. I'm going to try to cover several points in three minutes, okay. This is my first exposure to the CRC. I have a little feeling of what you're doing and I just want to point out how artists are a cultural resource, it's not just that we're from a particular background, particular heredity, artists contribute something very special to Maui. The people that come under the tree that meet the artists, I, personally, meet these people and I don't need to be in the Arts Society for the money. I need to be there to meet the people. It's a great experience for me. I learn about people's experience of myself and my art through being there and meeting people. I have so many people thank me for being under the tree and

ask am I going to be there next weekend. Usually I say, "No, it's another group." I'm very happy that there's another group there under the tree different weekends. As so many people come up to me, personally, and thank me for being there and that they have a chance to actually meet people and not just go to a store and see things that are from some other country or from some other place.

I just want to say that the problems that you may have heard about that the LAS is having, these problems are -- have changed. There's a new board of directors; there's many new people; many people have fallen away. This one person who got up and spoke against LAS and gave everybody that he wanted one of these things, this is somebody who has been kicked out of the LAS because of over 15 complaints from other members that he has harassed people and stuff, so this is being taken care of. Please read this with a grain of salt.

Why we should have 25 members or less or more. The truth is if you ask anybody that really has been under the tree and knows about the tree hasn't read any of the reports, you'll discover. It doesn't matter how many people are under the tree, what matters is are people climbing on tree, attacking the tree, hurting the tree. Twenty-five people or fifty people, makes no different. I wish we would be here discussing should we have a hundred people or two-hundred people under the tree. If we're going to have anybody under the tree, it doesn't really matter how many we have. It's not just my opinion, I think we could look at this in a more open way.

I would like to say that if LAS is reduced to 25 people and less weekends, it's pretty much guaranteed that LAS, financially, will not be able to continue operation. I'm not saying this to get your sympathy, I want you to know LAS has been --

Mr. Kapu: Three minutes.

Mr. Zenith: Has been a very valuable contribution with its charities and its keeping the courthouse up paying over 40 percent of the upkeep, and if we're not allowed to continue, we will have to close operation, I believe, and this decision is really a decision will LAS survive or not.

Ms. Sablas: Thank you very much for sharing.

Mr. Zenith: Thank you.

Ms. Sablas: Okay, last person. Last person. Last person to testify who signed is Lori Luck. Is that you? Lori had to leave so you can take her place. You will be the last person. We really have to move along. I am sorry, you know, and this would be the last person to speak. You need to please mention your name.

Ms. Nina Callendar: My name is Nina Callendar and I'm not really good at public speaking so you'll have to forgive me. I just want to say a few things about -- a little bit in the historical. I believe in 1967, the courthouse was vacant and LAS, the founders of LAS, went to Honolulu and asked if we could be in there and so somebody gave them permission, some government entity, and we were allowed to go in and fix it up. We fixed it up and we turned it into a really pleasing place for tourists. The tourists love the courthouse, but it was LAS that did that, and we're sort of the parents of the art market of the Pacific. And right now, our situation is if we're cut back, we -- there would be no LAS. There'll be no parent for art market of the Pacific.

As it stands now, we pay 44 percent of the upkeep of the courthouse. In order to do that, we need our artists selling under the tree, not only for our children's programs, which you heard earlier, I mean, they're wonderful, you know, the people get a lot from them. And the fellow here who was with the Parks Department, he said that we were somehow grandfathered in because we were already here so I don't know if that -- that makes a difference in how many people are there, but being grandfathered it, wouldn't that have something -- wouldn't that have a bearing or weight on how the situation sits? Anyway, I hope I haven't rambled on too much. I'm not used to public speaking. Somebody has a question?

Ms. Long: I have a question. LAS has a gallery. They make profit on the gallery.

Ms. Callendar: Right.

Ms. Long: The court -- they pay what? A dollar a year rent?

Ms. Callendar: No, no. They pay a percentage of the upkeep of the building, 44 percent.

Ms. Long: Okay, 44 percent of the upkeep of the building, but that's -- okay, in lieu of official rent ...(inaudible)...

Ms. Callendar: Right.

(Unidentified Speaker): Just about \$1500 to \$2000.

Ms. Long: \$1500 --

Ms. Callendar: It varies.

Ms. Long: To \$2000 per --

Ms. Callendar: It varies.

(Unidentified Speaker): Depending on the upkeep.

Ms. Long: Per --

(Unidentified Speaker): Month.

Ms. Long: Month, okay, thank you.

Ms. Callendar: So sorry, I don't have all the information but other people here do.

Ms. Long: Okay, thanks, just wanted to get that clear.

Ms. Callendar: Okay, good.

Ms. Rotunno-Hazuka: I have a quick question. How many vendors are inside the courthouse?

Ms. Callendar: I think there's us and then there's --

Ms. Rotunno-Hazuka: Two-hundred total artists?

Ms. Callendar: How many artists?

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

Ms. Callendar: I think there's 200.

Ms. Rotunno-Hazuka: Okay, and then how many outside?

Ms. Callendar: Outside there's 50, but I can tell you, just from my own experiences, I used to work in the gallery and people would come in and they go, "Oh, that's really pretty," and then they want to talk about the courthouse and I'd tell them, "Oh, this is -- this is -- used to be the postoffice, and the courthouse was upstairs, and over here, you know, there was -- you that downstairs is the old jail," and we talked a lot about the courthouse and the historical --

Ms. Sablas: Can we stick to answering the question, please.

Ms. Callendar: Right, right, I'm sorry. So did I answer it?

Ms. Rotunno-Hazuka: So 50 in and 200 outside.

Ms. Callendar: 50, yeah, but on the outside though that's --

Ms. Rotunno-Hazuka: Oh, the other way around.

Ms. Callendar: You know, when I make these crystal jewelry and when I sell them outside, people want to meet the artist and buy it so, therefore, we have more of a cash-flow, basically, people meet the artist and go, "Oh, wow, isn't that neat," and then they buy it. In the courthouse, they go --

Ms. Sablas: No, no, the question, please stick to the question. Did you get your question answered?

Ms. Rotunno-Hazuka: Okay, okay, so the 200 that are represented inside the courthouse, they're not there representing their art?

Ms. Callendar: No, no, there's a person there who's working, yeah, so --

Ms. Rotunno-Hazuka: Okay, sorry.

(Unidentified Speaker): We have approximately 200 members in the Lahaina Arts Society. Not all of them are participating ...(inaudible)...

Ms. Callendar: Yeah, not all of them participate, that's true. We have -- you know, so --

Ms. Sablas: You know what? I guess I want to keep order.

Ms. Callendar: Sorry, we --

Ms. Sablas: If she can't answer the question, that's it, okay? If you cannot answer, just say, "I cannot answer it," and period.

Ms. Callendar: And probably can't, I'm sorry.

Ms. Sablas: Okay. So, thank you.

Ms. Callendar: Okay, thank you.

Ms. Sablas: So this concludes public testimony. Thank you very much. Commissioners, it's now one o'clock. Lunch is here. If you don't mind, can we work through lunch and then we have to deliberate and do the discussion, and recommendation, and probably we'll take one item at a time, the tough issues that we have and go from there, and discuss one item. I think it'd be clearer if we take one item at a time, especially the real key issues that were

brought up. So, if you don't mind, sorry, yeah, that we have to eat and we should've -- okay. So we do want to move along so -- if the commissioners are okay, along this, on your recommendations that we have, should we go and take one-by-one and then let's discuss it, and let's, I think, vote on it individually so we can move along because -- okay?

So the recommendation, number 1, that art fairs be operated no more than three weekends in a row with the fourth weekend to be used as rest for the tree and to provide the community with an opportunity to enjoy a passive park. Special events at the park should be accommodated but the principle of providing a rest day for the tree should be maintained. So let's discuss this one recommendation and let's --

Ms. Duensing: In thinking about this after my report was prepared, I would propose to keep all -- recommendation number one with the additional statement that every fourth weekend of the month shall be the rest weekend. It's not quite three on, one off, but it is consistent and then everybody in the community knows that the fourth weekend is the passive park weekend that the tree gets its rest, okay. And then the groups usually work out their schedule at the beginning of the year; they can still do that knowing that the fourth weekend of the month should be kept free for rest.

Ms. Sablas: We're going to have -- yes, one at a time. I think it'd make it easier instead of taking the whole thing and -- especially the key issues. This one, I think, one, two, three are really key issues that I'd like us to really discuss in detail and I think the others, from four on, are pretty much, you know -- yeah.

Ms. Long: Dawn, I've got three major issues here: the health of the tree; the use of a park, which is a community asset on weekends, which keeps it from its intent as being a passive park; and the third one is such use that we're seeing now appropriate in a National Historic Landmark or a Historic District. You spoke with State Historic Preservation Office, do you think that limiting the use to three weekends would mitigate some of their concerns?

Ms. Duensing: As I said, I briefly spoke with Holly McEldowney, the current Administrator of the SHPD, and, basically, all she said is she has some concerns about what's going on under the park, so I cannot speak for her any further. I didn't get anything in writing from her. As your cultural resources specialist, I think that this fourth weekend off goes a long way towards getting something started to at least take into consideration the cultural resources issues of this park being in a National Historic Landmark. The idea of commercialization of the park, which is in our County ordinance the idea of selling in public places, I think if you only looked at only cultural resources issue and left everything else out, it goes -- it's at least a step in the right direction of protecting the cultural resource and the dignity of the National Historic Landmark District.

Ms. Sablas: Yes, Commissioner Lisa?

Ms. Rotunno-Hazuka: I think what Dawn said is really, you know, what we need to look at. I know people have gathered at Banyan Trees for centuries but is it appropriate though in a Historic District? As far as with the health with the tree, I was wondering if -- I didn't realize it never had water, you know, know irrigation and how long did it not have irrigation?

Ms. Duensing: You know what? It still doesn't. The irrigation is around the tree, it's not underneath the tree.

Ms. Rotunno-Hazuka: Okay.

Ms. Duensing: What the tree is benefitting from is the perimeter irrigation that's in the park.

Ms. Rotunno-Hazuka: Okay.

Ms. Duensing: And with your other comment about the Banyan Tree being a gathering place in other cultures, it's important to remember that's in other cultures. And when I attended the Arborist Committee, I asked them what about this idea of it being a traditional gathering spot, is that appropriate for Maui? And they said that the climactic conditions, the weather conditions in other areas of the world are not similar to Maui so that it's like comparing apples to oranges; that may not necessarily be the appropriate way to look at it.

Ms. Rotunno-Hazuka: Yeah, and I'm just wondering though is the impact to the tree really from too many people or is the impact no water. I'm not really sure.

Ms. Duensing: I think we do have somebody from the Arborist Committee here. I don't think -- I don't know if he wants to represent them or not, but I think that's part of the Arborist Committee's recommendation is that by annual testing, if we are giving the rest weekend and we're cutting back down to 25, all that can be part of the future annual monitoring.

Ms. Sablas: We're looking at you back there with the hat. Would you like to come up front, please, and identify yourself. I think you're from arborist is that what -- our assumption is correct?

Mr. Terry Nutt: Aloha, I'm Terry Nutt. I'm with the Maui County Arborist Committee. Question was?

Ms. Rotunno-Hazuka: Is the tree being impacted by the gathering of the people or would it not having water all these years be part of that?

Mr. Nutt: As far as the water situation is concerned, yes. As far as impact is concerned, yes. As far as pollution from buses is concerned, yes. As far as drought is concerned, yes. We all -- everything impacts that tree good or bad. Many times that there is something that impacts the tree, it doesn't come out within the tree until years, sometimes decades later. Historically, if you carve, carve deep enough into a tree, the tree will compartmentalize that, grow over that, but when you cut it down, you'll be able to see; that's what a tree is. A tree is big record and it records everything that happens to it in one way or another. The impact of the tree so far on impacting the soil came out fairly good; that doesn't mean that -- you have to understand, the tree is sitting on a bubble, basically, a freshwater bubble. It doesn't pick up saltwater; it can't. It can deal with brackish water. We're dealing with a weed. We're dealing with about a 135 year old weed and, basically, that's what it is. It would be on the invasive species list, if not for one main concern, and that is because the pollinator is not on the -- in the Hawaiian chain. If it was, that would be right up there along with the Chinese Banyan, with Benjamini, so -- and that's the reason why it's not on there because the pollinator is not on there, you can't pollinate the seeds to make them -- their sterile, basically. So as far as the watering of the Banyan Tree, the irrigation was broken for a long time. It is only for the grass itself. That though does help with the perimeter of the tree, the water itself.

