

**CULTURAL RESOURCES COMMISSION
REGULAR MEETING
SEPTEMBER 2, 2004**

A. CALL TO ORDER

The regular meeting of the Cultural Resources Commission (Commission) was called to order by Chair Lori Sablas at 9:10 a.m., Thursday, September 2, 2004, Planning Conference Room, Kalana Pakui Building, 1st Floor, 250 South High Street, Wailuku, Maui, Hawai'i.

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

Ms. Lori Sablas: I guess I would like to just go ahead with public testimony. If anyone would like to testify on agenda items today, please do so. I'd like to remind you that we are -- have a time limit of three minutes. Vice-Chair Keeaumoku Kapu, can you also be the timekeeper please, yeah, to respect our time. So he will, our vice-chairman will be the timekeeper. So is there anyone who would like to testify on any agenda items today? You're welcome to come up. Yeah, I do remind you that if you do come up, it's one time only. Okay, having -- yes, sir?

Mr. Stuart Kahan: Aloha. My name is Doctor Stuart Kahan. I'm President of the Mala Wharf Fishing and Recreation Association, I'm also President of the Piilani Community Association, and I'm a member of the Na Kapuna Serenaders who play for our visitors that come by ocean.

I'm speaking on -- in reference to Item 2.a., which is the harbor, and my understanding, at this point, is that the bathroom issue is separate from the ferry issue; that the monies are in separate piles and that a jitney can be considered a land ferry. The monies that are allotted for this 2.a. have to do with ferry monies and that's the reason they want to put the pier in Lahaina. It doesn't belong in Lahaina. Lahaina is so congested, you wouldn't -- you would not believe the congestion in Lahaina Harbor when the cruise ships come in. However, the cruise ships are not even discussed in this ferry issue. The DLNR has money set aside either through the Federal Transportation Authority -- Administration, or some other Federal entity for ferries, which means the Molokai ferry and the Lanai ferry cause we're talking about inter-island. So I'm going to have a meeting with Eric Iwasa, and Kyle, and Richard Rice, if he's here, I don't know if he's here, but I would like to speak to them later this afternoon in Lahaina to discuss an alternative to pushing this forward into Lahaina. Thank you very much.

Ms. Sablas: Thank you. Commissioners, any questions?

Mr. Samuel Kalalau: Yes, Madam Chair, can I ask mister --

Ms. Sablas: Kahan.

Mr. Kalalau: Yeah, Mr. Kahan, your meeting with the people from DLNR, are -- is it going to be covering this --

Mr. Kahan: It's not on your agenda.

Mr. Kalalau: That's on the agenda?

Mr. Kahan: It is not.

Mr. Kalalau: Oh, it is not.

Mr. Kahan: No, it is an alternative to what's on your agenda.

Mr. Kalalau: Okay.

Ms. Sablas: Thank you. Okay, I'd like to move along with our agenda items then. Item B, Introduction of New Commission Member, from Molokai. I understand she's not here so we'll wait until our next meeting perhaps, but I'm glad we got someone onboard to represent our island of Molokai. Item C is Approval of Minutes of the July 8 and August 5 meetings, so I'd like to -- us review the July 8 meeting first. Commissioners, any comments, corrections, additions? Do I hear a motion? Oh, yes?

Ms. Barbara Long: I do have question. Why is it called a "Special Meeting" in the title and the Call to Order? In both minutes, it's referred to as a Special Meeting.

Ms. Sablas: Dawn?

Ms. Dawn Duensing: Thank you, Madam Chair. Our regular meeting was to have been held on July 1, that month, and Corporation Counsel, Dudley Akama at the time, recommended that it be called a "Special Meeting," even though it was our regular agenda, he recommended --

Ms. Long: And August 5 then?

Ms. Duensing: August 5 was just a typo and that has been corrected already.

Ms. Long: Okay. I hadn't ...(inaudible)...

Ms. Duensing: It's been noted by staff already.

Ms. Long: Thanks.

Ms. Sablas: Any other comments? If not, may I hear a motion to approve.

Ms. Long: So moved.

Ms. Sablas: Second?

Mr. Kalalau: Second.

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 approve the minutes of the July 8, 2004 meeting.

Ms. Sablas: Motion carried. Mahalo. Let's move on to our minutes of August 5.

Mr. Lon Whelchel: I move that we approve the Special Meeting minutes of August 5.

Ms. Long: Question.

Ms. Sablas: Okay, you made a motion.

Ms. Long: Excuse me?

Ms. Sablas: There's a question?

Ms. Long: Yeah, in those minutes, Director Foley said that he would send us a copy of his letter to the DLNR. I'm just commenting on that.

Ms. Sablas: Okay, but there's no --

Ms. Duensing: I have a copy of that. I'll get it for you at the recess.

Ms. Long: Thank you.

Ms. Duensing: Sorry about that.

Ms. Long: Outside of that, then I'll second.

Ms. Duensing: It was done.

Ms. Sablas: There's another question.

Mr. Kalalau: I've got a question too. My question is why, during that meeting, we wasn't able to question the people that came up earlier to testify on items of the agenda prior to the items coming up for review? And then today, we're already asking questions from the start. I just wanted to get one clarification on that why we weren't able to ask the people that testified questions.

Ms. Sablas: If I recall, I think counsel, you know, he did correct himself in that you could but it had to be specific to the agenda items that we needed to -- I mean we are able to ask questions so, you know. Are you referring to any place, parts of the minutes? We are discussing minutes now. Can you reference the part of the meeting minutes you're talking about?

Mr. Kalalau: Yes, that was just mister -- he spoke on the demolition of the Pioneer Mill and he said that they should start on the south-end of the project being that he is --

Ms. Sablas: What page are we talking about?

Mr. Kalalau: I don't know. It's in there somewhere but he was one of the earlier speakers. It was on the demolition. I forgot where it was. Anyway, I wanted to question because he was a longtime member of the district, and he lived in the area, and I wanted to know why that somebody who lived in the area a longtime wanted the demolition to be started on the south side instead of any other side.

Ms. Sablas: Okay, we are talking about the minutes so if you could be specific, then we could, you know, we could address that. But as far as your question, counsel is here. I mean questions are in order for public testimony or for people who are -- right?

Ms. Long: Madam Chair?

Ms. Sablas: Yes?

Ms. Long: Excuse me, it's on Page 4 --

Mr. Kalalau: Four, yeah.

Ms. Long: And it was Sam's question and it was prior to Mr. Ariyoshi's testimony and counsel did say, "You can certainly ask questions, but he cannot make a motion." Page 4, Sam, about two-thirds of the way down when you asked Corp. Counsel but --

Mr. Kalalau: Yeah, mister --

Ms. Long: Right above Mr. Hoopii.

Mr. Kalalau: Right. It's not appropriate to ask --

Ms. Long: To ask the Commission --

Mr. Kalalau: Or board any questions.

Ms. Long: Right.

Mr. Kalalau: Okay, but my question was why weren't we able to ask the people testifying questions.

Ms. Long: Well we --

Ms. Sablas: We can.

Ms. Long: We were because further down, Mr. Akama says, "You can certainly ask questions . . ." But you might want to clarify with counsel that if people are testifying and ask questions, we can certainly note them and respond to them in discussion. I would assume that would be appropriate.

Ms. Sablas: So it's public testimony, they are to make testimony but not ask questions, but we, as commissioners, can ask questions.

Ms. Long: They can ask; we can't just answer.

Ms. Sablas: Yeah. Yes, or take action.

Ms. Kalalau: Okay.

Ms. Sablas: Okay? We're understood? Okay. That being said, now, can we move on. We have had a motion to approve the August 5 minutes. Do I have a second?

Ms. Long: I second.

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

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

VOTED: to approve the minutes of the August 5, 2004 meeting.

Ms. Sablas: Motion carried. Mahalo. Okay, let's move on to Item D, Permit Review, No. 1, Historic District Applications, Banyan Tree Park Art Fairs.

D. PERMIT REVIEW

1. HISTORIC DISTRICT APPLICATIONS -

- a. BANYAN TREE PARK ART FAIRS. The CRC deferred the issue of food booths at Banyan Tree Park events at its August 5, 2004 meeting. At the request of the Commission, the Parks Department reconsidered its recommendation that no food booths be allowed. The CRC will discuss this item and vote to approve or deny the food booths at Banyan Tree Park art fairs. Public testimony will be accepted.**

Ms. Sablas: And, again, public testimony will be accepted. I remind the public that this is on the food booth issue only. Okay? Hiki no? Mahalo. Okay, we would have a brief staff report at this time.

Ms. Duensing: Thank you, Madam Chair. I just wanted to point out to commissioners that I have been working with Parks and we did send a letter to them right after your last meeting, requested that they clarified the food issue, what kind of violations were being noted under the tree, and such, and I did follow up with this, with John Buck, who is the Deputy Director of the Parks and Recreation Division. I met with him, as well as his staff, on Monday morning, and I put in front of you an email from Mr. Buck that I received yesterday afternoon.

He notes that the department's position in regards to food is the same as the recommendation from the Arborist Committee. And if you remember, the Arborist Committee has rules for that tree, and they were put in the staff recommendations from last month, and that includes no cooking or open flame in the park. The other concern, and this was major in the meeting I had with Mr. Buck, in regards to the food and the tree is that there have been several incidents where grease from the food and greasy water has been dumped on the grounds. Arborists had a concern that the grease and the greasy water will impact the tree in the future. The department wants to be assured that no grease from food or greasy water, such as from warming pans, is not dumped on the ground then we would support food sales as long they also follow the guidelines set up by the Arborist Committee.

And you'll remember from your last meeting that Mr. Buck mentioned the Sterno warming and that was considered flame and because they're, you know, they're selling pre-packaged food but they're still keeping it warm and dumping the residue so that's their major concern. They have nothing against the cultural observance of food being sold in the park.

Ms. Sablas: Thank you. Comments? Oh, well, we'll reserve the comments. I will be open to public testimony at this time on the issue of food under the Banyan Tree. Do I have the sign up sheet, Suzie? Thank you very much. Okay, first to testify is Patty Nishiyama, and please identify yourself.

Ms. Patty Nishiyama: Aloha kakahiaka. Good morning. My name is Patricia Nishiyama, aka Patty Nishiyama. Aloha, commissioners, good morning. I am continually amazed at the challenges of our weekend Hawaiian cultural festival under the Banyan Tree. This time we are being challenged about serving Hawaiian food and educating our visitors about Hawaiian food preparation techniques. All food is prepared in a health inspection kitchen.

I remember fondly our first food demonstration with Aunty Pua, Ed, and Rosel representing the abc's of coconut ...(inaudible)... Aunty Pua gave a talk about the Hawaiian coconut, it's many uses and food that the Hawaiians derive from the coconut. She shared the haupia and the kulolo with the community and the visitors who were very attentive in her mana`o.

On other occasions, Aunty Pua shared her knowledge about other Hawaiian food preparation, like the kalua pig. Uncle Dukelow came and pound the poi and gave the tourist a taste. Other demonstrations that He U`i has given includes the preparation of breadfruit and sweet potato. Lomi salmon was also included as part of our Hawaiian food education program. We must not also forget the laulau and how the laulau is prepared.

We were happy to be able to provide a taste of our culture to the visitors who were not able to afford the high cost of luau and we want to continue this educational work under your rules. Mahalo.

Ms. Sablas: Thank you, Aunty Patty. Commissioners, questions for Aunty Patty? Thank you.

Ms. Nishiyama: Mahalo.

Ms. Sablas: Next to testify is Rebecca Lennon.

Ms. Rebecca Lennon: Good morning, Madam Chairman, and ladies and gentlemen of the Commission. I'm Rebecca Lennon, and my husband Jim and I are here representing the Pioneer Inn, which is directly adjacent to Banyan Tree Park.

First of all, I'd like to start this morning by thanking you for the restriction that has been put on the commercial activity under the tree reducing it from every weekend to three weekends a month. On behalf of the retail merchants at our place of business and also in the surrounding area, we appreciate the fact that we have cut back a little bit on the

commercial activity that goes on under the Banyan Tree. And I'm here in the same regard expressing concern about food sales under the Banyan Tree.

As Aunty Patty just expressed it this morning, educational, instructional, we have no objection to that. That is a wonderful thing to occur and we support that wholeheartedly. However, our concern is that it is going to become just one more retail activity. We have one restaurant. Across the street, in The Wharf Cinema Center, there are five restaurants. We have a coffee shop or a coffee store that sells coffee; they sell coffee. We sell ice cream. There's Burger King across the street. So immediately adjacent to the park, there are no less than six restaurants, two coffee shops, and an ice cream store. So if it's just a matter of providing food on a weekend, week out basis, we would be strongly opposed to that. Now, if we're talking about a not for profit group that is going to demonstrate local Hawaiian foods and sell them in a limited basis, like this week we'll do poi, next week we'll do lomi salmon, we don't have any objection to that at all. In fact, we heartedly support it. But we are concern about the increasing commercial activity that is going on in Banyan Tree Park, also in Campbell Park, and, though it hasn't happened yet, in library lawn. So, you know, we do want to express our concern that there are commercial activities going on and make sure that that doesn't occur. Thank you.