So it's everything and it's all compounded. It's just not one little thing. You're not going to say by taking and putting it down to 50 that it's going to -- or 25 it's going to make it any different than 50, supposedly, but it's not the vendors as much as it is the crowds that bring -- I mean you can have 25 people and 2000 people follow in for those 25 people. Now that 25 people could have been 50 and maybe they bring in another 2000 more people; that kind of weight will eventually impact if it's not corrected, and it has to be corrected on an annual basis, and that is through taking the tree and aerating the tree, bringing in compost in the tree so it will keep water retention, it will make the soil not compact so, yes, on your question - everything, so --

Ms. Rotunno-Hazuka: And just, I'm sorry, this will be real quick. If you -- if you're under the tree and you have all these activities, what if you're on the perimeter, like right next to the sidewalks and people stayed there, would the impact be much less to the tree if you're not under the canopy, I guess, would be the --

Mr. Nutt: Well, always remember that your root zone usually goes beyond your canopy; it usually goes about twice beyond the canopy. It really depends on the soil itself; the composition of the soil; what's underneath the soil; how much watering is done. So, actually, no matter where you're at, if you're along there, it's going to somehow impact your tree good or bad, so --

(Unidentified Speaker): ...(inaudible)...

Ms. Sablas: No, I'm sorry. Questions are not allowed from the audience; it's just the commissioners. I'm so sorry. So sorry. You can ask him separately away but sorry.

Ms. Sablas: Any other questions, commissioners? Are you ready to make a motion on this first item? Or you want more discussion? We need to move on. Yes?

Ms. Rotunno-Hazuka: I just have quick question.

Ms. Sablas: Sure. Wait, Commissioner Long first had a question.

Ms. Rotunno-Hazuka: Oh, I'm sorry.

Ms. Long: When does the year start? When is the next evaluation of the tree?

Ms. Duensing: I think, to make things easy, we could do it two ways. We could go with the beginning of the County's fiscal year, July 1, or we could just do the calendar year and start that way.

Ms. Long: Maybe Terry should -- I don't know if there's an optimum time to evaluate.

Ms. Duensing: Terry, is there an optimum time to evaluate the tree for the annual analysis? If we went with like every January, or every July 1 with the beginning of the County fiscal year, just to make it easier, or is there a better time that we can do that?

Mr. Nutt: Okay, I've got to talk ...(inaudible)... Ernie Rezens. They're probably a little bit more qualified on the time. Usually it would probably before the ...(inaudible)...

Ms. Duensing: Okay, why don't we just make it easy and we could say our recommendation on annual basis to be determined by the Arborist Committee and County Arborist.

Ms. Sablas: Okay. Now, the question is that the art fairs be operated no more than three weekends in a row.

Ms. Long: Another question. Does this also apply to special events cause it doesn't say so?

Ms. Sablas: It says, "Special events at the park should be accommodated but the principle of providing a rest day for the tree should be maintained." That means if it comes on the fourth, is my understanding, it doesn't happen.

Ms. Duensing: That's not necessarily -- I think, what the Arborist Committee was recommending, and in thinking about this, I think that maybe the way to handle it is would be to say that no more than, you know, a certain number of special events, be it one or two a year, be allowed to use those fourth weekends. That's why I suggested the fourth weekend anyway, like if you look at the next six or I think it was the next four or five years, for instance, Halloween is likely to fall at the end of the month but Halloween won't fall on a weekend for those times. And I think when the groups are scheduling it, you know, there should be -- there should be some limit as to how many of those extra weekends should be to accommodate special events, yeah.

Ms. Sablas: And, in particular with the In Celebration of Canoes, that does run, you know, for about five weeks, so I think the wording needs to be clear of what our intent is that it covers special events like that and so we don't have any questions, so suggestions from the Commission or from you, Dawn, as to how we should clarify this recommendation number 1.

Ms. Duensing: I think in light of the canoes event, in all the meetings I attended and all the discussions with the Mayor's office, Parks, everywhere else, everybody wholehearted supports canoes so I think that canoes should just be scheduled, you know, to -- it should happen, in other words, as a special event. I don't know if you want to make a special designation because that is a long-running event or how you wanna handle that.

Ms. Sablas: Suggestions from the rest of the commissioners on that topic. Do we make -- specify on item 1 that -- and -- actually name the Festival of Canoes event because it is a five-week event just to make it clear?

Ms. Duensing: Madam Chair, could we ask Theo as to how many weekends that thing actually goes on under the -- it goes on two weekends? And do you guys usually -- you only take one weekend or you share with LAS and you guys alter weekends? How do you handle that?

Ms. Morrison: Okay, I wasn't ready for this question. But it starts at Kamehameha Iki park, the first weekend, and then that week it moves, that following week during like Wednesday or Thursday, it moves to Banyan Tree Park, so it's there for Thursday, Friday, Saturday, Sunday, that whole week, and that weekend, and then it moves to Kamehameha Iki Park again. So it is two weekends and the second week - total of ten days.

Ms. Sablas: So, as is that fourth -- that three weekends in a row is not going to impact International Festival of Canoes, is that what you're telling us?

Ms. Morrison: Depends on the calendar. It's always the last two weeks of May. I can't tell by --

Ms. Duensing: My question is though is because it goes in the park from one weekend to the following weekend --

Ms. Morrison: Correct.

Ms. Duensing: Currently, now, do you -- you have the arts and crafts fairs on the weekends or do they go all week long?

Ms. Morrison: For that event, we start on the first weekend, I'm doing this by memory --

Ms. Duensing: Well, yeah, that's it. I can't remember how your permit goes either.

Ms. Morrison: Yeah, well, it's one week of the craft fair plus two weekends, I believe.

Ms. Duensing: Okay, I think the best way is that these -- the groups as it goes now, from what I understand, is you get together at the beginning of the year --

Ms. Morrison: Correct.

Ms. Duensing: And you divide up the weekends anyway so --

Ms. Morrison: So if you decide that you need one, basically, you're saying 12 rest weekends a month, I mean 12 rest weekends a year, we can schedule that.

Ms. Duensing: Yeah, I think what they need to do is they need to schedule around those --

Ms. Morrison: It doesn't necessarily have to be 4, just 12, you're saying 12.

Ms. Duensing: Yeah, but I heard there was some concern from the community groups that the rest weekend be consistent.

Ms. Morrison: That would help, however --

Ms. Duensing: Okay, so what if we did this, if you designate the fourth weekend of the month for rest and that the Celebration of the Canoes, if it goes, for instance, the last two weeks of May, that would be one -- one exception to this rule.

Ms. Morrison: Well, if our concern is that it becomes, I mean if we're asking for it to be consistent, why don't you just let us schedule it and we can figure it out. The ultimate goal is for 14, I mean 12 rest weekends a year, so we can do that.

Ms. Sablas: So we're ready for the question on number 1? We gotta move along.

Ms. Rotunno-Hazuka: Do you want us to -- do you just want to take a vote?

Ms. Sablas: I think it would make it easy. Let's take one at a time --

Ms. Rotunno-Hazuka: Okay.

Ms. Sablas: And make a motion and then the other ones we probably can group it up if there's, you know, I just -- otherwise, we might get confused, if you don't mind. So let's just take item number 1 and that is the subject of the three weekend and then rest the fourth weekend. Do I hear a motion on that?

Ms. Long: Yeah, I'd like to. That was with the addition of Dawn's suggestion that every fourth weekend shall be the rest weekend, right? And if that's the case, I will so move to adopt.

Ms. Duensing: Maybe Corp. Counsel and Simone, with more experience in drafting these words, can tell me if this works: "That art fairs be operated no more than three weekends in a row with the fourth weekend to be used as a rest for the tree and to provide the community with an opportunity to enjoy a passive park." That's the principle. "Special events at the park should be accommodated but the principle of providing a rest day for the tree shall be maintained. Twelve rest weekends a year shall be observed." Will that work, Corp. Counsel?

Mr. Akama: Yes, that would be fine. That would give you the discretion to accommodate special events, which is already provided, and 12 rest weekends is redundant because it already provides the fourth weekend to be used as a rest; every fourth weekend to be used as a rest, so it's redundant to say "12." If you wish to, you can do so, but I believe it's redundant. I think the condition reflects what the Commission wants as it is written.

Ms. Sablas: Okay, hearing that then, Commissioner Long, are you going to make a motion?

Ms. Long: One other thing, may be change special events at the park "may" be accommodated from "should?" Please.

Ms. Sablas: Okay.

Ms. Long: Thank you, with that change, I would like to move that we adopt number 1.

Ms. Simone Bosco: May I make a comment, Madam Chair. I think Dawn's comments regarding the fourth weekend are well taken and in the event that there's a special event during that month, which precludes the rest day, which removes the rest day, and I think

her addition of the 12 rest days per year allows for, perhaps, that lost rest day to be moved to another month. I think that's the intent. If I could please -- pardon me?

Ms. Duensing: Or the fifth weekend if there's a fifth weekend, but I guess I was concerned about that because we want to make sure that no more than three weekends a year or, excuse me, no more than three weekends in a row is observed. Corp. Counsel's okay with that.

Mr. Akama: That will be fine.

Ms. Sablas: Okay, so the motion.

Ms. Long: Motion to adopt.

Ms. Kalalau: Second.

Ms. Sablas: Wait, I'm sorry. It was moved by Commissioner Long, seconded by Commissioner Kalalau.

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

It has been moved by Ms. Long, seconded by Mr. Kalalau, then unanimously

VOTED: to adopt recommendation number 1 with Dawn Duensing's addition to the recommendation, and changing the word "should" to the word "may, as mentioned by Barbara Long.

Ms. Sablas: Motion carried unanimously. Thank you. Okay, let's move on to item 2, that art fairs in Banyan Tree Park be limited to 25 booths. Discussion. Comment from Staff Planner.

Ms. Duensing: I'd just like to inform commissioners that in the permits that have been improved since you deferred this item in March, we have already been putting this 25 limit on the permits so that it's in effect already.

Ms. Sablas: Okay, there was a lot of testimony today on that effect so I just wanted to bring it up for the commissioners because -- for discussion. Okay, commissioners, are we okay? I mean you heard what Dawn said.

Ms. Long: Question. Can you have more than one vendor per booth?

Ms. Duensing: My understanding is it's one vendor per booth. You can have more than one person at a booth and that's been addressed in another condition.

Ms. Long: Okay, so if it's one vendor per booth, then -- okay.

Ms. Rotunno-Hazuka: And then we are looking at these recommendations also with the thought, in the future, of trying to move away from the Banyan Tree as a site, I mean if we're, every year we're going to review this and see how things are going. Okay.

Ms. Sablas: Is there a motion for number 2.

Ms. Bosco: Madam Chair?

Ms. Sablas: Oh, yes?

Ms. Bosco: For the record, I'd just like to clarify that if there is an allowance for a food booth that that food booth be considered one vendor.

Ms. Sablas: Okay, everybody heard that?

Ms. Rotunno-Hazuka: I make a motion then that we accept the, for this first year, to see how the 25 booths helps.

Ms. Sablas: And I think you should add on that motion about that includes food booths or if we discuss it on number three, or should we just wait for number three?

Ms. Rotunno-Hazuka: Okay, that the 25 total vendors or booths --

Ms. Duensing: That's why we're using the term booths instead of artists. "Booth" encompasses everything.

Ms. Rotunno-Hazuka: Okay.

Mr. Kapu: I get one question to that. The 25 booths, there was somewhere in the previous minutes before that I think it was, I know don't know, Lahaina Action Committee, based on 25 booths but 5 of them was to be educational, does that also include certain booths are -- that were, basically, educational booths and not business oriented booths? Would it exclude that?