Ms. Sablas: Thank you. That actually concludes the public testimony sign up sheet. Anyone else who are here who didn't sign up? We have two more. No, you can just state your name, please.

Ms. Crystal Alboro: Aloha kakahiaka, O Crystal Alboro, ko`u inoa. Aloha. Thank you for allowing me to speak this morning. I was at civic center last month. I stayed a long four or five hours and I did not get an opportunity to speak so I made an effort to come back today. Last month I thought I was observing the artist resource commission rather than the Cultural Resources Commission. I consider myself to be a cultural practitioner. I do only two special events at the Lahaina Banyan Tree Park. Both are immensely cultural. One is Kamehameha Day Hoolaulea, which is the only cultural celebration the State acknowledges at this time. The other is Aloha Festivals Hoolaulea, which is another longstanding cultural event. Those are the only two events that I volunteer, like you, volunteer for; get no pay; do it for the love and, the key word, perpetuation of the culture.

We are not here as a commercial business, like what Lori mentioned in her read-up. I'm not an art fair. I do cultural events, hoolaulea, under the Lahaina Banyan Tree, the most significant gathering spot in the State of Hawaii. All the kings gathered there and we will continue to gather there. I ask that on those two special events, where we do already have administrative approval in the County, that you do not suppress the Hawaiian, limit them to their activities. If 50 Hawaiian groups want to come out on those two special days, this is not any special weekend, it's specifically June and September, we should not be suppressed. We should be allowed to have our hoolauleas in the fashion that Hawaiians

are accustomed to. If we want to share Hawaiian food, we should not be limited. There's nobody in The Wharf selling Hawaiian food, definitely nobody at Burger King, and coffee is not part of a Hawaiian cultural diet.

I ask you to please strongly consider those two specific dates, which I already have. My mother, before me, got administrative approval for Aloha Festivals. Three years ago, when I took over Kamehameha Hoolaulea because the County would not and the State did not want to fund it, I likewise went before the committee and got an administrative approval for hoolaulea of Kamehameha. Those are the only two real cultural events that I'm here to speak on today and I'd like you to consider that. We should not be limited like an art fair because we are not an art fair. We're the only cultural event specifically stated to be perpetuated and that's all I'm asking for today is actual perpetuation before the cultural committee and to, please, as I said, last month I sat for four hours, I could have sworn you guys were the artist resource committee. Thank you.

Ms. Sablas: Thank you, Crystal. Any questions, comments from the commissioners?

Ms. Duensing: May I ask a question?

Ms. Sablas: Yeah, sure.

Ms. Duensing: How many, I mean, I've never been to some of the festivals but I've gone out on the artist weekends, how many food booths are actually at the Kamehameha Hoolaulea and the Aloha Festivals.

Ms. Alboro: As a courtesy to The Wharf, we don't allow more than five different kinds of food. And, again, as a courtesy to The Wharf, let that be known on record, we try to limit our food booths to two to three and what we do is, in that case, sometimes we put two groups in one booth, in other words, shave ice and water will share a booth. No more than five. And the booths are ten by ten. And we actually limit the -- we try to recommend to them the types of cultural food.

Ms. Sablas: Crystal, one of the concerns from Parks was the grease, you know, like from pan. Is that something that your group are aware of and who polices that?

Ms. Alboro: As the event coordinator, I specifically police that myself on those two occasions. I've never seen that happen. We do pay for dumpsters and I'm pretty sure everything goes in that dumpster. Now you're talking about water from Sternos, very limited grease cause, you know, grease stays in the cooking pan and this is just a heating pan. On occasions, kalua pig, you might get some grease in there but very limited. I've never seen any of my food vendors empty water on the grass and that's, again, in respect to the groundskeeper Clifford, he sets the rules for us and we abide.

Ms. Sablas: And there's no open flame used to --

Ms. Alboro: No, that's specific in Department of Health, State of Hawaii. We have never been allowed to have open flame there. We do bring on occasion, from the Marriott, food warmers, they're electric, they're plugged in, and the food is stored in the food warmers. And, yes, we have been allowed to use Sterno. Department of Health allows us to do Sterno, very limited.

Ms. Sablas: Yeah, so I understand, in the past, you have, you know, no more than five booths for food and if, you know, that's something that you would like us to support to have you continue.

Ms. Alboro: No more than is what we ask.

Ms. Sablas: Than five.

Ms. Alboro: And we limit, again, it's not a written limitation, but it's a courtesy to The Wharf, and we have invited those vendors also. On every occasion, we invite The Wharf vendors first. If they chose not to participate, we only use non-profits at both of these cultural events that I volunteer for.

Ms. Sablas: And one other comment. I really would like to thank you for your volunteer efforts on wonderful events for the Hawaiian community, and you're doing a wonderful job, and thank you and, you know, thank you for your efforts.

Ms. Alboro: Well, thank you. I appreciate that.

Ms. Long: Question. Please don't go away. Do those two events come to the CRC or are they administratively handled?

Ms. Duensing: They are administratively handled unless there are significant changes in what the organization proposes to do.

Ms. Long: If, as Crystal is saying, they would like to have several food booths and that is not in the recommendations, would they come here?

Ms. Duensing: Yeah, except, I think in previous years, they have been permitted to use food booths already because, for instance, I got a call from the Aloha Festivals coordinator, prior to your last meeting, asking about food because as part of their application, they had already requested a certain amount of food booths, so it was in their application that had been previously approved, so it's handled administratively.

Ms. Long: Right, and my recollection is, and I know that I, at that meeting, said food is culture and I fully support the culture of food in the Banyan Tree Park. Didn't we allow the Aloha Festival to have their food? There was some question about whether they could and we said that they -- how did that work out?

Ms. Duensing: How that worked out is I called Yuki Lei Sugimura and she said they had already gotten their permits. When I went to the meeting with Parks on Monday, they said they had applied for the permits but had not yet been granted approval by Parks. So, in light of this being on today's agenda, I suggested to Parks that their approvals not be done until after the CRC rendered its decision today so that it could be all done legally and they wouldn't have to, you know, redo things or cut that part of their program out because I know you all said that you supported the food and you asked for the Parks to reconsider that.

Ms. Long: Right. Right, and they have which is a nice thing.

Ms. Alboro: May I add a comment to that? The permit approval that we received or notice of pending approval limited us to 25 vendors period, whether we had five food booths and 20 vendors or 23 vendors and food booths; it was not specific. And, again, I reiterate, it shouldn't matter. Those two cultural events should not be limited in any regard.

Ms. Long: Is that something we should put on our agenda for discussion sometime?

Ms. Duensing: Sure. If the Commissions wants.

Ms. Long: Yeah.

Ms. Alboro: Thank you.

Ms. Sablas: Thank you very much, Crystal.

Ms. Long: Thank you. You made some good points.

Ms. Duensing: And in response to Commissioner Long's question is I know that when we started meeting with Parks early on when this topic was going to come before you that there was a lot of support from the departments on special events and making sure that those are perpetuated and continued.

Ms. Sablas: Thank you.

Ms. Theo Morrison: Good morning. My name is Theo Morrison. I'm the Director of LahainaTown Action Committee, and we also support the food booths under the Banyan Tree. Like Crystal said, it's a very important part of the cultural events that we work with

her on, that's also part of the He U'i Cultural Arts Festival. And, again, I'd like to say, as Crystal said, in respect of the merchants in the town, we are very limited in the food booths we do. We don't do food booths at the Banyan Tree Birthday Party; we don't do food booths at the Ocean Arts Festival; we don't do food booths at the Lighting of the Banyan Tree. The only food booths that LahainaTown Action Committee does are at Halloween because there's so many people on the street, and all those food booths are nonprofit food booths.

I'd also like to really stress this issue about the Sternos. If you restrict Sternos, that's going to require running immense amounts of electrical cords throughout the entire event to supply the power to electric warmers. It's going to be a huge expense for the festival, it's also not that great for the whole tree, and it's just really not a good idea. There's nothing wrong with the Sternos. It's not going to catch the Banyan Tree on fire. It's certified by the Health Department and by the Fire Department. It's a very, you know, it's totally okay. There's nothing wrong with the Sterno. It's not a big gas burner or anything like that, it's just a small little matchstick almost. It's totally safe. So it's very, very important that hot food be kept hot, and cold food be kept cold. It's more of a danger to the public than Sterno would be to the Banyan Tree.

Ms. Sablas: Thank you. Questions?

Ms. Long: Theo, in this marvelous technological age, isn't there something besides Sterno that could be used to heat --

Ms. Morrison: No.

Ms. Long: No?

Ms. Morrison: No. Electricity is the only other one.

Ms. Long: Well --

Ms. Morrison: But there's nothing wrong with the Sterno.

Ms. Duensing: Can I add a point of clarification? I think that it's important to note that Mr. Buck had mentioned this last meeting, and it hasn't been mentioned since, and Parks concern is the appropriate use of Sterno and that it not be abused, and it's part of all of this, especially with the food. Parks is also looking at ways to monitor and begin enforcement of the rules under the tree and that was brought up at the last meeting I had with them as well.

Ms. Morrison: So Sterno is okay?

Ms. Duensing: Yeah. Yeah. They're not asking you don't use them, what they're asking for, and that's why I want to clarify this, is that they be appropriately used and that the heat, the heated liquids in the pans don't be dumped.

Ms. Sablas: And it's more no open flame, I think, you know, that we're concerned about. Any other comments? Questions? Thank you, Theo. Okay, moving along. Okay, public, unless there's any others, if not, I'm going to close -- okay, Uncle Willy. State your name please.

Mr. William Waiohu: Aloha kakahiaka . . . William Waiohu . . . I live at Lahaina longtime and I asked this Commission about the name of the Banyan Tree that you guys call. The name of that place is Keawaiki, that's the true name, that's why we get plenty this kind hukihuki because the name is not proper. The Banyan Tree is not the right name. That's one foreign -- foreign thing. The last time I was over here at Lahaina and I talked about the name of the place, not even the park the kind say anything about the name. Me, as a Hawaiian kanaka maoli, living here and learning about my culture and eating the food that I live on till today. You know, that is our culture, you know, and we live by that. If you Hawaiian in here says the culture is important, please, don't limit the Hawaiian style. Thank you.

Ms. Sablas: Questions? I have one, uncle. You said the name Keawaiki?

Mr. Waiohu: Yeah, Keawa.

Ms. Sablas: Keawaiki, which means?

Mr. Waiohu: Which means as the place that the Hawaiians used to drink awa, that's what it means, Keawaiki. It's the gathering place also with the drink of awa.

Ms. Sablas: Could you -- do you mind sharing with me your source of information?

Mr. Waihohu: I don't know what kind information you --

Ms. Sablas: No, I mean, you know, like reference. Where you got this name from.

Mr. Waiohu: Oh, I got it from, I sit on the Burial Council, yeah, and I have this preservation plan that in that preservation, they had the name on that and they had the map, I suppose to bring my book but I forgot. I can bring it the next time to show you guys.

Ms. Sablas: Well that's interesting to me. I've never heard of it referred to, I don't know about the other commissioners --

Mr. Waiohu: Yeah because, at the time when Lahaina came the first capital, that's the name was in there.

Ms. Sablas: Would you mind then sharing that with Planning? I think it'd be proper to have the reference, the proper name, and there might be an appropriate time that we actually bring that back, gives it's name, it's right name.

Mr. Waiohu: Yeah, I can bring the book, yeah.

Ms. Sablas: Yeah, so thank you for sharing your mana`o with us. Mahalo. Okay, yes?

Ms. Long: You're ready? Public testimony over?

Ms. Sablas: Public testimony is closed and I'm going to ask Commissioner Long to address the issue of ethics because we, Planning Department received a letter questioning her ties with Lahaina as an owner and she has since counseled with the Ethics Commission, so I'd like her to share what she had discussed.

Ms. Long: Yeah, as the result of a letter, kind of a general letter from a concerned citizen, who I'm now guessing is Aunty Patty because there was a second letter, I did make arrangements to appear before the Maui County Board of Ethics, and I did that on August 23, and they will be issuing a written statement, but they have 45 days to do it, and because of their requirement to have their minutes done and everything, it was not done in time for this meeting today, but I did, again, speak with the secretary up there, and the gist of that meeting was, first of all, I need to disclose, and I thought it was common knowledge, that I am an owner, not the owner, but an owner of the old Kidani Building on Front Street in Lahaina, and there are three retail tenants in that building: one's a jewelry store, one's an activities place, and the other one is a used book store, and they have offices upstairs. And the letter that you all got in your packets today that went to the Mayor stated that I might have a conflict of interest because I might want to eliminate competition. I discussed this with the Board of Ethics and they're discussion boiled down to a section in the Ethics Code, Section 10-4E, which would be failure to discuss a financial interest in any matter which may be affected by an action of a County agency or vote, and the consensus of the Board of Ethics was that there needs to be a reasonable cause and effect. There needs to be a demonstration that my vote on whether there is food under the Banyan Tree or a renovation of a store front or whether the Honu can go through Lahaina Town, there needs to be shown a cause and effect as to how that would affect my interest. And their conclusion was that they saw no general effect in my discussing and voting on issues in Lahaina that I needed to disclose that I did have a commercial interest in Lahaina. I would certainly not vote on something that would affect my particular parcel and maybe even what was adjacent to me, and the wording that they used was there needs to be a

reasonable cause and effect. If someone felt that I voted inappropriately, they invited that person to make a specific request to the Ethics Board regarding that specific interest.

So, and I've talked to our chair about this, and my feeling is that if I could predict that the way I voted would affect the financial value of my building or the success or not of my tenants, I'd be pretty brilliant, and if anyone can point out how a vote would do that, I would appreciate hearing about it. But, to me, my interest in Lahaina, over 30-some years, my involvement in historic preservation in the Maui Historical Society working with Hokulani Hope Padilla, with Keli'i Reichel, I think I'm sensitive to a number of issues and I'm certainly open. If any of you in the future feel that I need to explain myself or recuse myself, please bring it up. But I really -- the Board of Ethics did not say I should not vote, it's on a case-by-case basis, so I hope that satisfies you, aunty. Thank you.

Ms. Sablas: Okay?

Ms. Long: Okay.

Ms. Sablas: Mahalo. Thank you, Barbara. Okay, so now we're open for discussion on this subject. You're so quiet.

Ms. Long: Are we amending our recommendation?

Ms. Sablas: No.

Ms. Duensing: Actually, there was a recommendation from the previous month's report and --

Ms. Sablas: CRC will discuss and vote to approve or deny the food booths at Banyan Tree Park art fairs. This is what our discussion is all about.

Ms. Long: Okay, and this -- does this include the Aloha Festival and the Kamehameha Festival?

Ms. Duensing: This is part of your general policy and what you are voting on is you had deferred Item No. 3 from my recommendations of the previous meeting which said that no food booths be allowed at Banyan Tree Park. You asked for Parks' reconsideration; they did so; they approve of it, so you now have that recommendation to work with, and this general policy. If there are to be any deviations from the general policy for any special events, that should be considered at another time because this is just to discuss the food issue.

Ms. Long: Does -- will Parks, in their permitting process, include language about disposal of grease, etcetera, or is that up to us?

Ms. Duensing: It's in Arborist's rules.

Ms. Long: Nothing dumped on the ground, okay.

Mr. Kalalau: And as far as the Arborist's rule, the Parks says it's okay with their ruling too?

Ms. Duensing: Oh, most definitely. I don't think they have, I just heard you say dumping on the ground, I don't think that's in their rules but if Parks wants to put that in their permit, that's their purview, not yours.

Ms. Long: Then how do you recommend the language? You're making a recommendation to us?

Ms. Duensing: Sure. I just recommend that food booths would be allowed at Banyan Tree Park for art fairs and special events as per park requirements and Arborist Committee rules. Something to that effect. And it's important to note, again, that from your previous policy revisions, you did say that the food booths would be part of the 25 allowed.

Ms. Long: Yeah.

Ms. Duensing: Just a reminder.

Ms. Long: I would like to add that those food booths be for, and we're just talking about Na Kupuna now, right, cause Arts Society doesn't do it and whoever? My concern is that those food booths reflect the tradition and culture of the Hawaiian diet. I don't think they have any interest in food that doesn't, but should we put that in there?

Ms. Duensing: But somebody said they were doing shave ice and shave ice wouldn't be necessarily -- it would be considered local, not Hawaiian.

Ms. Long: Yeah.

Ms. Duensing: I mean if you want to get technical --

Ms. Long: But that was, yeah, but that was for the festivals.

Ms. Duensing: And, you know, soda or whatever. And then I think it's --

Ms. Long: Can we ask if they --

Ms. Duensing: You know, it's important to note that what you're doing here is just a general policy.

Ms. Long: Yeah.

Ms. Duensing: If you want to limit what a festival or a particular organization does, that should be part of your approval of their permits cause you're looking at general Banyan Tree policy right now.

Ms. Long: Could we ask Na Kupuna if they would be willing to limit their food to Hawaiian food? Coconut, and taro, and -- no shave ice.

Ms. Nishiyama: Cultural.

Ms. Long: Cultural.

Ms. Sablas: Cultural.

Ms. Long: Okay, works for me.

Ms. Sablas: I think what Aunty Patty had mentioned earlier about the educational factor. I remember very well Aunty Pua with her lectures and how she shares and, again, all of those lectures were done without any fire; a very Hawaiian way; she would bring and just share. So I would like to encourage that type of cultural sharing because, as we had heard at our last meeting and I firmly agree, that food is very much a part of the culture and so we're not here to discourage, at least I'm not, but we do have to have some guidelines and I think what we've established and I think where the direction is going is that we don't -- we're not opposed to food sales under the restrictions as stated earlier. So -- and, you know, again, for the special events, if you feel that you need to change, there's the opportunity to come before the Planning Department for a special request requesting deviation that we would be taking a look at that time but, for now, we're talking about the general provisions for the tree. Okay, this side of the room very quiet. Uncle, from Lanai, any mana'o?

Mr. Solomon Kaopuiki: You know, you mentioned special event, cultural festival things, how do we break that down if we're all practically about the same?

Ms. Sablas: Your question, again, is about how do we break down the special events?

Mr. Kaopuiki: If you're going to give a special event their permit to go ahead, what about someone who question, what about a festival, they want to put on a festival or something else in relation to some activity which gonna concern the food distribution, would you have

an answer? You open a door, you probably put your feet in the doorway, and what's going to happen after they say -- somebody going to say, well, you let this guy do it. Now why you're opposing if we ask for it?

Ms. Duensing: I think Uncle Sol is posing an important question and I think Theo hinted at it earlier in her testimony when she said things like the Banyan Tree Lighting at Christmas, whatever, they don't do the food booths, but you need to remember that you, as commissioners, if somebody comes in with another special event and you don't think that food is an appropriate cultural tradition that goes with that event, you know, if they're going to have, I don't know, you know, ping-pong tournament in the park, you know, you say, "no." But if they're going to have Hawaiian games, konane or whatever tournament in the park, it's a, you know, it's a cultural event then. So you have the right to determine that when those permits come to you in the future.

Mr. Kaopuiki: If I were to judge that, I won't oppose, you know. I, personally, I feel that do not let them serve anything out of there even though if it's, you know, Hawaiian organizations strictly food, that's a discrimination to the rest of the other guys. So somebody can say, "You guys let the Hawaiian guys permitted to do this, what about us?"

Ms. Duensing: Can I make a recommendation? What I wanted to do was take the language from previous permits and insert it back into here because that's what you would be doing. But I think if you're looking at it as a cultural item, you know, like Uncle Sol says, that's going to be subject to interpretation, it's going to be subject to discrimination. Maybe what you want to do is, you know, do you want to put a limit of how many booths of the 25 can be food so that everybody can be treated equally. I mean what if Lahaina Arts Society comes in and decides they want to sell soda and water? You know, you can't really tell them "no" because maybe He U'i is doing it on their weekends, but maybe it's okay to just have one food booth as part of the weekend activities and for special events, it needs to be reviewed by the Commission when it comes up for approval.

Ms. Long: Madam Chair, let's not forget we're talking National Historic Landmark, Historic District here. There are many, many cultures that have been involved in Lahaina. The Hawaiian culture is extremely important but you cannot deny that there have been Japanese, Chinese, Portuguese, Filipino, whatever, so we're going to open an enormous Pandora's box here. What we're trying -- I think what this Commission is charged with in its oversight of the Lahaina Historic District is making sure that it stays historic and not allowing the commercialization of elements that might somehow take away our historic designation and with it a lot of the protection that we have there. Having said that, sure shave ice is cultural, in a way, just as okazuya food is cultural, selling sushi under the Banyan Tree is kind of incongruous but it could be said to be cultural. Why don't we just go with the recommendation that, yes, food is okay, talk about keeping it to a minimal number of booths, anything over that would need special approval, and when special

festivals come in, make that determination on a case-by-case basis. Does that make sense?

Ms. Duensing: I think that's basically what I just said.

Ms. Long: Yeah.

Ms. Sablas: What would your minimal recommendation be for food booths? It was testified that no more than five. Would we be okay with that?

Ms. Long: I'd like to see fewer than five. I don't know.

Ms. Duensing: Can we ask the kupuna how many do you have on a weekend?

Ms. Sablas: One.

Ms. Long: One.

Ms. Duensing: So why don't you make it one per weekend and special events to be determined.

Ms. Long: Cool.

Ms. Sablas: Okay. Okay, uncle, we did close public testimony on this item and I am so sorry, but -- to answer the question? Okay, can you come up and, because we're answering question that was asked of Planning, can you just come up and identify yourself to answer the question.

Mr. Richard Hoopii: Aloha kakahiaka kakou. Likeke Hoopii from Kahakuloa Village. I'm here because I'm Hawaiian and proud to be Hawaiian as well as everyone in this room is proud to come from their ethnic culture. Hearsay, you're talking about culture. Do this committee know about how many culture is in Hawaii? How many ethnic cultures in Hawaii? How many?

Ms. Sablas: Plenty.

Mr. Hoopii: Plenty? How many is plenty? Cause this could determine the amount of booths you have if you're talking about culture to be fair with one from the other. If you have 12 --

Ms. Sablas: We do need to stick to the question. You're up here, you're answering a specific question.

Mr. Hoopii: Yeah, I'm answering the question because you're talking about culture and you wanted to know how many booths that the He U'i organization is doing. See it's mainly coming back to mostly you're touching basis on food booth. Now what kind of food booth to have. To help the committee to decide what type of food booth, what type of food to put there, which is appropriate. But if you're talking culture, then you want to be fair with every ethnic culture in Hawaii because culture works with whatever exhibit you put together. If you're talking 12 -- 12 people, 12 ethnic groups in Hawaii, then you need to have 12 booths, giving the opportunity of 12 ethnic groups at a time during the concession at whatever exhibits that happen under the Banyan Tree. If you're talking about fairness, then this is a fairness that will be conducted by the board so that they have food enough to participate.

Ms. Sablas: Yeah, we're talking about events, specific, uncle. We wanted to address Na Kupuna with what they're going on, so I understand what you're going -- where you're going but this is -- we're just focusing on the question of --

Mr. Hoopii: Okay.

Ms. Sablas: So the answer, Aunty Patty, excuse me, the question was asked how many food booths do -- does Na Kupuna require? One? Okay.

Ms. Duensing: I would like to propose as a staff recommendation that we have the language to cover Parks regulations and the Arborist Committee rules in this, when you vote on it, and I will look up what the language has been in past permits. And the food booths shall be limited to one per weekend and, as was said earlier, no more than five per special events.

Ms. Long: I'm sorry folks but I got a previous date, but I'll be back.

(Ms. Long left the meeting at 10:03 a.m.)

Ms. Sablas: We're in discussion with commissioners, okay. What do you think? What direction should we go? Okay, you amended your request, we heard, from three -- one to three, so noted. What's the wishes of the Commission, please? Would we like to move on? Are we ready to move and to take a vote on Planning's recommendation or do you need further discussion?

Mr. Keeaumoku Kapu: In the revised policy for the Banyan Tree, does it specify, basically, how much can be allowed? Has it ever been implemented?

Ms. Duensing: It's got that 25 booths.

Mr. Kapu: Oh, the 25 booths.

Ms. Duensing: So whatever they want is going to cut into that 25 booths and you already voted to approve that last month, that's part of the new revised policy, so keep that in mind.

Ms. Sablas: So our decision now is the number of food booths that we're going to recommend as part of the 25.

Mr. Kalalau: Yeah, it's what we proposed last ...(inaudible)...

Ms. Sablas: Right.

Ms. Duensing: First question is, are you going to allow food booths; and then do you want to put in a limit, is Part B of that question.

Ms. Sablas: Okay, let's make it easy then. Just to move it along, are you ready for a motion and I'd like to hear a motion if we are in favor of allowing food booths. Then we'll talk about the number.

Mr. Kalalau: Okay, I'll make a motion that we move in support of food booths.

Ms. Sablas: Do I hear second?

Mr. Whelchel: Second.

Ms. Sablas: Okay, it's been moved and seconded that we allow food booths.

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

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

VOTED: to allow food booths.

Ms. Sablas: Carried. Mahalo. Okay, the second question is do you favor limiting the number of food booths and what is your recommendation after hearing public testimony.

Mr. Kalalau: Just discussion right now, but I would like to support the proposal that we previously made, the 25 booths but limit it to five.

Ms. Duensing: Staff's recommendation is one for regular weekend activities, and five for special events.

Ms. Sablas: Okay. What's the wishes of the commissioners please?

Mr. Perry Artates: Repeat that again. One for --

Ms. Duensing: The staff recommends that on regular weekends when art fairs are observed that one food booth be allowed as part of the 25 booths that are now allowed in your revised policy. For special events, they can have five, up to five food booths.

Ms. Sablas: Do you think it's necessary to identify those special events or just -- we've heard about two special events that was brought up today and that's the Kamehameha -- King Kamehameha Day Celebration and the Hoolaulea for Aloha Festivals.

Mr. Kalalau: And they're pretty in compliance though with what we're proposing.

Ms. Sablas: Yes. Yeah.