Ms. Duensing: I think that's what Parks would like cause we've dealt with this under the last couple permits. My recommendation would be just say, "25 booths," and if they want the additional educational booths, they can come to the Commission for those special

events, like Ocean Arts Fair where they do have the educational booths and get the permission from the Commission.

Ms. Sablas: Okay, does that answer your question? We're ready for the question for a motion for number 2.

Ms. Rotunno-Hazuka: I made a motion.

Ms. Long: I'll second it.

Ms. Sablas: It's been moved by Lisa, seconded by Barbara.

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

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

VOTED: to accept recommendation number 2.

Ms. Sablas: Motion carried. Item number 3, That no food booths be allowed at Banyan Tree Park. Do you want to make a comment as far as legality?

Mr. Akama: I think there was discussion earlier about the fact that the cooking or the heating under the tree was the main concern so if we are to add that no foods, "which require heating or cooking of food --" no?

Ms. Duensing: Sorry, what Parks was saying earlier is that no food booths be allowed at the Banyan Tree Park; that was part of their recommendation. John Buck said that if we wanted to, for instance, recommend that the food booth be outside the canopy of the tree or if we want further direction, we need to send a letter to Parks and get further direction on that. So I don't know if we can defer just one item on these recommendations or, perhaps, you could provide us direction as to how we can do that.

Mr. Akama: That's right. We can defer consideration of this item number 3 pending communication with the Parks Department, so that the motion should be deferral of recommendation number 3 pending further consultation with the Parks Department.

Ms. Long: So moved.

Mr. Kalalau: Second.

Ms. Sablas: Okay, it's been moved by Commissioner Long, seconded by Commissioner Kalalau that we defer item number 3 subject to further recommendation by Parks, so thank you very much.

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

It has been moved by Ms. Long, seconded by Mr. Kalalau, then unanimously

VOTED: to defer recommendation number 3 pending further consultation with the Parks Department.

Ms. Sablas: Unanimous, okay, thank you. So let's -- unless anybody wanted to address any of the other recommendations through 19, we can talk and speak about it. Number 13, about the music, if I may -- it was, you know, we have no prerecorded music, and we have heard testimony to this effect, so anybody has any thoughts on this?

Ms. Long: Not on that one, Madam Chair, but if I may comment on number 18, following my question to John Buck about who -- how this should be reviewed, the time limit of one year. I'd like to have that one read, "The time limit of one year shall apply. The Cultural Resources Commission, with input from the Department of Planning and the Department of Parks and Recreation, shall review arts fairs on an annual basis."

Ms. Duensing: Actually, I'd like to refer commissioners to County ordinance, which addresses selling in public places because it doesn't provide for the Cultural Resources Commission to get input, in Title 19, it provides that the Cultural Resources Commission will -- no? How does that --

Mr. Akama: 19.52.090, entitled, "Regulations for Historic Districts No. 1 and 2.," alphabet E, Selling in public places, reads that, "It is unlawful for any person to carry on or solicit business in any location on any street, highway, or sidewalk. The same is unlawful in any location and any park or open space that is owned or maintained by a government agency without the approval of the Cultural Resources Commission and the responsible government agency having administrative authority over the park or open space." So the approval must be joint - CRC as well as the Parks Department.

Ms. Long: Okay, so instead of "or," say "and?" Cultural Resources Commission "and" the Department of Planning?

Mr. Akama: No. We can actually delete "or" from or to Planning -- "or" the Department of Planning, cause it already says "and" the Department of Parks and Recreation shall review on an annual basis.

Ms. Long: Okay.

Ms. Rotunno-Hazuka: And I just wanted to make the comment that or just make sure that when we review it, we're going to be looking at like the number of vendors so that the Lahaina Arts Society can come to us or whomever is there and say, "Oh, yes, or, oh, 25 has greatly restricted us," or stuff from the arborist, "yeah, this 25 was a good number," you know that kind of thing.

Ms. Duensing: When it would be subject to annual review, you would review it on the basis of the conditions imposed for the permit, which is what you're doing now, you're going to either approve these recommendations, or you're not, so that when the annual review came by, you know, have they been, you know, how are these conditions working; have they been complied with; that's how you would do that.

Ms. Sablas: Okay, you know what -- what I, if you don't mind, what I'd like to do to move it along is take by item and unless there's major, you know, then we'll just approve the rest in -- as a group. So, item number 4, That all arts and crafts sold at the Banyan Tree be handmade in Maui County and sold by the artist or an immediate member of the family. You read that? You're all okay with that?

Okay, item number 5, Applicants obtain Historic . . . We okay with that? Six, That the Cultural Resources Commission shall have the right to review and approve all criteria, etcetera. Discussion?

Ms. Rotunno-Hazuka: On the who may participate, are we talking about just the two that we're going to decide who can go under the tree?

Ms. Long: No, just the criteria.

Ms. Sablas: It's criteria, not who. So criteria for each group.

Ms. Long: Yes.

Ms. Sablas: Yeah, we're okay with that? Okay. Number 7, That applicants for art fairs obtain the approval of the Department of Parks and Recreation for the use of Banyan Tree Park prior to the day of the event. . . Okay, we already -- yeah. We okay with that? Number 8, That there be no structure in Banyan Tree for the collection of money . . . That's okay. It's a given.

Okay, 9, "That all organizations using Banyan Tree Park shall abide by the rules and regulations established by the Arborist Committee . . ." Okay?

Ms. Bosco: I'd like a point a clarification.

Ms. Sablas: Point of clarification.

Ms. Bosco: "... as iterated in the Committee's letter of July 21, 2004." Well, some of the recommendations in that letter have been modified by the CRC today.

Ms. Sablas: Okay, counsel?

Ms. Bosco: Particularly, the -- okay, well -- I'll let you take over.

Mr. Akama: We can add a comma after "July 21, 2004." Or, "as amended by the Cultural Resources Commission." Or not.

Ms. Duensing: Yeah, yeah. The rules are already established and what the Arborist Committee did in their July 21 letter, on page 2, number 6, the rules and restrictions previously adopted for the use of Banyan Tree Park are still in effect and are as follows, and then they list them. So we haven't amended any of those.

Ms. Bosco: Okay, thank you. I just didn't want there to be a confusion between what's the two issues and the letter cause the letter does go into the rules and regulation; however, it does go beyond that too.

Ms. Long: Yeah, could we just say number 6 in that --

Ms. Sablas: What was your recommendation, Commissioner Long?

Ms. Long: The rules and regulations established -- somehow note that it's item number 6 in that letter of July 21.

Mr. Akama: Right, right, rather than the previous suggestion, put a comma after "July 21, 2004" -- "as noted in item number 6."

Ms. Long: Okay, that works.

Ms. Sablas: Number 10, That all structures be of temporary nature . . . Okay? Eleven, That no staking shall occur . . . Okay? That no signs shall be displayed . . . We're all okay with that.

Thirteen, That all music in Banyan Tree park be restricted to liver performances. Music shall not be allowed to create any deleterious effect, including sound levels that might

create an undesirable nuisance to nearby merchants, building occupants, or the general public. No prerecorded music is to be played at any event. Comments? Objections?

Ms. Long: I just think "undesirable nuisance" is overkill. It's either undesirable or it's a nuisance.

Ms. Sablas: So your suggestion is to strike out that "undesirable nuisance," and just to create -- nuisance?

Ms. Long: Just "nuisance," yeah.

Ms. Sablas: Okay. Are we okay with the rest of the commissioners to strike out --

Ms. Rottuno-Hazuka: I just didn't know -- Keeaumoku, can you think of any reason that it, you know, for prerecorded music or, anybody that's been to the events, can anybody think of a situation where this wouldn't apply?

Mr. Kapu: Well, I get one concern based on restricting live performances over there because it has a lot to do with artisans, yeah, and if you're going to restrict live music at the Banyan Tree --

Ms. Sablas: No, no, no. It says it's okay.

Mr. Kapu: Restricted to live -- oh, okay.

Ms. Sablas: It says the prerecorded.

Mr. Kapu: I lost my train of thought over here.

Ms. Sablas: The prerecorded music.

Mr. Kapu: Yeah, I never eat my lunch that's why.

Ms. Duensing: Yeah, the reason why this was put in is if the band takes a break for 15 minutes, what's wrong with 15 minutes of silence? The park users might enjoy that too.

Mr. Kapu: Okay, what was your question again?

Ms. Sablas: No, again, we had heard testimony about, you know, recorded music that they -- there be times that it would be appropriate. Is that too strict of a restriction to be added on about the recorded music? I --

Ms. Rotunno-Hazuka: I guess --

Mr. Kapu: No.

Ms. Rotunno-Hazuka: No...(inaudible)... think about it with boom boxes and, like Dawn's saying, you go to a park to relax. I think it's fine.

Ms. Sablas: So it's fine as it's written.

Ms. Rotunno-Hazuka: As it's written.

Ms. Sablas: Commissioners, are you all okay with that then?

Mr. Kalalau: I have a question because if you have a music artist and he wants to sell his music, I would think that he should be allowed to play a prerecorded music of his art. Maybe what we can say there is that that he has a electronic recording device that has headsets to allow his buyers or his consumers to listen to his prerecorded music.

Ms. Sablas: I don't know, just my mana`o on this. I've been involved in so many events to plan and sometimes there are occasions where prerecorded music is appropriate for various reasons and to take -- and to put this in, I think it's, you know -- so, for me, that's the problem I have with this one sentence of this prerecorded music. I would like to suggest that we just take it out. We were going to review it again next year. If it becomes a problem, then we address it. Are we okay or -- Commissioner Long, your comments?

Ms. Long: What Sam was talking about was a vendor. What I think number 13 addresses is music that's played over a public address system when the live source of music is taking a break. When they do take a break, it's usually fairly brief. We're not looking at a social dance hall where people want to keep dancing; this is -- it might, if there's a period of silence, even increase the appreciation for the live music when it does come back on. I think if we change the last sentence to read, "No prerecorded music is to be played publicly at any event." If there is a vendor who is selling recordings of his own music, he could play it over headphones or something for somebody who wants -- that was Sam's concern.

Ms. Sablas: Okay. Counsel, can you put that in legal verbiage, please?

Mr. Akama: I really don't like redundancy and, you know, I think that it's fine the way it is read. It uses "event" in that sentence; it prefaces number 13 by saying, "live performances." I think it's pretty obvious what this says without adding anymore language.

Ms. Sablas: Okay, having said that, then we'll move on to the next. We're okay. So it stays in. Number 14, "That the appropriate building permits . . ." We're okay with that.

Fifteen, Banyan Tree Park shall be cleaned of all trash . . . We're okay with that. Sixteen, okay that's a given. Seventeen, That the LahainaTown Action and Lahaina Arts Society do not have exclusive rights to permits granted for Banyan Tree Park. Okay, That a time limit of one year shall apply to ongoing art fairs at Banyan Tree park. The CRC or the -- the CRC, Department of Planning, and the Department of Parks and Recreation shall review art fairs on an annual basis based on calendar year. Is that what we decided? Should we add "based on a calendar year?" "On an annual basis." Okay. And, 19, that full compliance -- okay. I'm sorry.

Ms. Bosco: Just for clarification, the Commission would like to see this event return to them every year.

Ms. Sablas: The question was asked.

Ms. Bosco: Or this issue, I should say, not event. The Commission wishes to review the policy every year.

Ms. Long: These recommendations.

Ms. Bosco: Okay, just clarifying that.

Ms. Sablas: Okay, we got through that one, guys, so we'll just now make a motion from item number, since we had already made motions from 1 to 3, the motion would be on item number 4 through 19. Call for the question.

Ms. Long: I move to adopt the recommendations 4 through 19 as modified.

Ms. Rotunno-Hazuka: Second.

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

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

VOTED: to adopt the recommendations 4 through 19 as modified.

Ms. Sablas: Motion carried. Thank you very much, commissioners, for this -- going through this process. Okay, next on the agenda is item d.