Ms. Duensing: And do remember that the special events they come before, you know, they have to apply every year to Planning Department and if there's no changes in what they propose, they're administratively handled. If they want to propose changes into the number of vendors and/or the number of food vendors, they would have to come before this Commission if it goes outside of your revised policy and the new rules.

Ms. Sablas: Okay, so you're saying it's not necessary to identify it? Okay. Are we all okay with staff's recommendation or further discussion?

Mr. Kalalau: I would like to discuss a little bit more. I know on the regular events it's one booth and on the special it's five. I just had some concerns about usually, at an event, you have someone doing, you know, the solid food with somebody else doing all the drinks and stuff. I'm just concerned whether they can have them all in one booth or whether they want to make it a separate booth. You know, a lot of times you go to a lot of these events they have either the Coke Cola Company serving all the drinks and then the single food vendor doing all the food or if they can --

Ms. Duensing: I mean, you know, if they sell a soda --

Mr. Kalalau: Or if they can put them all in one booth, you know.

Ms. Duensing: Soda with a musubi or a shave ice, they can do that from one ten-by-ten foot booth which is what they're allowed. I mean, you know, they have a ten-foot by ten-foot space that qualifies as a booth so a hundred square feet.

Mr. Kalalau: Pretty big, yeah.

Ms. Duensing: Yeah, a hundred square feet you can sell your stuff from.

Mr. Kalalau: So they can actually put four vendors in there.

Ms. Duensing: No, no, no. Don't go there.

Mr. Kalalau: No, no, I'm just --

Ms. Duensing: Don't go there.

Ms. Sablas: Anymore discussion? Anyone wanting to make a motion then?

Mr. Kalalau: I'll also move on that that the regular becomes one and the special becomes five and especially I think they have enough room to run a pretty good food booth out of the space that they have.

Ms. Sablas: Second?

Mr. Kapu: Second.

Ms. Sablas: It's been moved and seconded that we allow one for regular events and not more than five for special events.

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

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

VOTED: to allow one food booth for regular events, and not more than five food booths for special events.

Ms. Sablas: Motion carried. Thank you very much folks. Okay. If you don't mind, we'll take a short break and reconvene at 10:20 before we go to the next item. Thank you.

(A recess was called at 10:10 a.m., and reconvened at 10:20 a.m.)

Ms. Sablas: We are now at Item No. D, Permit Review, No. 2.a., Advisory Review.

2. ADVISORY REVIEW

- a. **MR. PETER YOUNG, DLNR, LAHAINA SMALL BOAT HARBOR IMPROVEMENTS.** The DLNR will inform the CRC about a proposed project to build a new ferry pier and comfort station in Lahaina. CRC members may advise and make recommendations. Plans are in the preliminary stage, and the CRC will not be taking action on any permits at this time. Public testimony will be accepted. (D. Duensing)

Ms. Sablas: Do I have the sign up sheet for this item, Suzie? Okay, first to testify or to sign up for this agenda item is Dr. Stuart Kahan.

Mr. Kalalau: Oh, yeah, he left. He left.

Ms. Sablas: Cause he spoke already, yeah, okay, and Kyle Ginoza.

Mr. Kyle Ginoza: Good morning. My name is Kyle Ginoza, I'm the Maui County Director of Transportation. I just wanted to make a short statement in support of the projects that DLNR is proposing. We engaged into discussions with them earlier this year, the Mayor and myself with the Board Chairman Peter Young and, basically, it started off on this Lahaina project with FTA money available for ferry boats and ferry harbor improvements. And they came up with some ambitious plans early on and I must commend them on the amount of feedback they received and solicited, and how much they've taken it into account, such that now, you know, it's -- they've laid a lot of the concerns of the groups that had initially been very vocal against it, particularly where it initially the new pier had egress and ingress from the rock wall in front of -- at the harbor and they've subsequently looked at, I mean include into their plan of just basically having the ingress and egress from the existing pier and tried to minimize the impact to the ha`ula stone as well. But the Mayor and the administration is in support of, you know, basically doing more for the Lahaina community and using this FTA money to further that objective. Thank you.

Ms. Sablas: Any questions from the commissioners?

Mr. Kalalau: Yes, Madam Chair. Kyle, are you guys in support of both the harbor for the -- I mean the pier for the ferry and the comfort station together?

Mr. Ginoza: Yes.

Mr. Kalalau: I guess this is for Madam Chair, you know the next time we talk on this item, can we have a map of the pier too or some kind of -- some kind of layout to where we understand when they talk about the wall and the break wall?

Mr. Ginoza: Excuse me, I believe that DLNR is going to make a presentation that shows the orientation and so forth.

Mr. Kalalau: Oh, okay.

Mr. Ginoza: So that -- I don't know if they'll give you a copy but you'll at least see what they're talking about and what they're proposing.

Mr. Kalalau: Okay, thank you.

Mr. Kapu: I get some. Were you one of the also one of the attendees with a lot of these meetings with the public?

Mr. Ginoza: I've attended some of them, but not all of them, particularly the ones with the more general public I attended, not the specific meetings with like the Na Kupuna and Lahaina Restoration Foundation for instance.

Mr. Kapu: Okay, so based on all the meetings that you went to, the public was receptive of the idea of having this or ...(inaudible)...

Mr. Ginoza: Well, initially, when the plans were more ambitious, there was significant concerns but that's why I must commend them on, you know, meeting with these different groups and coming to a, you know, a compromise with them, and they can elaborate on them because, like I said, I wasn't involved in the specific meetings with the individual groups.

Mr. Kapu: Mahalo.

Ms. Sablas: Kyle, are you going to be here after the presentation or are you going to leave?

Mr. Ginoza: No, I'll be here.

Ms. Sablas: Okay, cause there may be questions I would like to ask of you after the presentation and instead of asking it now, then they, you know, so -- okay.

Mr. Ginoza: Sure. Okay.

Ms. Sablas: Any other questions? Okay, we'll continue with public testimony. Thank you.

Mr. Ginoza: Thank you.

Ms. Sablas: Any other -- others want to testify on this agenda item? If not, I'd like to close the public testimony and now move on to staff report or the applicant's report.

Ms. Duensing: Thank you, Madam Chair. I really have no staff report. You remember that we did talk about this several meetings ago and I gave you a brief overview of where we had started. I had let you know that I've been in consultation with DLNR, letting them know that this is a National Historic Landmark District. The landmark district does go out I believe it's one kilometer into the ocean and that there are significant concerns from the cultural resources perspective. They have taken these things into consideration, for instance attaching the pier to the seawall and, you know, seeing if mitigation can happen by bringing that pier into the adjacent pier so, you know, they have been in consultation with the Planning Department, me, and as well as other community groups, and I think I'd like to just turn it over to the DLNR engineers and let them handle it from here and let them tell you about the progress they've made.

Mr. Mitch Hirano: Good morning, Madam Chair, and commissioners. Thank you for the invitation to provide the Cultural Resources Commission with information on the proposed improvements to the Lahaina Small Boat Harbor, the new ferry pier, and comfort station. My name is Mitch Hirano and I'm with Munekiyo and Hiraga. Our firm is preparing the environmental impact statement for the proposed project and representing the Department of Land and Natural Resources through the entitlement and permitting process for the proposed project.

As background to the project, I would like to outline the environmental impact statement process that will be followed for the project and establish the status of the project in context of the EIS process. This is the first time before the Commission and the reason for this approach is to assure the Commission that a number of opportunities will be provided to receive your input and comment on the proposal. Other objectives of our presentation this morning are to present the concept plans and alternatives for the Lahaina Small Boat Harbor and ferry terminal, as well as present plans for the comfort station, which will now undergo a separate review process, and to introduce the project team of DLNR to you.

The environmental impact statement for the project will be carried out pursuant to State laws that is Chapter 343, as well Federal laws pursuant to the National Environmental Policy Act, so there'll be two separate tracks for the EIS process. The main stages of the EIS process are as follows, and I'd just like to outline the steps of the process and then come back to where we are in that process to give you an idea that we're in the very early stages of the project.

The first phase is really project scoping and during this stage, it starts as early as possible, and it is to really disclose the proposed actions and identify the issues of a project as well

as receive input from stakeholders and formulate alternative plans. We consider our presentation this morning to you as part of the ongoing scoping of the project.

The second step after the scoping is really to formulate the notice of intent and the environmental impact statement preparation notice. This statement is to inform the public of the plan alternatives and receive early input into identifying issues and concerns and establish the scope of investigation during the environmental -- during the preparation of the environmental impact statement.

After we receive those early comments on the -- and do the investigation, then we draft the environmental impact statement. This document identifies the project's alternatives, the impacts and mitigation. The notice of the availability of the draft EIS is then published in the environmental notice. The document is distributed to State agencies, Federal agencies, as well as to the public and community groups that are affected by the project, and there is a 45-day review period and comment period on that, on the draft environmental impact statement.

Upon receipt of those comments, after the 45-day review period, then we start preparing the final EIS and, at that time, we may have to carry out additional studies, if required, based on the comments received. We respond to the agency comments, and issues raised during the review period.

Upon completion of the responses to the community comments, agency comments, and findings of additional studies, if required, the final EIS is published and then there is a 60-day challenge period. And upon that time, the approval for the EIS is the Governor or her representative and they approve the final EIS.

This process takes approximately 12 to 18 months so it's a very long process and there's a number of public review period at each critical stage of that process, and I'd like to assure you that, you know, the plans will be coming before you during the early scoping period, during the formal notice of intent, and environmental impact statement preparation period, as well as through the cultural resources review for the historic district approval and since it's a Federal project and Federal funds are available, there will be consultation as requested by the Cultural Resources Commission for the Section 106 National Historic Policies Act. So, as I said, there is plenty and there will be a lot of dialogue with the Commission during this process because we realize that it is a very historic area, there are significant cultural sites in the area, and we wanted to make sure that this project will not impact those historic sites, and that whatever impacts are identified, that they can be mitigated.

So during the EIS process, project elements may or will be refined based on what impacts have been identified and mitigation measures that are proposed. And there are three

possible outcomes of the EIS process. One is that the project will be implemented because it was concluded through the EIS preparation that there will be no significant impacts. Two, the project will be modified in scope or scale or design to minimize the impacts or to minimize project implementation and provide mitigation. And the third alternative is really the no action alternative; however, we believe that this alternative would not be in the best interest of the community or State since the existing problems of the pier, of the congestion at the pier, as well as the safety hazards that are posed to the public, and the public liability issues for the State Department of Land and Natural Resources, that the no action alternative would not be the prudent alternative in this particular case.

The entitlements that will be required for this particular project involve a historic district approval, a special management area use permit, a shoreline setback approval, as well as a number of Federal permits, which include Department of Army Permit, a 401 Water Quality Permit through the Department of Health, Section 106 approval and consultation, a conservation district use permit, and a coastal zone management consistency permit. So there's a whole host as well of permits and approvals and regulations that this particular project will have to adhere to.

As I mentioned earlier in the EIS process, we are very much in the early stages of the project. We are currently in the scoping stages. We would request comments from the CRC during the scoping, the environmental impact statement preparation notice, the draft EIS, the historic district approval, and as well as part of the Section 106 consultation. I think in terms of scoping and the types of comments that are usually received during this period is that we're focused on proposing alternatives that may be less costly or have less environmental impacts while achieving similar transportation objectives and identifying specific social, economic, or environmental issues, or cultural issues to be evaluated. And we should never lose fact of the project objectives, they should always be clearly before us, and the objectives in this case are threefold and that is to reduce the existing congestion at the Lahaina Small Boat Harbor, to improve public safety at the existing small boat harbor and the ferry pier facility, and to maintain an important link the ferry facility provides to the neighboring communities of Lanai and Molokai.

As mentioned earlier that a number of meetings have been held with the County and the County is in full support of these similar objectives. The Department of Land and Natural Resources has met with the County administration on a number of occasions to discuss the project objectives and the Mayor and the Transportation Department have provided support in meeting these objectives.

The handout that was provided to the commissioners gives an idea of the number of meetings that have been held to date and that were conducted as part of the scoping process. I would like to emphasize that the Department of Land and Natural Resources will be working closely with the State Historic Preservation Division regarding historical

reviews and in compliance with the Federal regulations pursuant to Section 106 on the National Historic Preservation Act.

And as a result of the input received from the scoping meetings, you know, the current plans have been greatly modified and I'd like to now just present those plans to you and how the plans have evolved. We'll start right now with just where the plans are and then I'll go back to where they were and what was presented during the scoping meetings, but the plans have been reduced quite a bit. First of all, as requested by a number of committee or like at scoping meetings and as well from the correspondence received from the Cultural Resources Commission, the project has been split now in two. The comfort station is on a separate track from the pier station. We realized from comments received that the comfort station is seen as a priority, there's less concern about the comfort station, and so we're trying to move that along on a separate track which we can facilitate the implementation of that particular project.

The pier, right now, involves a ferry, this is the ferry pier. There'll be a walkway to a multi-purpose pier. There'll be two ferry berths here. The dredging will be limited. And all those components haven't been fully identified so we really can't speak of details at this particular time since the, you know, we're scoping it out so that we can carry out the marine studies that will be required. There is a proposed, as well, shelter that will be on this pier. So the development would be to build a pier, a ferry pier with the two -- so that the two ferries can come in and berth and leave.