- d. **MS. THEO MORRISON, Executive Director of LahainaTown Action Committee, requesting Commission consideration and approval of amendments to the He U`i Cultural Arts Festival, which takes place under the Banyan Tree, TMK 4-6-001:009. This agenda item was deferred by the CRC at its March 4, 2004 meeting. Commissioners will review and discuss for approval or denial the amendments proposed for the He U`i Cultural Arts Festival. Public testimony will be accepted. (S. Bosco)**

Ms. Bosco: Thank you, Madam Chair. The item before you is a deferred item from the March 4 agenda wherein the applicant, the LahainaTown Action Committee, had requested the review of amendments to the He U`i Cultural Arts Festival event which occurs, currently, half of all weekends of the year under the Banyan Tree except for provisions if there's a special event, then they accommodate a special event.

In response, the Cultural Resources Commission asked for three items to be submitted: a more comprehensive event description, this is the reason for the deferral, they requested a more comprehensive event description; how the applicant will enforce terms and conditions of the event; and also some discussion on what possible alternative locations or sites the applicant can consider for this particular event, and a discussion of the pros and cons of each site.

The department then turned around and asked the applicant to address a number of items related to those three items and that is actually summarized in the department's report. In response, the applicant submitted a very comprehensive response to all of the items requested and that is also contained in the department's staff report.

The, also, the department has transmitted the request to agencies and we did receive agency comments, which are also contained in the report, and also three additional comments that were distributed to you for today's meeting. I want to point out that many of the comments have been incorporated into the previous discussion; however, I just want to summarize. The Department of Parks and Recreation letter also, dated February 25, and the new letter, dated July 21, apply to this event. The Arborist Committee letter dated, excuse me, not July -- I'm sorry, the Parks letter was dated -- what was it -- July 26. And then the Arborist Committee letter dated July 21; Police Department letter, July 19; the Department of Public Works and Environmental Management letter dated July 13; and also a very long letter or actually transmittal from the DLNR by letter dated July 22, and that, I might point out, includes the criteria and guidelines that the organizations must meet for participation and use of the Banyan Tree Park and courthouse.

I think I might just take this time to reiterate what those criteria are since they're very relevant to who will be allowed to use the Banyan Tree Park and courthouse. The board amended a previous December 12, 1997 approval with changes, and I'm just summarizing in part now, this is by letter dated February 25, 2000, the board set forth conditions number, I should say, 4 and 5; I'm going to read 4 and 5 cause they're very pertinent. Number 4, The additional uses for the courthouse should be limited to the following: museum, art gallery, visitor center of Lahaina Town, community center, meeting room and classroom, and office administrative place. The uses for the Lahaina Banyan Tree Park shall be limited to the following: A. Arts and crafts, exhibits and sales; B. Cultural demonstrations; C. Community events; and, D. Other related activities.

Item number 5 states, The potential users for both the courthouse and the Lahaina Banyan Tree Park must meet the following characteristics: A. The organizations are tax-exempt and non-profit; B. They're occupancy in the courthouse or the park must be provide a demonstrated public benefit to the Lahaina community and to the citizens of Maui County; C. The activities of the organizations shall have a significant educational component; and, D., Other criteria, as may be determined by the County of Maui.

That summarizes the criteria from the DLNR. In reviewing the other comments, the Police Department had no objections to the event, Public Works had no objects, and neither did the DLNR. In specific, the DLNR did say that the organization, the LahainaTown Action Committee, as proposed, does meet the criteria.

Going back to the March 4 discussion, which we had on this event, largely the testimony focused on the opportunity that this event brings to the artists to, basically, sell and exhibit their art on a part-time basis. The Cultural Resources Commission again deferred action and requested that further discussion occur with the Department of Parks and Recreation, the Arborist Committee, and the stakeholders to more firmly agree on the terms of all subsequent permits issued for the use of the park. And also they asked for the Arborist Committee to submit formal comments on the matter, which has been done.

At this point, what I'd like to do is just turn to the proposal by the LahainaTown Action Committee, on behalf of Na Kupuna O Maui, that starts on Exhibit 1, and I'd like to try to summarize the amendments for you, if I can. The event has been amendment to -- how can I say this? Allow for a broader scope of the kind of art that could be exhibited and I'd just like to point out that this amendment is -- it's clarifying for the Commission and for anyone interested that the art sold does not necessarily have to be tied into the Hawaiian theme, and I want to make that clear because this has become a contentious issue. The He U'i Cultural Arts Festival proposes live music and entertainment; artist booths; cultural arts demonstrations, such as lei making, poi pounding, etcetera; and also one food booth.

The -- I'm not going to read everything, but I want to point out the salient points here. They did propose the criteria by which the art is juried by Na Kupuna O Maui, and the following criteria is set forth on terms of originality. The festival is seeking work that is original in concept and execution. On craftsmanship, the festival is seeking work which is constructed with care, expertise, and demonstrates a mastery of technique. And, also, the festival is seeking a Hawaiian Polynesian theme or style, encourages and gives special consideration to work which portrays in method, material, concept, construction, or other methods a feeling of or a relationship to and/or a portrayal of the culture and/or environment of Hawaii and/or Polynesia, and this is where the scope is broadened to include Polynesia.

The type of artwork which will not be sold: work made from kits; work that is simply an assemblage of manufactured parts with no creativity or design or inspiration from the artist; work that is identical in appearance to imported or manufactured items will not be allowed in the festival.

Okay, I also do want to point out that the applicant is working in cooperation with the other users of the park and that also includes the special events. And I am trying to wrap this up. The number of artists, point of clarification, the applicant is deferring to the County on that matter and is willing to comply as long as the number is also applied to the other users of the park. And they did give a brief description of the loading and unloading activities and a lot of other details which were summarized in my report.

I think that sums it up. I'm going to open this up now for the Commission to discuss and then we'll follow with any kind of recommendation that -- or the recommendation. Thank you.

Ms. Sablas: Before I open it up to commissioners for discussion, I'd like to ask for public testimony on this agenda item if there's any remaining public who would like to talk.

Ms. Bosco: I did receive an item, late yesterday, item which was directed to me, but I believe intended to go to the earlier item, but I'd like to include it in the deliberation. This is from the -- hold on here, I'm going to find it -- it's from Yuki Lei Sugimura, she is the, what do you want to call it? She is the manager for the Aloha Festivals event, special event, and she basically is concerned about the limitation on the number. She wanted the CRC to know that this does pose a significant difficulty, 50 percent lost in profits, and they are complying. This year, their event has been restricted to 25 vendors and they are willing to comply, but she did submit testimony to that effect, and you all have a copy of it. Also, the restriction on food vendors, which she said is a -- the food being a significant part of the -- that particular event, so she's hoping that in her special event review, the food vendor item could be, I guess, looked at in a different manner because it's a significant -- it's a significant component of that event. And that's it regarding testimony.

Ms. Sablas: Okay, then I'll close the public testimony at this time and open discussion to members of the Commission.

Ms. Long: First of all, I want to thank Theo for her willingness to work within the parameters that have appeared today and understanding of what this Commission is attempting to do in the Historic District, and I appreciate what you do in Lahaina for just about everybody there, so thank you for that. We did receive today the event rules that are distributed to applicants and also an application form for He U'i and I'd like to suggest that, not only Na Kupuna, but also the Arts Society have a document signed -- this is it -- signed by each vendor, as this one. This is an application form but I'm assuming that they keep it on file if these people are chosen to be vendors. The question that I raised at the last meeting was how the applicant will monitor and enforce the proposed terms and conditions. The response in Theo's letter was that the applicants sign this thing. Well, I don't see a place where they sign it, and I don't see anything on this form that says, "I am the artist who is making the materials which will be for sale in this booth," and I'd like to see the Arts Society and Na Kupuna have a statement that says, "I have read the rules and will comply with them," so that each person, who's there, is on record as having read them and understanding them.

And as far as monitoring, just to have someone's signature on something and a statement that says, "Well, if you don't comply by the rules, you may not be able to participate further," is not what monitoring is to me. Monitoring is it's someone, from each organization, needs to be present, circulate, make sure that the rules are being followed, and when they're not, do something about it then and there. The burden should be upon the organization that's putting it on and the vendors, not on the County to be out there spending our tax money investigating and enforcing. So that was my hope when I asked the question that you would come up with a plan that would take the burden away from the County, and I'd like to know if you think that's possible.

Ms. Morrison: My name is Theo Morrison, I'm the Director of LahainaTown Action Committee, and, yes, that is our plan; that is what we do. And it was an oversight, I guess, that that didn't have the signature on that application. All our other special event applications do, so --

Ms. Long: So I'm to understand that someone from LahainaTown Action Committee, and I don't know if there's anyone from -- and this is not what we're talking about, but I would hope Lahaina Arts Society as well, will be at each event to monitor and enforce.

Ms. Morrison: That is correct, actually, Na Kupuna O Maui, who's our partner in the He U'i Cultural Arts Festival, Aunty Patti usually runs the outside, we run the inside. But if she's not there that day, I would go outside and check the booths.

Ms. Long: Thank you very much. I do have, not a problem, I have a concern that when this began, it was a Hawaiian event, and we've heard from the Hawaiians this morning, and as a haole, I may not have as much right to comment on this, but I lived in Lahaina since, well, started off there in 1968, and I miss having Hawaiians in town. I am happy to see that there is an event that brings them into town and that educates, not only the public and visitors, but Hawaiian kids that, yes, our craft are a cultural manifestation, they are worthwhile, and we need to keep learning how to do this and mentor each other with that. And so in my hope that this will not become some sort of generic Polynesian hotel lobby kind of a thing, I would like to ask if Na Kupuna is willing to commit a certain percentage of the booths to Hawaiian art and culture.

Ms. Morrison: Aunty Patti is not here, but this -- the event encourages, like we stated in the application, but the problem we ran into when we said, "It's a Hawaiian arts and crafts fairs" we couldn't always get Hawaiian, and how you define that is subjective, Hawaiian arts and crafts. And so were cited. We were -- we got complaints because we were being told we weren't following our permit, which is why we've opened up what we said we're doing however -- if tomorrow we could get 25 authentic Hawaiian artists and art, you know, crafts, they'd be there in a minute. It's always open. It's absolute the goal of the organization. We've had several. We recruit them, you know, they don't always stay with us. But it's absolutely the goal of the organization.

Ms. Long: I know that Bailey House, over the years, has had numerous Hawaiian crafts being taught from drum making to senet braiding to lauhala weaving to whatever. I think I'd be satisfied for this year if they could say, "Okay, we will have one or two booths that will showcase traditional Hawaiian crafts." I would think those folks, if they knew the opportunity was there, would be grateful for the chance to come out and do traditional crafts.

Ms. Morrison: That opportunity is absolutely there. Absolutely.

Ms. Long: Well, kindly get the word out.

Mr. Kalalau: Yes, I just want to support Barbara on having the really traditional Hawaiian craftsmen out there. You know, as you know in Hana, there was the Taro Festival, and now it turns out just to be another festival, I mean all the Hawaiians have disappeared, you know. People will remember when they first went to the Taro Festival in Hana, there was warriors running around in malo; there were awa ceremonies; there were surrounding fish in the old traditional way in a fishpond, and they were having, you know, they had a lot of Hawaiian's running around at the beginning of the Taro Festival. Today, if you go to that Taro Festival, it barely covers taro. It's become another music fest. This is why I support what Barbara is saying is that we need to have those traditional Hawaiian artists out there so that the public and also our tourist industry can really come and see what it's all about.

I don't want to see it turn into another -- just another festival. I strongly support having the traditional artist out there and maybe some kind advertisements on what weekend you guys are going to have these artists there. Being that most of the artists cannot come there all the time, I think a good scheduling of these professional artists should be advertised throughout Maui County and also in the tourist industry so we can better educate and have people have a better variety of purchasing arts and crafts.

Ms. Morrison: Well, like I said, we totally agree with you and we've been recruiting and we'll keep recruiting and if you know anybody in Hana, send them out.

Mr. Kahan: Point of information.

Ms. Sablas: No, we had closed the public testimony, so sorry. Point of information?

Mr. Kahan: Is there a percentage of Hawaiian booths ...(inaudible)...

Ms. Long: I'm going to make that recommendation, and it is ironic, and I hope all of you appreciate that. And if you're watching on Akaku, for Heaven's sake, get in touch with Theo.

Ms. Morrison: With Aunty Patti Nishiyama.