Now, I'd like to just move forward to what was presented at earlier meetings so that you can get an idea of how the project has evolved and how it's been really scaled down quite a bit based on earlier proposals. Right now, we have the existing pier at this particular location. This is the Pioneer Inn. This is the wall of the harbor. The new ferry pier was to have it, as Kyle earlier mentioned, it's own ingress and egress onto a platform. The ferries will be on both sides of this particular pier. This was the comfort station. There was a walkway to a multi-purpose pier at this particular location. The particular comfort station was a fairly large facility. It had a -- it was a two-story structure with offices on the top floor, an open shelter collection waiting area, passenger waiting area at the main floor, and washrooms on the upper deck of the structure. This was one of the alternatives that were proposed. The other alternative that was reviewed by the -- during the public scoping meetings was, basically, the same concept but without the structure because, you know, the height, the mass of the structure also raised some concerns so the other alternative was to just build the pier. This is the existing pier. Carthaginian here. And these are the ferries here. So the new pier again had its own access ramp, a walkway, and a multi-purpose pier at that particular point.

This is, to give you some idea of dimensions, this is 60 feet wide and 60 feet wide at this point as well, so the pier structure was 48 feet wide and 145 feet long. So, at this particular

time, the -- it looks like the preferred alternative from input from the public was a much smaller development, a possible structure, and a possible shelter, but, again, those elements will have to be further refined and reviewed with the public and the ferry terminals, the landing at that particular place.

The comfort station will be upland from the pier. That new comfort station location just along Wharf Street, replacing the existing comfort station, and the station is 26 feet wide and approximately 48 feet long, and so that's where it will be. It's a single-story structure; a men's and women's washroom.

Mr. Kapu: I get one question. Madam Chair?

Ms. Sablas: Yes?

Mr. Kapu: Can I address something?

Ms. Sablas: Sure.

Mr. Kapu: How big is the existing right now? Yeah.

Mr. Hirano: The existing structure? The existing structure is a square structure and it's -- Eric, do you know?

Ms. Duensing: It's about 375 square feet - 350 square feet.

Mr. Hirano: About 350 square feet.

Mr. Kapu: So how big is this one compared to the original? It's much bigger?

Mr. Hirano: This is a much larger, yes. Yeah, that'll be --

Ms. Duensing: The math turns out to 1348.

Mr. Hirano: Pardon? Two thousand?

Ms. Duensing: 1-3-4-8.

Mr. Hirano: 1-3-4-8.

Ms. Duensing: Is what the math turns out.

Mr. Hirano: So about 1400 square feet.

Ms. Duensing: 1350.

Mr. Hirano: 1350.

Mr. Eric Yuasa: The existing comfort station -- my name is Eric Yuasa and I'm the project manager for this project from the Department of Land and Natural Resources. The existing comfort station is 15 feet by 25 feet, approximately 375 square feet. It contains two sinks, two toilets, and two urinals on the men's side; and two sinks, and three toilets on the women's side.

Ms. Sablas: So what's the proposal? What is the additional as far as a --

Mr. Yuasa: 1300 square feet --

Ms. Sablas: No, I mean stations, yeah, you had two and two, so what are we adding? How many --

Mr. Kapu: Cause it's a much larger scale the reason why.

Mr. Hirano: Nine women stalls and five.

Mr. Kapu: The impact on the area is also detrimental. The reason why I brought that up is because it is a way larger scale. I think it's going to be very detrimental to the historic of the area and what kind of monitoring process will be done at the same time when they're putting in this other comfort station. This is like big time. You're doubling the size even more so -- in an area that is kind of limited. That was just my concern ...(inaudible)...

Mr. Hirano: Just to, I guess, finish our presentation. Because we are going through a separate Chapter 343 for the environmental assessment for the comfort station, you know, we would also consider this meeting as a early consultation -- as early consultation on the comfort station proposal and would request the CRC's early comments in support of the comfort station, if it's warranted, so that the project may be implemented as soon as possible.

And in attendance with me, this morning, are members of the project team from the Department of Land and Natural Resources, and I would just like to introduce them to you, and they're available to answer questions. Mr. Eric Hirano is the Chief Engineer with the Department of Land and Natural Resources, the Engineering Division; you've met Eric Yuasa, project manager and engineer for the Department of Land and Natural Resources, Engineering Division; and Mr. Richard Rice is head of the Division of Boating and Ocean Recreation and he's here as well this morning.

So that ends our formal presentation and we'll be happy to answer any questions the commissioners may have.

Mr. Kapu: Yeah, I get one question. Can I have some kind of clarity as pertaining to what 343 is ...(inaudible)...

Mr. Hirano: Chapter 343 is the environmental laws of the State of Hawaii and they state that environmental -- they prescribe the environmental reviews for the environmental statements. And the regulations under the Department of Health, Title 200, are the environmental impact statement rules, so State of Hawaii, 343, is the environmental laws that we have to follow.

Mr. Kapu: Okay.

Ms. Sablas: Yes, Mr. Deputy Director -- Mr. Director.

Mr. Mike Foley: Thank you, Madam Chair. I just had couple questions, Mitch. Do I understand then correctly that there will be an EIS on the ferry pier but there will be a separate EA on the restroom?

Mr. Hirano: Yes.

Mr. Foley: So there will be two different environmental documents; two different projects; completely separate?

Mr. Hirano: Yes.

Mr. Foley: Okay. The second question. On the restroom site plan, it doesn't show any of the existing features but is there a large tree just to the north of the existing building that would have to be removed?

Mr. Hirano: I'll ask Eric Yuasa to respond to that.

Mr. Yuasa: Mr. Foley, you are correct that there are several large palm trees. We haven't identified them right now, but they're located right about here.

Mr. Foley: And they're palm trees?

Mr. Yuasa: Yeah, they're some kind of palm trees.

Mr. Foley: Okay.

Mr. Kapu: Possibly loulu.

Ms. Duensing: I think there's a few other things there too, isn't there, Keeaumoku?

Mr. Kapu: Yeah, there's a lot of significant things in the area especially those palm trees. Those are loulu trees, yeah? The loulu. So loulu is kind of indigenous to the area too. It's old. So that's an impact.

Ms. Sablas: Mitch, has an inventory been done of all the historic sites that are potentially going to be impacted?

Mr. Hirano: We're starting to do a list and there were -- every site has been identified.

Ms. Sablas: The ha`ula stone was mentioned?

Mr. Hirano: Oh, yes. Yes. There are a number -- we will have all the sites identified during this process. I mean, right now, I can't recite them to you, Madam Chair.

Ms. Sablas: But can I recommend that, in consideration for the historic sites, that surfing be considered a historic site area because it goes back, that's Kamehameha time --

Mr. Hirano: Surfing?

Ms. Sablas: Surfing. It was a number one surfing spot for the ali'i.

Mr. Hirano: Yes.

Ms. Sablas: And so, even though it's in the ocean, to consider that as a historic part of the area.

Mr. Hirano: We're also cognizant of the fact that the historic district goes out, you know, a mile from the shore so everything within that area will be considered in the assessment process.

Ms. Sablas: How close would this new comfort station be to the present canons that are there?

Mr. Hirano: Again, I'll have to ask Eric. He's more familiar with the site engineering on that.

Ms. Sablas: My question was how close would the proposed comfort station be to that three canons that are there? I mean it's just I have an, you know, I cannot visualize looking at your design there.

Mr. Yuasa: It'll be quite far away. It wouldn't even impact the -- there's a flagpole right now so I believe the canons are to the north of the flagpole.

Ms. Sablas: Okay.

Ms. Duensing: I think that we need --

Mr. Hirano: I apologize for not bringing a more -- maybe a site plan that has the existing features as well. We didn't have that and --

Ms. Sablas: You said you're in the early stage so I know, yeah.

Mr. Hirano: The other, I think, fact that is important as part of this process is that the Section 106 will be carried out by Paul Cleghorn. He's been hired to do the Section 106 consultation.

Mr. Kapu: Okay, now maybe I can ask my question that the I asked the other gentleman earlier. Based upon all the meetings that you had with the public, were there a lot of great concerns based upon the fact that where the new slip will be placed because it's definitely in an area of great impact to the ha`ula stone, and not only the ha`ula stone, but the lighthouse area, not to mention Kamehameha's Brick Palace? You know, what was the outcome from the public community based upon those?

Mr. Hirano: Well it's to avoid -- that those are historic features and to avoid those and do not impact those was the basic message from the public consultation meetings.

Mr. Kapu: The reason why I brought that up is because the list that you gave me doesn't clarify based upon what the comments were. I mean you have one comment over here from Kuleana Kuikahi based upon a warm response to the revised plan, then you have another comment from Mr. Keoki Freeland's foundation indicates that they would like to replace Carthaginian, that doesn't really tell me much, and it's just like brief pertaining to what the comments were, but a lot of people had brought their concerns about this issue to me and it was even greater than this, these specific people.

Mr. Hirano: I recognize that those -- that sheet is a very concise comment sheet but it was, basically, to give the commissioners the -- an idea of the number of meetings that have been held and the input that has been received during the scoping process. But we will certainly be, you know, during the environmental impact statement preparation, elaborating

on those meetings, the comments, identifying all the historical resources within the area, and the relationship of the project in relation to those historic features and the potential impacts that the project will have on those.

Mr. Kapu: Okay, well it just gives me a basic, you know, perception as pertaining to the idea that the public community was kind of receptive of this, but basically it had hardly any comments and I would definitely would like to see more comments based upon what had occurred at all these meetings because this really doesn't tell me much and now if you're looking for some type of recommendation from the Cultural Resources Commission, right now, I know it's kinda early, but it leaves me at a point of great discussion at the time.

Mr. Hirano: Okay, thank you, yes.

Ms. Sablas: I'd like to suggest too, in the interest of moving this along, that we first concentrate on the comfort station, receive comments on that, and then we move on to the pier so we can make it easier for planning or organize. So our discussion for now let's center it around the comfort station that, you know, any recommendations, comments that you would like to give at this time.

Mr. Foley: Mitch, what's the proposed timing in terms of when the EA would be submitted for review and when you would come back to the Cultural Resources Commission?

Mr. Hirano: The, I guess the early comment period, the request for early comments will be going out within a week. You know, we really are trying to fast-track and we would allow 21 days or so for that. The project, implementation of the project is targeted for April 2005, around that time frame, so we will be having the early consultation, request for early consultation in September to say mid-October, preparing the draft environmental assessment and, again, that would be -- Department of Land and Natural Resources will be the accepting authority for that. The Cultural Resources Commission will be reviewing the draft and as well the proposal for a historic district approval. So the -- that would probably be coming before the Commission in late October, and then we would be receiving comments October, November, and responding to those comments in December, and, hopefully, publishing the final sometime in January.

Mr. Kapu: Can I make a recommendation? Based upon if this is ever to be placed on the agenda in front of the Cultural Resources Commission that we have some kind of topographical map based upon what is, what we're actually looking at because the historicness of that area has a lot of things that was basically there, still there, and that's kinda hard to make a determination or a recommendation based on anything that we have today. So if we can get some kinda topographical map so we can see, or picture in today's presence so we can see what will definitely be impacted upon.

Mr. Hirano: Yes.

Mr. Kapu: If we can get that.

Mr. Hirano: That's a very valid and good point. What we will do is, maybe after this meeting, just provide that information to the chair or to the Planning Department and they may be able to distribute that so you'll have time to review it. But what we will do is provide sort of a base map with those features on it.

Mr. Whelchel: I agree with Commissioner Kapu. This is a much larger building. It's going to require more parking as per proposed. Has this been addressed?

Mr. Hirano: It will be addressed. These issues have not been fully kind of investigated but parking will be as well looked at in this. Yes, it will be addressed. It hasn't at this particular time.

Mr. Kapu: Also traffic?

Mr. Hirano: Traffic.

Mr. Kapu: Traffic impact.

Ms. Duensing: Madam Chair, if I might, I realize the Commission is without a historian and architectural historian right now so I'd like to add my two cents in especially -- when this project started, the comfort station was much smaller and, at that time, I knew that there was a lot of community support, the Lahaina community desperately needs this comfort station, and I believe that if it was an in-kind replacement, it would not be a significant cultural impact, but if you're going to move from 375 square feet to 1350 square feet, it's a tremendous impact in the National Historic Landmark District and in the County Historic District and that will be very difficult to mitigate. You might not even be able to mitigate it and that's my professional opinion.

The other concern I have, well, two other things is Cleghorn being hired to do the Section 106 process. I understand he's an archeologist, if I'm not mistaken, and the Lahaina National Historic Landmark District, although it has a lot of archeological sites that are of tremendous importance, is primarily known for its architectural historic features and I think it's crucial for an architectural historian or somebody who can appreciate Lahaina as a architectural treasure be involved with that Section 106 process, not an archeologist because archeologists don't do buildings just like architectural historians don't do archeology.