Ms. Sablas: And what's her number?

Ms. Morrison: I don't know.

Ms. Sablas: Get in touch with LahainaTown Action Committee and the number is listed in the phone book so she can -- and we do need that, yeah. Another question?

Ms. Kapu: In the special events area pertaining to the festival, International Festival of Canoes, we have a lot of different people that come from all over the South Pacific, and they also bring arts and crafts and things with them. Is there a limited process of what they can involve themselves in under the Banyan Tree because the Banyan Tree is ...(inaudible)... and that, you know, we're dealing with people, we're dealing with cultures from across the ocean like New Zealand, Cook Island, Tonga. We're dealing with people who are going through poverty, yeah, and they're coming over here and they're adding a little bit of spice as pertaining to how we're related to them out there in retrospective on how we can actually help each other because it's a revitalization of canoe building and then the connection in an economic, a viable way, how can we actually help provide for also those that come here from those kind of different islands and places who are going through poverty and stuff like that? There's limitations on how say maybe He U'i or Lahaina Arts

Society or Lahaina Action Committee can actually help with those kind of venues out there? Is there any process that you guys going through or limitations as pertaining to --

Ms. Morrison: Well, I would defer that to the Cultural Resources Commission. We don't make the rules regarding the artists under the tree.

Mr. Kapu: No, I just -- the reason why I bring it up because it adds a lot because Lahaina -- the International Festival of Canoes, I mean all you see is culture, and that's one of the most viable areas right there is when you see a lot of local artisans come out, but the local artisans are going to come out -- it's a big culture exchange is what I'm saying, yeah? And if there's any possible venue to include, not just the local artisans, but maybe that time or special events might be the specific time to bring more artisans out. Maybe it's something that you could probably ponder on in trying to come up some kind of idea for us to look at and for us to make recommendations to try to help more Hawaiian vendors and, you know, the host, basically, kind of get involved a little bit more. I hope I never go over your head. Okay.

Ms. Sablas: Are we ready to make a motion or you need to have further questions, clarifications? Sorry, we need the recommendations.

Ms. Bosco: Thank you, Madam Chair. This is for Theo, I'm looking at the application and event rules and I just want to clarify for the record that number 2 of your event rules are actually is not consistent with the department's recommendation. Number 2 says, "All work must be handmade by the artist or an immediate family member who must be present in a booth throughout the festival." Whereas the department's recommendation be that all artwork shall be handmade by the artist -- handmade in Maui County by the artist. So I wanted to open up discussion for that for you and if there's -- if there's -- if this was intentional and you want to keep it the way it is, then we need to discuss it with the CRC; otherwise, we can leave this issue alone.

Ms. Morrison: Well, I think it's one in the same thing. Basically, the artist is the person who makes the art and signs the paper. If their wife is in the booth, then that's the -- that's the family selling -- selling the artwork.

Ms. Bosco: No, that's not the -- we have no objection to the family being at the booth, it's who is -- what is -- who makes the art? In your event rules it says, "All work must be handmade by the artist or an immediate family." In other words, who signs this application is going to be artist at the booth.

Ms. Morrison: Okay, that's fine. We can change it.

Ms. Long: Thank you, yeah, that confused me, that number 2 in the event rules, the artist is the one who makes it. If an immediate family member makes it, that person is the artist, so --

Ms. Bosco: Right.

Ms. Long: Yeah. So you will comply then with number 8 that the artist, or his or her immediate family, shall be present.

Ms. Morrison: Correct.

Ms. Sablas: Okay, are we --

Ms. Long: Question. Oh, I'm sorry. General Excise Tax. It says here in the event rules, Lahaina Visitor Center collects and pays the GE Tax for all sales.

Ms. Morrison: That is correct since all the sales have to happen inside the building, so when the person brings the receipt -- the receipt in, the tax is added, at that point in time, LahainaTown Action Committee declares that as revenue and pays the GE Tax that was collected on that amount.

Ms. Long: Is that out of the seven-and-a-half percent that you get?

Ms. Morrison: No. That's -- cause that's additional. That's -- the customer pays the GE Tax. We simply collect it and send it on to the State.

Ms. Long: So you determine the portion per vendor and deduct that from the 85 percent that they get?

Ms. Morrison: No, the percentages of what the artists get is based on the sale minus the GE Tax. The GE Tax is added on, is collected by the visitor center, paid by LahainaTown Action Committee --

Ms. Long: Okay, so they get the net? They get --

Ms. Morrison: The artist gets 80 percent of the, correct, the net.

Ms. Long: 85 or over --

Ms. Morrison: 80 or 85, there's a --

Ms. Long: Or 80 or 85, okay. Okay. So that, legally, you're paying the tax for them and -- I hope you've got this all worked out with tax accountants.

Ms. Morrison: Absolutely. We declare it as a sale, we declare it as income, and we pay the tax on it; we declare it on our 990. It's totally aboveboard.

Ms. Long: Okay, so that they do not pay any further GE Tax?

Ms. Morrison: Correct.

Ms. Long: Okay.

Ms. Sablas: Okay, so are we ready for recommendations by staff? Simone?

Ms. Bosco: Thank you, Madam Chair. Without reiterating all of the conditions that are repeated in the policy, I'd like to just say where there has been any kind of a change in the conditions, or slight change, those changes will be incorporated into this recommendation for this event. So many of those conditions are going to be same. In addition, we have, well, let's see, I'm going to have to sort through them all, maybe, perhaps, number 7, That all artwork shall be handmade in Maui County by the artist.

Obviously, we have number 9, That the maximum number of booths be limited to 25.

And number 10, That any substantive changes made in the plans for the event, including expanding the scope of activities or increasing the number of vendors, shall be reviewed by the Maui County Cultural Resources Commission prior to initiation of events. Minor changes of the event may be reviewed by the Planning Department.

Number 11 is going to be consistent with the newly established policy, That the Historic District permit shall be valid for one year subject to further review and extension by the Planning Director upon a timely request for extension filed at least 90 days prior to the permit's expiration date.

Number 12 will match the condition that was previously established regarding the music and that no prerecorded music is to be played at this event.

I'd like point out that part of this proposal includes one food booth, so that food booth will be incorporated into the number of vendors and I think I -- actually, the number of booths, it says "booths" for number 9.

I think number 14 I'm going to need to change that slightly to match the other recommendation or other condition that we discussed earlier regarding which weekend is the rest weekend, etcetera, and I believe everything else is the same.

Number 18 does say that the applicant shall encourage art-in-action demonstrations at artist booths. And the applicant is willing to comply with that.

If there's any other discussion the Commission wishes?

Ms. Long: Yes, thank you, just in case you miss anything, would you add one that references those rules that we passed today and say that they shall comply - just in case.

Ms. Bosco: Yes. Yes. Yes, sure.

Ms. Long: Okay. I'd like to add something, and I would like input from my fellow commissioners on how many booths they shall be or what percentage or something, but I'd like to add that at least 2 booths shall feature artists and vendors of traditional Hawaiian arts and crafts, or 51 percent. I mean, I don't know. How far do we want to go with this thing and how difficult is it going to be to get people there, but when I say "traditional," I don't mean coconut hat weaving.

Ms. Morrison: Well, I think that's the issue. We need that defined exactly. That's the problem.

Ms. Long: I think it's pretty understood by the kupuna what a traditional craft is. Something that was in existence prior to - what was it - 1789?

Ms. Sablas: I think we could put a date in context, you know, so that would be, you know, I mean the kalo pounding ...(inaudible)...

Ms. Long: Yeah, the question is how much of -- how much of that do we want to actually happen? And this haole would like to see more than 50 percent.

Ms. Sablas: Would you want to add that to item number 9 or you want to make a new condition?

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

Ms. Sablas: Okay.

Ms. Long: But I'd like to hear from ...(inaudible)...

Ms. Sablas: What's the rest of the commissioners feel about this subject?

Mr. Kalalau: I believe what Barbara is saying is very important because we should have at least a high percentage of traditional or cultural arts and crafts at this so-called, you know, it's supposed to be a Hawaiian --

Ms. Long: Well, it's not.

Ms. Sablas: So you think --

Mr. Kalalau: Well, it's not, yeah, it's not. It's not, but based on the people that is supporting it, the kupunas and people involved with the kupunas and stuff, I believe that, well this is my recommendation, I would say at least 40 percent of the booths should support some kind traditional Hawaiian arts and crafts.

Ms. Sablas: 40 percent, yeah, other commissioners, your mana`o? Commissioner Kapu?

Ms. Kapu: Well there's a lot of artisans out there that, you know, does traditional. I think one of the major problems is I got a lot of family that does a lot of art, yeah, and they do, like makau, yeah, you know, hooks, and maybe the kupuna in that area can sort of monitor based on, you know, whatever is sold under the tree because we got a lot of these hooks that come in like the Phillipines and Asia and all these kinds of things, so to even put some kind of clarity based upon what going be sold under the Banyan Tree is traditional. It's kind of hard for us to determine now days because a lot of hooks coming from the outside, yeah. But like for the kupuna like for -- see I'm a hook maker, and how I make my art is basically similar to the art that has been made yesterday. I mean I'm talking long time, like the lashings, yeah, the lashings would determine based upon whether or not this is traditional art. I support the intent which Commissioner Long is talking about based upon how many vendors should be selling under the tree.

Ms. Sablas: So what would be your recommendation? She said 2 out of the 25. Commissioner Kalalau said 40 percent.

Ms. Long: So that would be 10 out of the 25.

Ms. Sablas: Yours would be?

Mr. Kalalau: No, the 40 percent would be like just 10 booths.

Ms. Sablas: Okay, do we want to go percentage or do we want to go number?

Ms. Long: Yeah, same thing.

Ms. Sablas: Okay, so 2 --

Mr. Kapu: Let's split that in half and go about 5, maybe 6.

Ms. Long: Maybe 5 or 6 now?

Ms. Sablas: I just want to have consensus here.

Ms. Kalalau: I would agree with that.

Ms. Sablas: I think we all agree that we would like to see a x-number or a percentage. I just would like to have a consensus on the number that the commissioners feel should be representatives. So 5, I hear -- a nod of the head of 5, at least 5?

Ms. Rotunno-Hazuka: At least 5. I think because we don't have -- we don't know, what if there is only 3, then what are we going to do? If there's 15, we'd like to see the 15, you know. So it's tough to put a percentage on there and -- what's been in the past? What's --

Ms. Morrison: Well, as I explained before --

Ms. Rotunno-Hazuka: Right.

Ms. Morrison: This is our problem. The doors are wide open to traditional Hawaiian artisans.

Ms. Rotunno-Hazuka: I know. Let's say if you had 25 in the past, how many would have been traditional? Any?

Ms. Morrison: It depends on your definition of "traditional." Again, it gets -- and I really would like to see this deferred until Aunty Patti, who runs the outside, can speak.

Ms. Rotunno-Hazuka: Okay.

Mr. Kapu: I'd like to make one more comment. The reasons why based upon it's hard to find crafters is because the percentage based on what they need to sell their items for. It's kind of hard. It's kind of a competitive market when you're trying to sell traditional artifacts under the Banyan Tree, then right across the street, they're selling the same thing that looks basically the same for like \$10. Like for one of my hooks that I made, and I sold hooks in the past for like from \$60 to \$80, yeah. So the economics venue based on what Lahaina is all about, the market places around there, you know, it depends, like say for the - what is that, the Whaler General Store? A lot of things that they have inside there is things that come from Asia, come from Phillipines, and all these things that the concept

is basically the same. It's the cultural concept that has this big sign on top and it says, "Buy Hawaiian traditional products."

So maybe in order to get more vendors down there, maybe the percentage of what these vendors need to pay under the Banyan Tree has to decrease some way. I mean I see that they pay 20 percent off the top, 20 percent off of each sale, so maybe there needs to be some kind of requirement to allow these local crafters to come and not get, you know, have to deal with a competitive market selling something that is traditional versus something that isn't traditional.

Ms. Rotunno-Hazuka: Well, I think we're, yeah, we're on the same page with Theo is that we do want to see a high percentage but do we want to make a number. Do we want to say a certain percentage?

Ms. Bosco: You know, I -- may I -- may I enter this discussion for a moment? Commissioners, this has been a very difficult point of how do we perpetuate traditional art. I would like to suggest, being that Aunty Patti is not here, that perhaps the applicant be instructed to consult with members of the Hawaiian community on their definitions and interpretations of "traditional and authentic Hawaiian art" and bring that before the Commission for review at a future meeting for consideration into this event or future events.

Ms. Sablas: Okay, thank you for the recommendation. Are we ready for the motion, commissioners, on this?

Ms. Long: The food. We don't have a definitive answer on that either, so we need to defer both of those. It's not specifically here in the recommendations but Simone said that one of those 25 booths would be a food booth, so should we approve 24 excluding food, or however you say?

Ms. Bosco: I guess what I'm recommending is that we keep the booths at 25 and include the food booth as one of those 25. And if you would like to defer action on this event pending -- no, what then I would suggest is that perhaps at a future meeting, perhaps in the annual review, we can review what Theo is able to come back to the Commission with in terms of how they define traditional and authentic Hawaiian art. I don't want to hold this permit on this point, so I'm suggesting that more research be done or something -- they go back to the drawing board and further define what kind of art is traditional and authentic, and then bring that to the department, which we can bring to you, and you can incorporate that into the annual review, if that's okay.

Ms. Long: That sounds fine. And, at this point though, they don't know whether they can have a food booth next weekend.

Ms. Bosco: They can. They can.

Ms. Long: They can.

Ms. Bosco: This is part of the proposal and part of the proposal is that a food booth is part of the event and that food booth will be one of the 25.

Ms. Long: I don't think that's appropriate, Simone, in light of what we just did with the generic rules and in light of what Parks Department said. So can we please approve all of this with the note that until we hear from the Parks Department and make a recommendation on a food booth, they may not have a food booth until --

Ms. Bosco: Oh, correct.

Ms. Long: Our next meeting.

Ms. Bosco: Correct. I see what you meant by that. Yes, that's true.

Ms. Long: Is that okay?

Ms. Bosco: Yes. Yes.

Ms. Morrison: I would like to make a comment that we currently do have permission, right now, so it seems to me then till it's resolved, our current permission should be allowed.

Ms. Duensing: The chair has just asked me when this recommendation takes effect and, as I understand it, these permits are issued on a monthly basis so it should be enacted, you know, when the next -- right, right, and, to me, when Parks says that they don't want any food booths, they've already made that statement and I think we should honor that because, you know, they are the maintenance and upkeep of that park, and, you know, we will try to get it resolved as soon as possible. But I think, well, Theo is technically right, they already have a permit and they're asking for an alteration, but, you know, this is going to go into effect and we're going to try to address the question of food booths, and Parks doesn't want it.

Ms. Long: I would support passing all of this out, right here and now, with the exception of the food, and if Aunty Patti and whoever will come back to us real soon with their traditional Hawaiian definition.

Ms. Morrison: Okay, that's fine, and we'll meet with -- we'll meet with the Parks Department and resolve the food issue.

Mr. Kalalau: Madam?

Ms. Sablas: Yes?

Mr. Kalalau: Madam Chair, it's about that time that I need to depart my colleagues here. I just want to make a comment before I depart. I believe we should leave that portion or defer that thing until we get to talk to Aunty Patti and the rest of the organization. And, as Theo was saying, that they already have a permit from the Parks Department, and I think that section should be left up to the Parks Department or until we can get further information from them on this. My personal feelings right now is I think I would like to defer that item.

Ms. Sablas: The item regarding the food being served? Okay, are we ready for the motion then with that? It's almost going to be like the other one too that we're okay with everything but deferring the food item. So who's going to make that motion?

Mr. Kalalau: I so move. I'll make the motion that we defer the food --

Ms. Sablas: Can you speak into the mike, please?

Mr. Kalalau: I'll make the motion to defer the food portion of this recommendations until further -- until we get the more --

Ms. Sablas: But is your motion to approve all the other conditions?

Mr. Kalalau: Yes.

Ms. Sablas: Okay, do I hear a second?

Ms. Rotunno-Hazuka: Second.

Ms. Sablas: It has been moved by Commissioner Kalalau, seconded by Commissioner Lisa that we approve the recommendations by staff with the exception of the -- what item is that -- item number -- which one? Oh, I'm sorry, it's not here, but with the -- with the question of the -- I'm sorry, how do I -- yeah.

Ms. Bosco: It would be clarification, actually, regarding whether food would be permitted in this event pursuant to the newly established policy that the Commission has decided on today.

Ms. Sablas: Does that sound okay, counsel? Okay, I hope we got it.

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

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

VOTED: to approve the recommendations with the exception of the food booth, which will be resolved when clarification is made regarding whether food booths would be permitted in this event pursuant to the newly established policy that the Commission has decided on.

Ms. Sablas: Motion carried. Yes, it was seconded by Lisa. Thank you very much. Okay, we're going to be moving along, we're really almost there. Item number 2, Advisory Review, none. Demolition Permits, item a.

(Mr. Kalalau left the meeting at 2:35 p.m.)

2. ADVISORY REVIEW - None

3. DEMOLITION PERMITS

- a. MS. HOLLY MCELLOWNEY, Administrator, State Historic Preservation Division, requestion CRC review and comments on the permit application for the demolition of twenty-four buildings at PIONEER MILL COMPANY, in Lahaina, Maui, Hawaii, TMK 4-5-009:007 and 10. The CRC will provide advisory review on this matter. Public testimony will be accepted. (D. Duensing)**

Ms. Sablas: And thank you for your patience and being here from very early in the morning. We'll give you five minutes to set up and so if people want to have a break, we'll have a break for five minutes.

(A recess was called at 2:40 p.m., and reconvened at 2:50 p.m.)

Ms. Sablas: . . . have all the commissioners back at their seats, I would like to call, I mean reconvene please. And on the agenda we, again, have item 3.a., Demolition Permits that we've already covered, so Planner Dawn Duensing will make the presentation.

Ms. Duensing: Thank you, Chairwoman Sablas. The matter before us is for the demolition of structures associated with the Pioneer Mill, here in Lahaina. In my report, I have said that there are 24 buildings proposed for demolition, and I'm going to have Pioneer Mill

address that because there's some question as to actually how many buildings older than 50 years are going to be demolished. But this matter is coming before the Cultural Resources Commission because, as you know, Pioneer Mill is a significant community piece of history here. The State Historic Preservation Division does review the demolition request for buildings older than 50 years, and they asked for the CRC to look at this.

The history of it goes back to 2001 when Pioneer Mill Company filed applications for permits to demolish the mill and the smokestack. The community expressed strong opposition to these plans, especially the demolition of the smokestack, which has been a Lahaina landmark since 1928. And, as many of you know, it's also a beacon for fishermen and boaters coming into Lahaina Harbor. The plans submitted in 2001 were postponed.

In April of this year, Pioneer Mill Company again submitted applications. There are 26 applications being considered even though they are multiple buildings on a few of these applications. The structures to be demolished in this proposal are the factory building; cane washer; sugar bin; blacksmith building; boiler houses; garages; a vehicle service station and various shops; warehouses; and miscellaneous structures.

Some of you may know that Pioneer Mill has conducted various community meetings during the planning stages of this project and presented a general overview to the Lahaina community in June 2004.

And, at this point, what I would like to do is turn it over to Pioneer Mill and their consultants. They have a presentation for you and then, when it's appropriate, I can give the commissioners some of my observations, and analysis, and recommendations, and we can take it from there.

Mr. Jeff Rebugio: Thank you, Dawn. Aloha, commissioners. My name is Jeff Rebugio with Kaanapali Development Corp. Let's see, and to clarify Dawn's questions about the amount of structures, there are 26 permit applications and 37 total structures to be demolished; 20 of which is 50 years and older so -- but for the purpose of this presentation, we'll offer all 37 structures and we'll show them all.

One of the -- you all have a handout with a map. I just wanted to, for orientation and for clarification, the mill site sits on two TMK parcels with Lahainaluna Road dividing, and I'll be referring the north of Lahainaluna Road and south of Lahainaluna Road.

So, again, for purposes of this presentation, we grouped the pictures here that we're going to offer into four categories. Two of the four categories, again, will be the historic structures of the 50 years and older.

We'll be starting with the north side of Lahainaluna Road, 50 years and older structures. I'll just talk through these -- these pictures real quick. This is just a general southwest view of the mill. Another view of the main factory with the smokestack in the back, west, as it says, the west view. This is just off of Lahainaluna Road looking northwest, again, of the main factory. You can see all of the corrosion. This is, perhaps, the oldest structure on the mill site. Just another perspective looking northeast. And still another one from looking south.

Let me backtrack a bit. The handout also has a quick list and I'm sort of working down the list. I tried to organize the photos to follow the list so we're on number 2 here, the cane washer. Several photos of it just to show the condition. It's hard to see on these photos, but I was trying to capture the columns on these structures and they're all -- looks like they've been worn out, and they're actually bent a little bit, and there's some dings and dents in them. Just another perspective of the area. And, for everyone else, we're in this area, looking at this area. We're on to number 3, the blacksmith shop. Another view of the blacksmith shop. The machine shop is adjacent to the blacksmith shop. It's -- the west view of it. This gives you a better idea of how it looks. Machine shop from the south. Working down the list, sugar bin, that's on the mauka side of the main factory. This here is an electrical storage area. The tank that you see on the far right has been converted into a storage area, so just for clarification. There you can see the tank more closely. Notice all the debris in the front as well. The molasses tank sits right next to the storage area and just next to the bin, sugar bin, which is right here.

Okay, we're moving away from the main factory area where number 8 on the list, the garage number 1. Again, the structures are in very poor condition. Another view of -- looking east. This is garage number 2 right next to it. By the way, this is a concrete structure. All the posts, even the roof are all made of concrete. The greasing port, just makai of the garage, which we're on number 10. A different view, northwest. Again, it shows the condition. We're working down the list, number 11 is vehicle service station. This is, it's pretty hard to tell, but it's a steel structure. Another view looking northeast.

Okay, we're working our way back around. This is a seed dip tank with a little pump house, it's number 12 on the list. Okay, working our way back, there's a little scale shed that's sitting out in the middle, number 13 on the list. Mud tanks, number 14, getting closer back to the cane wash area. And, I guess I forgot the warehouses in the back that's along Kuhua Street, 15, 16, and 17. Another view looking southeast. Okay, as far as the 50 year old buildings on the north, that's about it.

We're moving to the south now, south side of Lahainaluna Road. This is a shed that's basically vacant. At one point in time, I believe it was the electrical control room, but it's pretty much abandoned for a while. Just another view of it. This is a view from Lahainaluna Road looking south. Okay, a lot of this area is overgrown, 19 and 20, these

pictures will show. This is a precast shop, it was tough to get to with all the overgrown weeds and grass and -- it's hard to say -- hard to see in this picture, but over on this end a good portion of the structure has collapsed. I tried to get the same shot here. As you can see, it's fallen off. And still the precast shop looking east. A good section of the roof has collapsed as well. This is the carpenter shop here, 20. On the back end of the carpenter shop, looking southwest, again, a good portion has fallen off.

Going back to the main factory, the next set of pictures show the structures within the main factory and some ancillary buildings around the factory. Just to show you the condition of the inside of the main factory, there's a lot of pipes, a lot beams, you know, a lot of corroding, equipment, machinery. Just some general observations as well as we're going through this and we'll see it, but the main factory is believed to have been built in the last 1800's, and numerous modifications were made throughout, and we'll see some examples of it. Here, this is what I sort of want to point out, you see a wood beam and some posts and the repairs were put right in place and left, you know, we've got steel structures right up against wooden structures that now holds up the factory. Some wood that's rotting; very poor condition. Another example of the repairs that was done.