And, thirdly, comments on the elevations and such that you've been given for the comfort station. None of this fits the design guidelines and I know that in speaking at earlier meetings that DLNR is aware that there are Lahaina Historic District Design Guidelines. Things that aren't in the design guidelines would be translucent roof panels doesn't work; plywood is not allowed in the historic district; PVC materials would not be allowed in the historic district; corrugated metal roofing; all of these materials need to be looked at as well as the design of the building because that's part of Lahaina. We don't use plywood, we use tongue and groove vertical siding. So that the architectural team needs to be made aware of these things and there is a style book that they can use for guidance and materials are just as important as the design. We don't use fake materials in the historic district.

Mr. Hirano: Thank you for those comments.

Ms. Sablas: And I think to keep in mind it's really important that you have like an overview because Lahaina is an ocean community so what impact would this new building have from the ocean. I'd like to be able to have an idea of that, height, you know, color, what's that view plain going to look like.

Ms. Duensing: Just one other very brief comment that I'd like to remind the DLNR and the consultants of is do not forget that the advisory counsel on historic preservation is a very crucial aspect of Section 106 in the National Historic Preservation Act and they will be consulted on this and for design things, the impact, for instance, of a 1350 square foot building versus 375 foot, so just a reminder to everybody that they have crucial role to play in this as well.

Ms. Sablas: I think -- thank you for providing us with this list. It gives us an idea that you've done already a lot of initial work, Mitch, on this but just for, I think, when you come back in the future if you do have reasons for meeting, like we're doing, is separate the comfort station and the pier just so we know, you know, they -- is it -- what their response is. It could probably be for one and against the other, but I think if you were to separate the comments from these two, it would help us also to know what is the community feeling about these additions in Lahaina.

Mr. Hirano: Okay. I think the separation of the two projects just recently occurred in terms of, you know, policy decision on Department of Land and Natural Resources. And I'd just like to as well mention that these are very conceptual, very early stages to receive comments so all your comments will be taken into consideration and, hopefully, the next time we are back before you, and as part of our other consultation, that we will have incorporated a lot more historic design features in here, in the guidelines, and the guidelines of the Lahaina Historic District.

Ms. Sablas: Thank you. Any more questions, comment, commissioners, on the comfort station? Staff?

Ms. Duensing: Thank you.

Ms. Sablas: Okay, are we ready to move on to the pier then if we're all okay and pa`a on this comfort -- okay, so let's move on our discussion to the proposed pier improvements.

Mr. Hirano: Madam Chair, may I --

Ms. Sablas: Yes. Sure.

Mr. Hirano: I think because of the very valid comments regarding placement of the improvements in relation to existing historic resources that I think a more productive discussion of the project would probably best be maybe postponed until we can get that information to you and then we can talk about it in that -- in that context and we'll have much more information as the baseline for that.

Mr. Foley: Could I just ask a couple more questions?

Mr. Hirano: Yes?

Mr. Foley: Mitch, I can't see that site plan very well but has the walkway from the pier, the new pier, to the wall been eliminated or is that -- it looks like there's still something there?

Mr. Kapu: No, that's just a line.

Mr. Hirano: It just shows the distance.

Mr. Foley: Oh, okay.

Mr. Hirano: ...(inaudible)... from the existing wall.

Mr. Foley: Okay. And on the left drawing, is that a -- is that an optional shade structure above the -- is that above the existing pier or above the new pier?

Mr. Hirano: They are optional on both, on the existing and the new.

Mr. Foley: Oh, okay. And is it primarily just for shade?

Mr. Hirano: It's for shade ...(inaudible)... open sided shelter.

Ms. Duensing: Are part of the plans to build a new administrative building for the harbors then as part of this project?

Mr. Hirano: No, that part of it has been taken out.

Ms. Duensing: Okay, thank you.

Mr. Foley: But there is a structure, right, on the pier with the harbor master? What happens to him/her?

Mr. Rice: Actually, on the existing pier -- you can't hear my booming voice?

Mr. Foley: We can't record it.

Mr. Richard Rice: You can't record it, yeah, I see. On the existing pier, there essentially are no changes. The harbor master office will stay as it is. We can't really accommodate a fixed structure over that because there are times when we need to get cranes and large equipment in there for maintenance things. So the existing pier, as it is, won't change a whole heck of a lot if at all.

Mr. Foley: So that's not for the existing pier, that's just for the proposed?

Mr. Rice: For sun and rain on the ferry terminal so the people won't have to sit in the weather.

Mr. Kapu: Same recommendation for the comfort station that I mentioned in the beginning that we have a topographical map that show what is existing in the area.

(Ms. Long returned to the meeting at 11:10 a.m.)

Ms. Sablas: I just, you know, I mean Lahaina is known for its quaintness and its small town appeal and I'm just concerned that as we build more the western type building that it takes away that quaintness of the town. I'm not sure how the guideline would be but I thought that I saw about that shade. I've gone to Tahiti a lot and, you know, they use that indigenous thatching that it really makes it like you're in a Polynesian area as opposed to that red corrugated type roof, and I'm not even sure how that would fit in the design guidelines or whatever, but just, you know, kind of toss it out in the design because think about the appeal, again, Lahaina is an ocean, it's a beautiful place to look from the ocean, and the idea is that you're in the islands, that you're in, you know, in paradise and, anyways, just a thought to try to maintain that quaintness of Lahaina Town.

Ms. Duensing: An additional idea, going a step beyond what the chairwoman is saying, is that if something like the traditional Hawaiian hale was used, it might be considered as less of an impact because something like that is more temporary in nature than concrete footings and, you know, a wooden structure, I guess is what I'm saying, is a more permanent western type of building so that it might be a possible mitigation measure too, something to maybe talk to SHPD about, see what they have to say about it, might be an appropriate way to pursue that.

Mr. Hirano: I'd just like to just express our appreciation for your comments and that we see this as a evolving dialogue that design is a well -- an evolving process and your comments are very much appreciated and we will do whatever we can to make sure that we can adhere to, so we meet the objectives of the project, but adhere to your guidelines and adhere to your comments, so thank you.

Ms. Duensing: Can I just make a couple other statements, and this is mostly for the commissioners because I am sure that the engineers in DLNR have heard this from me already, but in looking for ways to mitigate this project, if it goes through, when it goes through, whatever, a couple of the other things to keep in mind are that the -- we talked about items that are historic, I mean the seawall is historic too, so trying to remove the pier from that is a very important mitigation measure. Maybe some of the other things to keep in mind, and I guess this is what we're discussing, is that view plain from the library lawn, which is so critical to Lahaina from Pioneer Inn and other places. And then I know from previous meetings that the dredging was a concern to the community as well.

Ms. Sablas: Yes? Welcome back.

Ms. Long: Sorry, I had to miss that, but have you discussed the environmental impact statement at all?

Mr. Hirano: I went, Commissioner Long, while you were away, I just went over the process that we will follow with respect to the environmental impact statement and that we're in the scoping stages of that. The actual elements of the environmental impact statement, I think, I didn't discuss and that from the scoping meetings, we get an idea of what parameters of the environmental impact statement are important and what we should be investigating during the preparation of that so, if you have a comment on that, we will receive it.

Ms. Long: I do.

Mr. Hirano: Yes.

Ms. Long: Thank you. My experience with the EIS submittals is that one of your required ingredients is the review of alternative sites. There's the no build, there's the build at a

diminished capacity, whatever, and the alternative sites, and State law requires a thorough analysis of alternative sites in the EIS and my experience is that that's given a real short trift by -- in most EIS's and I would ask that you be very thorough in your analysis of alternative sites and invite the public's input into those alternatives.

Mr. Hirano: I think the, what I mentioned as well, is that the environmental impact statement is focused on achieving similar transportation objectives and identifying the, you know, specific social, economic, and environmental issues to be evaluated based on the project objectives and, in this particular case, the project objectives have been identified as to reduce the existing congestion of the Lahaina Small Boat Harbor, and to improve the public safety at the existing small boat harbor and pier facility. So alternatives will be viewed in that context, yes.

Ms. Long: Would you also be reviewing them in the context of mitigating the impacts of where you propose to put it?

Mr. Hirano: Yes. Yes.

Ms. Long: Okay, on mitigating the impact on the historic district and historic sites?

Mr. Hirano: Most definitely, yes.

Ms. Long: Okay. Could you tell me too what are the requirements, with your use of Federal funds, what are your requirements as far as public hearings?

Mr. Hirano: They're prescribed and encouraged. During the early scoping that, you know, the mandate under the Federal National Environmental Policy is to get out to the community as early as possible to scope the project. There is the review period, the notice of intent period, which is a formal requirement, and then the draft review of the environmental impact statement. So there are a number of requirements that we will follow and there will be opportunity for public comment during that process.

Ms. Long: Okay, I don't know about you guys, but my experience with the Department of Transportation Highways Division is that they do minimal public notice. I would ask that you at least notify all the news media on Maui prior to holding a public hearing, that would include the weeklies and whatever, radio stations, because looking at your list, I don't see an awful lot of people attending your previous meetings and you all know there's going to be a lot of interest in this and I would ask that you --

Mr. Hirano: The meetings were held both through a public informational announcement as well as meeting with specific user groups and that's why maybe you might see some smaller meetings but they were --

Ms. Long: I know they were invitational.

Mr. Hirano: They were to meet with stakeholders, as they say, you know, users of the facility, but we will try and advertise and get as wide a circulation for these notices as possible. I believe that, although I didn't attend it, perhaps -- they were well attended, as I understand, the informational, the public informational meetings.

Ms. Long: Well --

Mr. Hirano: But we take your -- we'll take --

Ms. Long: Yeah.

Mr. Hirano: Yeah.

Ms. Long: I appreciate that. Thank you.

Mr. Hirano: Thank you.

Ms. Sablas: Okay, no other recommendations, comments on this?

Mr. Whelchel: Madam Chairman, I'd like to pass this little aerial around in absence of a site plan. It's an overview. Maybe my fellow commissioners would have a more clear idea of the scope. It shows the docking area as well as the rest area.

Ms. Sablas: So would you recommend that they -- they kind of look at -- oh, that's what you meant about the topographical from the air. What would these proposed additions look like from the air, from the ocean, as part of a future presentation.

Mr. Whelchel: They will provide that.

Ms. Sablas: And I think it would be good for the public too so they can visualize.

Mr. Hirano: Yes, no, I think -- yes, I think those are very valid points and we'll try and accommodate that.

Ms. Sablas: Well if no other comments, questions, we thank you very much for your thoroughness and for taking, you know, these initial steps to come over and we look forward to having more dialogue with you on this very important project to the historic district, so thank you.

Mr. Hirano: Thank you very much for your time.

Ms. Sablas: Okay, I'd like to move on. Next on the agenda, Item 3, Demolition Permits, none. Communications, Item No. 1.

3. DEMOLITION PERMITS - NONE

E. COMMUNICATIONS

- 1. MR. RICHARD DANCIL INFORMS THE CRC OF THE KULA HOSPITAL HO`OLAULEA planned for September 12, 2004, in recognition of Kula Hospital being listed on the Hawai`i Register of Historic Places. Public testimony will be accepted.**

Ms. Duensing: It should really be the National Register; that's a pretty serious typo.

Mr. Richard Dancil: Yeah, aloha. Aloha. May I approach? I have some papers over here I wanted to give out.

Ms. Sablas: I'm sorry. Did you identify yourself, sir?

Mr. Dancil: Oh, I'm sorry. My name is Richard Dancil. I work up at Kula Hospital and recognizing our ho`olaulea event. May I approach to pass out some papers?

Ms. Sablas: Yes.

Mr. Dancil: Thank you. Aloha, my name is Richard Dancil. I was born at Kula Hospital and also a second generation employee at the hospital. I want to introduce and invite everyone to celebrate the Kula Hospital, originally called the Kula Sanatorium, in recognition of being accepted on the Hawaii Register of Historic Places on 22 November, 2003.

Kula Hospital began as a tuberculosis center in 1910. It originally opened with tents and was set up as a self-sufficient community providing it's own vegetables, dairy, and meat products. In the early 1930's, Kula Hospital expanded in land mass under executive order on the Hawaiian homes ceded lands. In 1937, the dream of the great doctors, at the time, came to fruit. A five-story building was completed. The significant part of this building was actually designed by one of Hawaii's great architects known as Charles Dickie. The grounds on the hospital is also historical. The landscape was set up by Thompson, I'm sorry I don't know the first name, I'll find out, the first lady landscape person in the State, from what I was told. The small town of Keokea sprang up around it to provide additional goods and services including the Ching Store and Fong Stores.

Today, Kula Hospital is still a vital part of this community of Keokea providing jobs, medical care, long-term care, rehab out-patient clinic, and out-patient rehab for many of Maui's most treasured ohana. Kula Hospital is always looking forward in the future expansion of care especially the growing Upcountry and Hawaiian homes of Waiohuli, Keokea, and Kahikinui. The hospital has quite a few second-generation workers who has a lot of heart and care for the area and its patients, the residents of Kula Hospital.

This ho`olaulea is special, not only historical, but spiritual and to honor our kupuna, elders, who paved the way of Kula Hospital. So we, at Kula Hospital, invite you to our event on 12 September 2004, Sunday. It starts at 9:30 with an opening prayer by Reverent Mueller, of Saint John's; special speech by Doctor Andrews, who was working at the hospital from 1941 till 1980; and speeches by special guests. We have food and craft booths, free live entertainment, and silent auction. Come up and enjoy. Aloha.

I got these paperworks attached the speech. Next page is the accounts of from Council, the County of Maui, being accepted on the Hawaii Register of Historic Places, and the last one is our flyer. It shows what's going to be happening up at Kula Hospital. Thank you.

Ms. Duensing: Can I ask a question?

Mr. Dancil: Yes?

Ms. Duensing: Did it get listed on the National Register yet or you're still waiting for that?

Mr. Dancil: The National Register, from what -- I was talking to John Schomberg, he's our --

Ms. Duensing: The administrator, yeah.

Mr. Dancil: Administrator and he said we should be.

Ms. Duensing: Yeah, so you're still waiting for word on that.

Mr. Dancil: Yeah.

Ms. Duensing: So it's not official.

Mr. Dancil: Yeah.

Ms. Duensing: Yeah, okay, thank you.

Mr. Dancil: Okay, thank you. Anymore questions? And I just wanted to thank Barbara Long in helping Ann Trieg's dad in setting up with the fliers. Thank you. Mahalo.

Ms. Long: I got sucked into that. Actually, I thank you because that's my birthday and because I'm going to that, I don't have to throw myself a birthday party; you're doing it for me, so I appreciate it.

Mr. Dancil: Aloha. Thank you.

Mr. Kalalau: But she's not going to be 94 though.

Ms. Long: Not this time, but I expect to be someday.

Ms. Sablas: It's an honor to meet someone who was born at Kula Hospital and still working there, so thank you for your good work.

Mr. Dancil: Perry was born up there too.

Mr. Artates: It was Kula Sanatorium then.

Ms. Sablas: My claim to fame, I was born at Lahainaluna High School during blackout days. Thank you. Good luck.

Mr. Dancil: Okay, thank you.

Ms. Duensing: Thank you, Mr. Dancil.

Ms. Sablas: And now, you've been patiently waiting back there, Keoki, your time has come about design guidelines and enforcement in the Lahaina Historic District, something close to my heart.

2. MR. KEOKI FREELAND, LAHAINA RESTORATION FOUNDATION, speaking to the CRC about design guidelines and enforcement in the Lahaina Historic Districts. Public testimony will be accepted.

Mr. Keoki Freeland: Aloha, council members, council chair. I have a booklet that I'd like to pass out to you folks. Okay, what I'm going to talk about today has to do with the Lahaina Historic District, and what I'm going to present has been talked about for a long time. The only thing new is how to finance this project, and even that, I'm suggesting to utilize a financial method that has already been approved by the Maui County Council; however, that system has not been implemented yet. Now we, the Lahaina Restoration Foundation, presented this program to the Mayor over a year ago. He said that he liked

the program. We then presented it to Council Chair Dain Dane and Finance Committee Chairman Riki Hokama and they also said they liked it. They then scheduled me to make a presentation in front of the Committee of the Whole, which is chaired by Councilman Bob Carroll. This was in October of last year. With all the problems the County has been facing, I have not yet been able to get on to the Committee of the Whole's agenda. So then, meanwhile, we're continuing to try and inform as many people as we can. I've already met with Director Mike Foley along with Dawn Duensing on this presentation and, today, I'd like to share this program with the Cultural Resources Commission.

First of all, if you open up your book to Page No. 2, this is the Lahaina Historic District, the area that I'm mainly concerned about, and that's the shaded area. I'm sure you're all very familiar with that, but, primarily, this is what we're talking about. Turning over the page, I guess that's Page 3, I lost the number in my book. Anyway, I have a bunch of sample problems in this booklet. I'd like to just, initially, say that when we, you know, we presented this thing over a year ago, some of the items in this booklet have changed since then, but instead of changing the presentation and going back and starting all over, I've made some corrections in red ink and that's why you'll see that as we go along. I'd also like to suggest that we just briefly go over these sample problems because I'm sure you're quite familiar with them and we don't really need to spend too much time with them.

So, okay, here we go. Page No. 4. Four Winds. That building is now changed to Hula Gold. But if you look at the picture there, that used to be a single store building. They, when I say "they," the people involved with that building, divided the building into two stores. The unpainted structure to the left there is the second store that they installed and as far as -- I found out that they didn't have the proper permits when I questioned it and so the project was stopped for a while and, meanwhile, it has completed but, what I'm trying to show you here is that a big project like this can take place without people coming to get their permits and, sure it slowed down the project, but they never really came in front of the Cultural Resources Commission prior to this project.

Item No. 5, Page 5 rather, Lampert's Ice Cream. The picture on the top is the before and the picture on the bottom is the after, what it looks like today. Basically, the tenant there came in front of the Cultural Resources Commission and asked for permission to redo the front of the store to look like the after; that was denied of that tenant. That tenant then sold out to a new tenant and the new tenant did it; didn't even bother to come to see the Cultural Resources Commission. So there is what has happened as well. Again, people didn't come in for the permits; they just did it. Notice the tables and chairs on the sidewalk. They're utilizing a public sidewalk for their own use.

Moving on to Page 6, the Matsumoto Service Station. If you were to refer to Page 8 in your booklet, just turn over to that, that is a letter from the Planning Commission, not the Planning Commission --

Ms. Duensing: CRC.

Mr. Freeland: CRC whereby the Commission approved this project subject to a whole bunch of conditions, and the conditions continue on Page 9, 10, and finally signed on Page 11. But, in other words, here the tenant came in in front of the Cultural Resources Commission, went through a whole long process, the project was approved under these conditions. Okay, now let's go back to Page 6. Condition No. 18 states that the display of the rental equipment shall be confined to the 8 by 20-foot canopy area and area immediately behind the open canopy. Looking at Photo No. 1, that canopy, as you can see, is the top left portion of it, and as it said the rental equipment is supposed to be under that canopy or behind it. Notice that in that Photo No. 1, vehicle for rent is outside of the canopy and the motorcycle for rent is also outside of the canopy. Let's just move on to -- oh, okay, and Photo No. 2, see how the guys are actually doing business on the sidewalk of Prison Street, completely out of the whole area.

Moving on to Page 7, Condition No. 4, states the brochure racks should be set back a minimum of 12 feet from the sidewalks. Condition No. 2 allows 3 brochure racks, 2 racks to be part of the central counter contained within the 8 by 20 foot canopy, and 1 rack to be where the gas pumps were. Note the brochure racks are outside on the sidewalk by Prison Street. These violations continue till today and this is the kind of problems that I'm pointing out.

Mr. Kapu: Can I make a comment?

Mr. Freeland: Shoot.

Mr. Kapu: On Page No. 6, right above the rental where the mopeds are?

Mr. Freeland: Yeah?

Mr. Kapu: There's that sign up there. Is that the Duke sign?

Mr. Freeland: I think it is.

Ms. Duensing: It's not the one that was approved.

Mr. Kapu: Because -- yeah, I know because I remember this when it went through the review process that that sign was not -- was not to be placed, was not to be put up there.

Mr. Freeland: Yeah, that's another violation.

Ms. Duensing: Yeah.

Mr. Kapu: Okay.

Ms. Duensing: Yeah, they did that.

Mr. Freeland: Okay, Page No. 12, Outrageous Activities, this is at 545 Front Street, between Kamehameha Iki Park and Episcopal Church, the old plantation houses there. I mean this place they're doing commercial businesses in a residential park area and this has been going on for over two years now. As you can see, my note, at that time, was one year. The rental equipment: surfboards, swim fins, etcetera; in the yard facing Front Street. The vehicle with the rental sign painted on it is parked on Front Street side of the house. Now I was told that these people were ordered to position all rental equipment on the ocean side of the house and the vehicle, with the painted sign, was to be parked within the garage until proper permits were obtained. I never saw this ever slow down; it continued. As a matter of fact, few weeks ago, activity has picked up on the building on the Olowalu side and that top picture is the building on the Olowalu side where they have, besides the whole surf arrangement store there, they put up some booths, but Dawn has done some work on that.

Okay, moving on. Page 13, the ABC Stores. Under the sign design guidelines, each store is allowed one 12-foot -- square foot building sign and one 8-foot square hanging sign. As you can see here, the ABC Store has installed 4 building signs and 1 hanging sign, and that's been there for years.

Lahaina Ticket Company, this is a common activity booth menu board, which doesn't meet any of the sign design guidelines. Going on to Page 15, Miki's, 762 Front Street. Buildings are to be painted with earthtone colors; this store above is painted in bright yellow with chartreuse doors. Page 16, this store above is painted with bright purple and chartreuse doors.

Page 17, Why do these problems exist in the historic district? The rules and regulations, some of them are vague and outdated. The administration, through a grant, has hired Winter and Company to update the Architectural Style Handbook, and that's a very good move. However, there's still more work that needs to be done to finalize that, and Dawn is working on that as well. But according to Elizabeth Anderson, she said approximately \$50,000 is needed to complete the updating process of all these rules and regulations. I question the \$50,000, but that's not the point, this money needs to be appropriated to finish updating the rules and regulations.

The process of obtaining proper permits is time consuming and that's fine if it really needs to be. The problem really comes into fact is Item No. 3 is that those that don't bother to go get the permits are just sailing along, whereas the guy that really goes out and tries to abide by the rules and regulations and he has to go through this humongous time

consuming process of getting his permit, gosh, he gets raked over the coals and whatnot, and the other guy that doesn't do it, is going down the road and not abiding any rules, and it's because of insufficient enforcement. Well, you know, I'm not criticizing the people in the Planning Department. They're just vastly overload. They're not sitting on their buns. They're working like crazy. What we need is another body out there specifically for the historic district of Lahaina and you'll see later on how I propose to fund that position.

Now we also need to work on a long-term plan to create more parking in Lahaina, and the payoff of the JDI buy out of the harbor village complex needs to be completed, I mean those guys got their money, they've gone to the bank. But the process of paying that off, the County recouping their money, has not been implemented.

So my suggested solutions on Page 18 is to update the historic district rules and regulations; streamline the building renovation and sign permit process; and create the position of a historic district officer. This person should provide information to the public and it should be stationed in the Lahaina Courthouse, okay, you can add the word "courthouse" over there. This person should be able to issue citations and it should be able to issue permits that meet the regulations to the "T." You know, don't hold the people up. I mean if it's fine and it meets it to the "T," this person should be able to issue the permits. Or if people insist on a variance, this person can inform them what they need to do to get this variance; where to go and all this kind of stuff. But I also am suggesting that this historic district officer should report to the Cultural Resources Commission. It should make a report every month, okay, like I have issued this, this, this warnings; I have issued this, this permits; I've got a real problem here, what do we want to do? Give them another warning? Or fine them with Corporation Counsel advising him, or you folks? You can make that decision, and then he goes from there, he/she, whatever, a body, that's all we need. And, finally, we need to create a long-term plan for additional parking with a shuttle system. Presently, employees occupy a major portion of Front Street parking stalls. A lot of us know how that works, they go out and erase the chalk marks from the policeman that's marking the cars.

Okay, Page 19, Suggested financial solutions. Charge for parking in the County Historic District parking lots. Item No. 2, redo the phantom parking in the County Historic District parking lots only. Now this Item No. 2, it really should be a kind of a separate subject from this. I'm not saying that it has to be part of what I'm proposing right here. For instance, what I'm saying is that we should start charging for parking in the parking lots but the phantom parking, which is a completely different thing, presently, the money only goes to the parking lot people, but I think that phantom money should be going to the County, especially the historic district, which can be utilized for creating more parking areas.

Now all the income from the above parking lots, which I'm saying the County parking lots, should be used for: a) payoff the JDI debt; b) operation and maintenance of the parking

lots; c) update the Lahaina Historic District Guidelines; d) fund the position of the Lahaina historic district officer; e) pay for the Lahaina Historic District improvements, in other words, if we want to put planters, more garbage cans, whatever, we'll have some money that might be able to do that; you can also possibly fund some of the Lahaina Historic District events; and finance a long-term parking plan.

Well, if you'd like to go through this part, which is the detailed portion, Page 20, you'll see printed matters in the next few pages and then red ink, the red ink is the changes. Under the title of County, that was the financial plan that was devised and approved by the Maui County Council. The plan was devised by then Finance Director Wesley Lo, and in this plan, of course, we start off with acquisition budget, what do you need to buy. In this case, the JDI lot is four million dollars. He recommended to purchase the church lot, 297,000; purchase the Richardson lot, 436,000; construction to fix up the church lot and the Richardson lot of 350,000; contingencies 154; total \$5,237,150.00.