The other thing I wanted to point out was in the main factory, again with all the modifications that were done, there are large tanks, machinery, equipment that are in place and the modifications, at least in just general observations, they've added the beams, the posts in place and, in effect, have sealed up or there's -- it'll take a lot to get the equipment, the machinery out. We would essentially have to cut through the beams, the post to remove the equipment and machinery that's inside of the factory now, for example, the tank there, there's some other machinery, that hopefully we'll see. This is the roof above the laboratory area of the main factory. It's just showing, again, the poor condition. It's collapsing. It's hard to say but -- see in this picture but the beam is also buckling. This is, I believe, also in the factory just to show the types of steel that was used, and here's another example of the repairs that were done, you know, with whatever materials around. There's good trusses that were replaced with steel and bolted together. Again, repairs that were done, necessary to keep the structures going.

This the garage, I believe, number 2 and I just wanted to show the spalling concrete post, again, the structure was made out of concrete. Here you can see the repair to the post that they've done, set a former on the post and poured concrete. That wraps it up as far as the structures that are older than 50 years.

Just -- I don't know if we're interested to see the structures that are less than 50 years, but we'll quickly go through them just to point them out. Boiler house, again, on the north side of -- I'm sorry, on the south side of Lahainaluna Road, in this area. Boiler house with the stack. By the way, the reinforced concrete stack, the taller stack that everybody's debating

about, was put out of use in the '60's, I believe, and the steel one was built on the south side of the road, of Lahainaluna Road.

This is the control room. I believe this was put into use after the shed was taken out. This housed the controls for the boiler system. The conveyor that goes over Lahainaluna Road. Bagasse storage and some conveyor units on the side of the warehouse. Just another perspective of it. Then on the north side, some improvements were made in the '60's again, I believe. Hydro separator round structure that's -- a portion of it is above grade. Another view of it. Then we have some small ancillary buildings right alongside the hydro separator. The electrical transformer room or shed. Pump building, again, you notice the overgrowth, and the screen building next to it. Cooling towers were put in. This is back in the main part of the mill yard. Another perspective of it. And a caustic tank next to the cooling tower. The diffuser that was put in near the cane wash area and that reinforced concrete stack. And a tractor shop way on the far end, far north end. Oil storage shed right next to it. And a herbicide storage building there.

I don't have any pictures of the structures that we intend to keep, but they're shown on the map in green. It consist of the coffee plant, that's on the north end of the mill site; the general manager's office, right alongside Lahainaluna Road; and the smokestack. Those three structures we intend to keep.

Ms. Rotunno-Hazuka: Are those structures over 50 years? The ones you're going to keep?

Mr. Rebugio: The smokestack is.

Ms. Rotunno-Hazuka: That's the only one?

Mr. Rebugio: Yeah. Yes, there's a gear with the sign "Pioneer Mill Company" out front in front of the office and, for clarification, that is -- that will remain as well. I wanted to point out couple of our efforts, and Dawn maybe had touched upon it in her report. We've worked, you know, with Dawn and SHPD, State Historic Preservation Division, to identify some of the issues at hand and we pointed or this is the oral history book that was done. It compiles quotes and interviews with a lot of the people that were part of the Pioneer Mill Company, people that reside near in Lahaina, as well as who worked for the Pioneer Mill Company. The book is available at libraries on Maui as well as the larger libraries on Oahu, Hamilton Library got this copy from --

We are also hiring or in the process of getting a historian to do -- to do a report on the history of the sugar cultivation and the plantation style lifestyle of Maui and focusing on Pioneer Mill, collectively, with an architect who will do an architectural analysis of all the structures as well as a structural assessment of all the historic structures on the mill site.

So these are in motion. These reports are being done and we're also going to do archival black and white photos of all historic structures and also to try to capture the unique qualities of the factory and, you know, different components of the mill.

And, you know, the last thing I wanted to emphasize was the health and safety issue of people that go by the mill and the neighboring properties. Couple months back, we had a fence along Mill Street that fell over onto Mill Street, luckily, it's not used as much as Lahainaluna Road but, you know, it did affect traffic a little bit and we got a contractor out there to remove, close the road down, did some traffic control, remove the fence that fell over. You know it's just fortunate it wasn't Lahainaluna Road where we have a bigger problem with traffic. We're also having problems and we had some complaints with rodents or rats and mosquitos. We got a contractor or exterminators to take care of the problem and so far it's been under control, at least for the last three, four months. We do still see people entering the site, kids, in particular. We see tire tracks all the time. I don't now kids get their bikes in there, but they do ...(inaudible)... so, you know, we're concerned with the safety, having to chase people out all the time. And, you know, hopefully, the effort on the reports, the oral history, the quality -- the archival quality photos that are being taken will, you know, in a sense, memorialize and pay tribute to the people who worked at the mill and, you know, we feel that the structures are not economically feasible for reuse. And that's all that I have. If there's any questions?

Ms. Rotunno-Hazuka: I have a question about archeological monitoring or inventory survey. Did SHPD make you do anything like that?

Mr. Rebugio: I haven't seen the final report from SHPD so -- but Dawn did -- yeah.

Ms. Duensing: Actually, believe it or not, I still have not seen the final letter. I have been on the phone with them and still have nothing, but Cathy Dagher did review this and she does want archeological monitoring done if demolition goes.

Ms. Rotunno-Hazuka: Monitoring.

Ms. Duensing: Yes.

Ms. Rotunno-Hazuka: Okay.

Mr. Rebugio: That's all that I have.

Ms. Sablas: Any questions of the applicant? I understand you had community meetings earlier and, other than the smokestack, was there any real key issues that the community was concerned about?

Mr. Rebugio: From what I gathered, it was, again, the safety concern. The focus was mainly on the smokestack, which is the reason why we're pulling it out of the application at this time.

Ms. Sablas: We'll entertain public testimony after we have discussion, sir.

Ms. Rotunno-Hazuka: I have a question, and now I forgot it.

Ms. Sablas: It is after lunch, afternoon, huh?

Ms. Rotunno-Hazuka: I'll think of it. The gentleman that testified at the beginning, and there's talk about the affordable housing project, are we going to talk about how this relates to that? Is there --

Mr. Rebugio: Yeah, our Wainee Community Group -- the Wainee project, affordable housing project, the area is just south of Lahainaluna Road and it includes this portion of the mill, and during that, like she mentioned, I think that was Hans or Bruno, when the group got together, there was no, you know, idea to utilize any of those buildings. They had always felt that the structures were going to be demolished and utilize the area for the project.

Ms. Rotunno-Hazuka: So how does it fit in? I mean is it going to be -- do we know, is it going to be housing? Is it going to be a park? Do we know the proposed use?

Mr. Rebugio: No, we don't know at this time. They're still working on the plan.

Ms. Rotunno-Hazuka: And on that side, there would be only the red buildings that are over 50 years old?

Mr. Rebugio: Right. Right. Just three --

Ms. Rotunno-Hazuka: 18, 19, 20?

Mr. Rebugio: Correct.

Ms. Rotunno-Hazuka: And is there any proposal for what will happen to the main --

Mr. Rebugio: On the north side? Not at this time. There are no definite plans.

Ms. Duensing: Just to further add some light on Lisa's question, the north side of Lahainaluna Road is zoned industrial right now, but it's in the community plan as residential, I believe, okay.

Ms. Sablas: Are we pondering? We're rather quiet down at that end?

Ms. Long: No, no, no. I'm saving my comments.

Ms. Sablas: You're saving your comments. Okay. Okay, then you know what? Let me entertain public testimony at this time. So, again, if you could take the mike please and state your name.

Mr. Kahan: Aloha, my name is Stuart Kahan, and my concern has to do with the north end of the property. I am very happy that the office and the stack are being saved, but my understanding was that the building labeled number 1 would also be saved and the gear wheel. I would propose that the south end of this property, which is number 10 - 4, 5, 9, 10 be demolished and let that property be included in whatever plans are involved. However, there are some serious health issues that were brought up to the EPA, and I've not seen a final report on that, and we've had several community meetings regarding the EPA and their findings. So, since I haven't heard from you folks that you've gotten a report, I assume that the report hasn't been made yet. There was found arsenic and mercury -- I'm sorry, arsenic and lead. The arsenic was found up in this area and the lead was found over in that area. So until these reports regarding the hazardous materials on that property are secured, I would propose that you defer any issue or any final decision on the north side. Thank you.

Ms. Sablas: Are there other members of the public wanting to testify on this agenda item? If not, public testimony is closed. Okay, now we go back to commissioners for discussion. Oh, I'm sorry, Dawn?

Ms. Duensing: I'd just like to make one comment. I want to remind the commissioners that this is advisory only and that you are supposed to be concerned with cultural resources items. Of course, we are all citizens concerned with what the EPA has to say, but our duties here today are to provide advisory review on the cultural resources. Right, I should also point out that in my report, on page 2, I said there was no environmental assessment required for these applications. Please note that this is not in the County's Historic Districts. In addition, all the buildings proposed for demolition are located outside the Lahaina National Historic Landmark District so that this action is not subject to HRS, Chapter 343, which are the rules requiring an environmental assessment. I did make a mistake in my report. I said that some of the buildings that weren't 50 years old were on the -- in the National Historic Landmark District and I want to correct that to say that none of the buildings are in the NHL District. When those boundaries were drawn in the '60's, it did not include the mill itself. Okay, so I'd like to just go through some of the other sections of my report.

Again, on page 2, I said although the June 1, 2004 Lahaina meeting emphasized the public health and safety issues with these structures, the community also expressed some concern that the buildings were to be demolished. Residents were generally pleased to learn that the smokestack would remain for the time being. One resident, however, observed, "What is the smokestack without the mill?" It is important to keep in mind that even if the smokestack is not demolished at this time, it is necessary that plans must be made for its long-term preservation. If no preservation plan for the smokestack is developed, the eventual result will be demolition by neglect. And I've enclosed on the report -- attached a copy of the Pioneer Mill Chimney Inspection Report, which provides some of the details as to the chimney's overall condition; what it would take to keep it going, and the company has talked to community groups and members about possible plans on who's going to be preserving it, you know, who will be the stewards for this.

I conclude that there is no doubt that the demolition of the structures at Pioneer Mill will impact the historic property. The Planning Department believes that Pioneer Mill may be eligible for nomination to the National or Hawaii Register of Historic Places. The Planning Department agrees with the State Historic Preservation Division and encourages the Pioneer Mill Company to preserve and rehabilitate these historic structures to the extent possible.

Having discussed the proposed demolition with Pioneer Mill personnel as well as their consultants, the Planning Department has determined that additional research must be conducted to assess whether all of these buildings must be demolished. As the applicant told you, they have been working with me. They've hired an architect to assess the architectural styles of the buildings, important architectural information he's supposed to be getting. And, in consultation with the director, he would like to take that one step further and have a structural engineer do a structural assessment of the buildings and their physical condition. Basically, the Planning Director is not convinced that all of those buildings need to be demolished and would like a better idea of if any can be saved and which of them should be demolished.

In addition, the department has suggested that a qualified firm be hired to determine the economic feasibility of adaptive reuse of some of or all of these structures. And we remind the Pioneer Mill Company that tax incentives for historic preservation are available including a 10 to 20 percent tax credit from the Federal Government.

One of the most important things I think that does need to be determined is some kind of preservation plan with a stewardship program for the Pioneer Mill Smokestack.

Finally, the department agrees with SHPD, I did get some draft information from them. We believe that Pioneer Mill deserves a more analysis of the historic buildings and their use, a historic structure assessment of the architectural style and layout, which is already

underway, and an assessment of items and equipment that may be salvageable. An overview history of the Pioneer Mill Company and Mill should be included with this report, and they have engaged a historian to do this.

We acknowledge that the Center for Oral History at the University of Hawaii has completed an oral history project at the Pioneer Mill and submitted transcribed copies to the Hawaii Public Library system and the SHPD. And the department concludes that when additional information has been submitted, it may be able to determine the appropriate course of action.

Furthermore, I guess, to wrap up some of the more important points. I think it's important to recognize that more than 37 buildings are being proposed for demolition. Important point number 2 is the smokestack does need a preservation plan, and then acknowledge that the company has begun to do the following and that is they are having black and white negatives and photos prepared to Historic American Engineering Standards. Having seen the pictures today, I'd like to remind them that the vegetation should be cut down so that when the pictures are taken, we can actually see the building. They are preparing an architecture report with photos; part of this is going to tell us about what these buildings are, how they were used, and provide a more comprehensive history of the mill operations, and then they have done the oral history as well.

Ms. Sablas: Thank you, Dawn. Comments? Questions from commissioners?

Ms. Long: In 1968, my family moved into a house on Lahainaluna Road and the Pioneer Mill became part of our lives and the whistle, the noises, the dust, and the smell. It sort of became part of our Maui experience and, some 35 years later, I still feel that way, and I am concerned that if the Planning Department's recommendations are not followed, if Kaanapali Development Corporation, as the stewards of the land and the structures and the mill, do not follow through on these recommendations, it will be wiped off the face of the earth, and, two generations from now, the great, great grandchildren of the people who worked there won't know what it was all about, and this disturbs me. And so I have a number of suggestions.

First of all, and we are advising here, I'm advising that Kaanapali Development Corporation, which has been very sensitive to community wishes in the past and is working with the Wainee community thing to get that to happen, that they fulfill what the Planning Department's recommendations are as far as structural engineering, analyzing the building's conditions, the photographs, the economic feasibility of adaptive reuse, and a preservation plan with a stewardship program for the smokestack. I'd like to take that further. You're spending a lot of money on historical research, on photographs, on oral histories, on things like that, they're going to be buried. For years, I've seen records of demolished buildings go into the archive, nobody looks at them again. And I would love

to see this published or somebody take the materials that you are spending lots of money on and produce a book that future generations will be able to refer to that will tell the story of, not only the mill, but the people. There's no audience here right now and I don't know even know if you're still filming, but I was going to say -- you are? Thank you. I'd say a lot of the people out there watching this would not be here today if it were not for sugar and the mills on Maui, and they are disappearing. I'm not saying you gotta save all the buildings, but to save the products of the historian, the photographer, the oral history, and put those things into the schools, put them up at the Maui Historical Society, please do that, not only the libraries, and make something that can be sold at Borders, that can be sold in the Maui Historical Society Bookstore, the A&B Sugar Museum that will tell your story and will be in print for a long enough time.

Recognize and integrate some of the structures into what is being planned for the Wainee community development. The carpenters building certainly looks like a candidate, it's about 5,000 square feet, it could be a community building. As I looked, it appeared that the -- the service station, yeah, the service station, number 11, move it over there, put it to use for something. They may not know how important their roots are, right now, but believe me, 10, 20 years from now, if it's all gone, they're going to say, "Why didn't we save some of that?" And this is your opportunity to do that. Please consider it, and not just those two buildings, I'm sure there are others that could be moved, in whole or in part.

And my last recommendation has to do with the smokestack. Having it sticking up in the air there is wonderful. Having a stewardship program is wonderful. Restoring it, even the stars on top, is wonderful. It needs to be relevant. It doesn't make sense to bulldoze everything else and have that stack sticking up there. So please do what you can do, if you can't save the mill immediately around it, do something there that relates to the site so that when people see the stack 50 years from now, they won't scratch their heads and say, "What the heck is that doing there?" So I may have other things in -- as we go along here, but right now, I hope that you will pay attention because I feel very, very deeply that if we lose this, we're going to lose something irreplaceable and something important to hundreds, if not thousands, of people and people yet to be born here. Thank you.

Ms. Sablas: Thank you, Commissioner Long. Other advisory comments from commissioners?

Ms. Rotunno-Hazuka: Yeah, I agree with Barbara. I think -- it looks like there's 20 buildings that are over 50 years old. I'm glad that the smokestack, at this point, is going to stay and would hope that we could look at a few other buildings so that there is a sense of what the area was about, I mean maybe not 10, maybe 2 or 3 buildings, that might be able to be reused and, perhaps, we could look at the ones, you know, that are in not as bad disrepair, I guess, would be one of the criteria. Also, like we were talking about for the Wainee Village, maybe some of those buildings, 18, 19, or 20 could be saved, maybe one

of those, and then you could have, you know, just in areas, one building that are preserved. But of the ones that are less than 50 years old, if they are in such disrepair that they're dangerous, I think that we would be okay with those being removed.

Mr. Whelchel: I support both the young ladies here, but I don't think we can really recommend which ones go down until we have the engineering assessment. Back to the Banyan Tree, I asked what about the Pioneer Mill, and you all thought I was thinking -- I don't know what you were thinking. I was thinking of the overflow of the Banyan Tree, the art groups, possibly using some of the Quonset huts, if they're not using them, clean them up, rent them later if they become feasibly sound, that could be a part of your basis, your building basis around the smokestack, but the stack would be good to have unless it's going to be torn down later, just out lack of maintenance.

Mr. Kapu: I get one question. What is the future plans of this area? Do you have any?

Mr. Steve Lovelette: My name is Steve Lovelette. I will answer that question. The only future plans that exist today are what we talked about that is south of Lahainaluna Road. North of Lahainaluna Road, we have not gone back to the community or spoken to the community. And when we started to form the community groups for the south of the Lahainaluna Road, we all agreed that there was a lot going on north and who knows about the demolition, and the timing, and the economic feasibility of keeping the stack, so it was just never brought up or put on the table.

Mr. Kapu: Thank you.

Ms. Sablas: An earlier person who testified, that was Bruno Ariyoshi, I remember he said that it's a -- they talked about a master plan of mixed use, of affordable housing, where did that come from?

Mr. Lovelette: That's south side.

Ms. Sablas: Okay.

Mr. Kapu: Last question. I support Commissioner Long's recommendations pertaining to putting clarity in the history. And a small little suggestion, that if there is a book to ever be printed and sold, that the proceeds go to some kind of charitable organization. Mahalo. Or the stewardship of taking care of the stack. That's it.

Ms. Sablas: I think I just would like to make just a small comment to having been born and raised in this area. I remember when the Lahaina Cannery went out of business and then the sensitivity of the use there was to maintain a lot of what the cannery was to the extent of calling it "Lahaina Cannery," and I worked in the cannery, and you still kinda see that

and it's nostalgic, for my generation, that perhaps you would consider that for future use also with Pioneer Mill to somehow maintain that name because it means a lot of many of the people who were in that area and during that time, and along with the other suggestions from the other commissioners, but strongly recommend that the name "Pioneer Mill" be a part of the future uses so that the future generations can know what that area once was. Everybody gave their advisory? You feel okay? We can move on? So, thank you for being here and especially thank you for being here all the time from the very beginning and your patience, appreciate that. Thank you. Okay, I'd like to move on to the next item on the agenda, Communications. We already -- I understand, Commissioner Duensing, you want to defer item number one?

C. COMMUNICATIONS

- 1. COMMISSIONER KAPU REQUESTING CRC CONSIDERATION OF SHPD LETTER DATED JUNE 10, 2004 regarding the Final Plat Review for the proposed Mahanalua Nui Subdivision, Phase IV, Launiupoko Ahupua`a, Lahaina, Maui. The Commission may provide advisory review of this matter. Public testimony will be accepted.**

Ms. Duensing: Thank you, Chair Sablas. Last month, Commissioners Kapu and Rotunno-Hazuka had asked me to put this letter from the SHPD regarding the final plat review for the proposed Mahanalua Nui Subdivision at Launiupoko on the agenda, and Commissioner Kapu especially wanted the Commission to consider this. He also requested that I get the final preservation plan from the SHPD. Unfortunately, I still haven't been able to get that, so would you prefer to defer this until next month when we might have the information your requested?

Mr. Kapu: Sure.

Ms. Sablas: Okay, thank you then. We've already talked about item number 2. Moving along to item D, Unfinished Business. None. New Business. None. Sign Enforcement Program in the Lahaina Historic Districts, any update? Did we hire anyone?

D. UNFINISHED BUSINESS

E. NEW BUSINESS

F. SIGN ENFORCEMENT PROGRAM IN THE LAHAINA HISTORIC DISTRICTS

Ms. Duensing: No, not only did we hire anybody, we lose somebody for a while due to injury so, you know, we are continuing to work on that and we hope to have an inspector

who will be able to go out there on at least a weekly basis or some kind in the near future when resources permit.

Ms. Sablas: Okay, thank you. Moving along to item G, Director's Report.

G. DIRECTOR'S REPORT

- 1. National Trust for Historic Preservation Conference**
- 2. September 2, 2004 meeting agenda**
- 3. Administrative Permit Reports**
 - a. Demolition Permits**
 - b. Historic District Approvals Report**

Ms. Duensing: Okay, on the Director's Report, I have, number 1, the National Trust for Historic Preservation Conference. If you will remember that this year we are recipients of the Certified Local Government funding from the Federal Government Park Service, it comes to the Historic Preservation Division to us, and as part of our budget for this year's funding, I put in for the National Trust for Historic Preservation Conference, which this year is in Louisville, Kentucky, it's at the end of September, I believe it starts on the 27th and it goes through October 3. I will be attending and, generally, the department policy is to offer attendance first to the chair and the vice-chair if they would like to go, and if they don't want to do, we can then offer it to other commissioner and your chairman plans to go. Vice-Chair?

Mr. Kapu: What?

Ms. Duensing: Can you go?

Mr. Kapu: Give me the date.

Ms. Duensing: 27th to October 3. Actually, it says September 28 to October 3. And wife's sitting right there, you can ask her.

Mr. Kapu: Sure.

Ms. Duensing: Okay, so if you will just, you know, find out your schedule. You can arrange with me and we'll get that going so that we can get the travel arrangements made. We need to get the registration in as soon as possible as well.

Ms. Long: Yeah, my concern with that is a lot of the field trips are sold out so fast. I sent Lori my book so she could see what was there so --

Ms. Duensing: I'm aware of that. I've been before myself.

Ms. Long: Yeah.

Ms. Duensing: Okay, so moving on to September 2, 2004 meeting agenda. Somewhere in my pile I have my draft agenda but, for next meeting, we will plan on being in Wailuku again. On our agenda the Department of Land and Natural Resources will be presenting their Lahaina Small Boat Harbor Ferry project plans to you. I encouraged them to come as soon as possible, so they have requested to be on the September 2 agenda. In addition, Mr. Freeland, from the Lahaina Restoration Foundation, will be presenting his proposal for parking solutions and funding in Lahaina for historic district officer and a whole bunch of other things he has in mind. And those are the two important things off the top of my head, oh, and we also have one historic district permit approval for a new marathon, half marathon that's going to be running through Lahaina, so we'll have that on our agenda as well, and a couple other small items.

Ms. Long: So we get to approve marathons that run through Lahaina, but not amphibious vehicles?

Ms. Duensing: They close streets. They have an impact.

Ms. Long: Go figure.

Ms. Duensing: Okay, so any other questions on the -- I will work with your chairwoman on the September 2 agenda, make sure we get everything necessary on there. Moving on, you also have a printout of the administrative permit reports including demolition permits and historic district approvals for the last month.

Ms. Sablas: So you're done with your Director's Report? Okay, item H, Commissioner's Announcements. Hearing none, moving on. We talked about our next meeting. So we're up to item J, Adjournment?

Ms. Long: Wait. Wait. I just want to make sure at the next meeting that the item that we talked about and our staff said, "oh, we have a very full meeting," yeah, but I just want to make sure that stuff's going to be on there, and I'm so shell-shocked right now I can't remember what it was.

Ms. Duensing: As I said, I'll do the best I can to accommodate all agenda items. In fact, we had to move some of the historic district approvals off this month's agenda to next month so that they need to be given priority and I will work with your chairwoman to come up with an appropriate schedule for next month.

Ms. Long: Thank you, Madam Duensing.

Ms. Sablas: Okay, are we ready to move to adjourn.

H. COMMISSIONER'S ANNOUNCEMENTS

I. NEXT MEETING DATE: SEPTEMBER 2, 2004

J. ADJOURNMENT

There being no further business brought before the Commission, the meeting was adjourned at 3:45 p.m.

Respectfully submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards and Commission I

RECORD OF ATTENDANCE

Present

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

Excused

Perry Artates
Camellia Hamakua-Napoleon

Others

Michael Foley, Planning Director (Left at 12:45 p.m.)
Dawn Duensing, Planning Staff
Simone Bosco, Planning Staff
John Buck, Department of Parks and Recreation (Left at 12:45 p.m.)
Dudley Akama, Deputy Corporation Counsel