We're proposing an alternate plan to that and you can see where the differences are: the JDI lot the same; the church lot the same; but we say stay out of the Richardson lot, don't purchase the Richardson lot. The reason for that is that there's a lot of work that needs to be done. If you try to create the Richardson lot into a parking lot, but there's also a lot of archeological stuff in there, a lot of it is unknown, so we're suggesting to -- don't waste your money. Leave that place idle. If and when Moku`ula really begins to expand, that's where they should take over, over there, so stay out of that place for a parking lot. Now you'll see later on what I'm going to substitute in its place, but our proposal here, in construction is roughly four million six versus the five million two that the County had proposed. Now you'll see what I'm suggesting as an alternate here. In the JDI lots, there were the two Ing houses and the County was proposing to continue to rent those two houses and not have any parking stalls there, that's why you see a zero under the County, but we show a proposal of 67 stalls; remove those houses and put 67 stalls in there. But I have a red line through it with a zero. Barbara and Dawn are very familiar with that. Again, it's the rules and regulations. You're not allowed to provide parking lot off of Front Street; that needs to be corrected. I mean it doesn't make sense. We already got Prison Street right there and the Ing houses is adjacent to it. You'll see the advantage of continuing the parking onto that area but the rules and regulations don't permit it at the present time, but I'm saying that that should be changed and, later on, the 67 stalls can be installed; for the moment, count the red mark of zero. The church lot, 39 stalls, you see the same thing. The Richardson lot, go from 87 stalls to zero, as I said, stay out of there. But we're saying bring in the Luakini lot. The Luakini lot is already in existence; it's a County lot being occupied by everybody for free.

Ms. Long: Keoki, which one is that? The one that's in town?

Mr. Freeland: That's the one behind the old Lahaina Store. Behind Planet Hollywood.

Ms. Long: Oh, yeah. Okay.

Mr. Freeland: On the mauka side. And the Prison Street lot, no change there. If you would look at the red ink, that's the way if we were to go ahead with this process right now, you're looking at 212 stalls. But if you could install the 67 stalls where the Ing houses were, it would be 279 stalls versus 226 stalls that the County was proposing.

Okay, let's look at income on Page 21. At first, let's look at the printed portion, never mind all the red ink. Under the County proposal, first of all, look at the far left upper corner, "PL" that means parking lot at \$3,474 per stall per year income, that's what that means, okay. So, for instance, from the Ing houses rent, they were looking at \$105,924 income from that rent, but from the 226 stalls times 3474 per stall, it came up with \$785,124. Add those two together, you get \$891,000. Right now, those two Ing houses are vacant, homeless and drugies have been occupying the facility, rental income has gone from 105,000 down to zero, and this past week, the County has boarded up the houses to try and get away from the liability of the homeless and drugies in there. So those buildings continue to be there and whether it proposes that, you know, those buildings should be removed and add more parking stall in there. There are people that have asked for those buildings. They're willing to remove them for their own use. But, anyway, move on down, let's look more on numbers. Less the debt service. The debt service on the four million dollars on the JDI lot is \$348,738 a year. Debt service on the church lot, twenty-five thousand eight; Richardson lot, 38,000; construction and contingencies, 45,000; total of \$458,040 less expenses in the -- to operate the parking lot of 135,720; they came up with a net cash flow of \$297,000. See with that kind of figures the Council approved it and this is what was approved.

Our alternate proposal, as you can see on the right there, again you'll see printed matter and red ink, the difference there is the printed matter is if we had 279 stalls, which includes the stalls where the Ing houses are, or 212 stalls, which is if the houses continued to stay there and we can't put the 67 stalls in. But you see the bottom dollar figure on our alternate plan. You're comparing the County's plan of 297,000 versus 468 on the printed side; or on the red ink side, 191,000 versus 235,000. The plan that we're proposing, in other words, makes more money.

Now with that kind of money, you can pay for funding the position of a historic district officer and you'll have leftover money to do other things in the historic district. What I'm saying is that this money is being generated in the historic district but don't let it go anyplace else, let it stay in here and use it over there.

Now if we do nothing today, nothing, and continue to do nothing, look at what the County's burden is. It's the JDI debt service, \$348,000. That's going out of the County pocket every year because we're not charging for parking in the County lots.

Okay, if you go to Page 22, I took a much more conservative approach here. It's exactly the same as Page 21 except the conservative approach is instead of using \$3474 per stall, I'm using \$2500 per stall. Now where did I come up with these kind of numbers? Well, we have a parking lot, so I know what the parking lots make. Our parking lot makes a hell of a lot more money than this stuff, but I figured those lots are way out there on the outskirts and probably what those lots could do would be something in between my figure of 2500 and what the County's accepted figure of 3400; 3400, I think, is going to be on the high side; probably more like 3,000, it would be something like that, so I just ran the numbers out at \$2500 per stall, and that's what I come up with. If you go through this math thing the same way that I read the other page, unless you have any questions, just read the bottom numbers. The printed portion under the County plan was 77,000, but since the Ing houses are not there, you actually would lose money of 28,760. Under our plan, you would make 196,000 with 279 stalls and you'd make only 29,212 and you say, 29,000, you don't have enough money to fund the historic district officer but, again, I point back, if you do nothing, it's costing the County three hundred and what thousand -- 348,000 anyway because they already paid those guys the four million dollars and they went all the way to the bank.

Okay, this program generates its funds from the Lahaina Historic District, as I said earlier, these funds should stay in the historic district and update the historic district rules and regulations as well as properly enforce the rules and regulations fairly. These funds should also be used to fund the suggested financial solutions of Page 19. Questions?

Ms. Long: Yes.

Mr. Freeland: Yes, ma'am?

Ms. Long: Bless you. You've done a wonderful piece of work here and I need to tell the Commission that the figures on the income from parking lots are extremely viable. We did a similar study when we had a Wailuku group with the Wailuku parking lot and, yeah, there's a lot of money in parking and it's just obscene that it's not being used appropriately. Okay, couple questions. The phantom parking. I don't remember. When a restaurant comes in here, they need parking, they say, okay, I have six stalls at the Aloha Parking thing, do they pay that up front or do they pay it on a monthly or an annual basis to the parking lot owner?

Mr. Freeland: Monthly.

Ms. Long: Okay, so that somehow the money that all of those restaurants and businesses are paying for phantom parking, because it truly does not exist, how -- have we got a legal opinion on how we can transfer that?

Mr. Freeland: No. No. And that's why I have it a little bit separate from this whole proposal. I'm just saying that it's out there but eventually should come into this because the parking really should work together in the historic district. But the phantom -- but I don't want to have the phantom parking hold up this process of charging for parking in the County lots and that's why I have it separate. But the phantom parking is a really, son of gun --

Ms. Long: It's a goldmine.

Mr. Freeland: What is it? I mean nobody knows what the figure is. I threw a figure of \$500,000 there but I've been told it's as high as a million, but nobody really knows because nobody's collecting the money. It's all going to the individual parking lots. Now, I also have had some experience with this because we are involved in the phantom parking in our lot is that the agreement with the new restaurant or new store is a five-year agreement. What happens after five years? Right. Exactly. Everybody's like this. Some continue. The others take a walk and nobody knows.

Ms. Long: Nobody tracks it. There's been talk for 20 years of having a Lahaina parking authority which would receive those monies and use them to develop other parking. I'll say no more. Okay, Chapter 19, the reason that we can't demolish those two houses says, "Public parking areas are okay in the historic district provided that none shall abut Front Street." Can we have a few words on how that's interpreted?

Ms. Duensing: I could give you a whole bunch of words. The reason why the houses can't be demolished is because of the environmental law. You cannot -- you cannot demolish a building in a historic district without an EA. So before those houses need to be demolished, and we're working on changes to exemptions in EA's, those have to go through an EA to get demolished.

Mr. Freeland: How about moving them?

Ms. Duensing: Moving them is kind of the same thing. We've been talking about that too. I mean you could sell it, sell the dumb houses and get some income too. But I think the County is the biggest violator of Chapter 19 because the parking lot on Prison Street violates Chapter 19. It abuts it. I don't care if you put a couple trees between the sidewalk and the parking space. What ultimately needs to be done is parking needs to be moved out of the central historic district into another area where people can either walk into the central historic district or take a shuttle, like they do in Charleston and other historic districts elsewhere in the country, St. Augustine, I think is that way. I mean that's the ultimate goal is, not to put more parking in the historic district, to get parking out of the historic district.

Mr. Freeland: That's why I suggested to create more parking elsewhere with a shuttle system to the town.

Ms. Duensing: Yeah, and I, personally, I don't like the idea of the JDI lot going into parking even if it's only on a temporary basis because how long is temporary going to be. You know, it's going to be like the Prison Street lot is it's going to be there forever. I mean, really, if you looked what we want to achieve in the historic district, ultimately, Prison Street area, the JDI lot, that could be the cultural park where you can get all the Banyan Tree enthusiasts out there and put them some place else, away from the tree, to do their, you know, things in a designated cultural park and put the parking into a more appropriate place so it's not in the central historic district, and that's what, you know, well run historic districts do is they don't build parking lots or parking garages or anything else in it. I mean same thing is going on with Wailuku. They want to put a parking garage in the middle of town and, you know, that's just not the way it should be, but Wailuku is not Lahaina, and, you know, the parking needs to get out of the historic district no matter how much the merchants don't want it there. It's ugly. The zoning laws, you know, when you put in new buildings, now you gotta put in parking adjacent to it, like that new one that just went up, what did they call that? The Six Phathoms Building. We did their signs last -- I mean, you know, it's ugly so --

Ms. Long: Inconsistent with history.

Ms. Duensing: And I mean, you know, if you're going to adopt this and use the money to move those parking lots eventually, that would be a nice thing, but how do you assure that that's going to happen and that the temporary 67 stalls at the JDI lot don't turn into a, you know, thing like Kamehameha School is where it never gets moved out of the historic district. And if you look at that block, you've got Moku`ula, you've the JDI lot, then you got Prison Street, the whole thing is a blight on the County Historic District; it's nothing but asphalt. It's ugly. Chainlink fence; asphalt; it's just hideous. Moku`ula puts their parking lot in and they got all these big ugly concrete or steel posts, bright yellow, I mean, you know, it's just -- it's gotta go.

Mr. Foley: Could I add to Dawn's comments? Keoki and I have had this conversation for the last 20 months and I've had it with Theo for years when I worked on Front Street for four years, we used to have lots of long animated conversations on the sidewalks. First of all, I support all of the ideas that are listed as his suggested solutions on Page 18. Getting them accomplished is a little more complicated but at least we are starting out in a -- with agreement. With respect to enforcement, I have talked to the CRC in the past and I had been optimistic that we would have a lot more enforcement by now. But to bring you up to date, we had a new enforcement officer start work yesterday and so we have increased our number of enforcement people. We also have an enforcement officer who started about, I don't know, four to six months ago, and she lives in Lahaina, and so that's the good

news. We have two new people. The bad news is that we lost our most senior enforcement guy temporarily, but for a long period, to a serious motorcycle accident. He's going to be off work for a long time, and so we've gained two, lost one, and so we're only up one. My intention is to ask for another zoning enforcement person specifically for Lahaina and that may or may not be called a historic district officer, but I'm going to ask for an enforcement person in the budget next year whether it comes with this financing package or not and, hopefully, the CRC and Lahaina Restoration Foundation will help lobby the Council for that.

The other thing I wanted to mention with respect to parking, I agree with Dawn that, you know, we have to move the parking away from the historic district, and we have been talking to the owners of the Pioneer Mill about creating a large parking lot on the Pioneer Mill property, mauka of Lahaina -- of Honoapiilani Highway with a shuttle system to provide frequent shuttle service to Front Street, not only for customers, but also for employees because the employees should be parking further away and, at that point, I think we'll be able to, more realistically, address the phantom parking problem once we get parking created outside the Lahaina district and then we can encourage construction of more shop buildings where we currently got parking lots. But we are negotiating with the owners of the Pioneer Mill. We were making lots of progress before we loss Jim Wriston and the negotiations are little more difficult now, but we do, definitely, intend to ask for more money in the budget for enforcement and for parking, and we're looking to use development mitigation money for the parking at the Pioneer Mill. So I just wanted to bring you up to date on those things unless you have any questions.

Ms. Sablas: You know the idea of having Pioneer Mill be a parking would make sense but I think Keoki's suggestion of revenue base that would take away the revenue base too, so if the County were to sell the lots that are presently used for County parking now for free and sell it. It's a one time revenue as oppose to a continuing source of revenue that would fund this really important suggestions that Keoki brings up. So this has been a challenge almost for so long is, you know, all of us who's been around here is we know what needs to be done but there's a lack of funding, and here Keoki comes up and, you know, like it or not, parking is a steady source of income that would support a lot of the things that are wrong with Lahaina now. So I think, philosophically, we need to look, I mean I understand the idea of moving the parking away, but what's, I mean, in full picture, in my mind, I think I'd rather maybe, you know, it's there, sacrifice it a little bit so if I know that it's going to be enforced and we take care a lot of these pilikia that he identified, otherwise we're going to come up with scenarios after scenarios because it involves different land, it's not going to get done, not during my time anyway, not during many lifetimes, and look how long we've been around here talking about this important issue, but I almost kind of feel like, you know, Keoki, thank you for putting all the time and effort in here and, you know, my comment would be if it's possible, JDI, just do it.

Mr. Foley: If I could just clarify, the proposal at the mill is for the County to only buy a portion of the mill property, and County own it, and lease, and have paid parking. I don't think it would be free. It would probably be a better deal than the lot that exist now, but it would still be a revenue generator and it certainly wouldn't be the only land use on the Pioneer Mill property, there's lots of room for other uses as well. But I do want to clarify that it has industrial zoning and it's not the administration's position that there should be commercial development on the Pioneer Mill property. I think it would be a big mistake to extend the commercial district across Honoapiilani Highway onto the mill site, but, as you probably suspect, the property owner thinks it should be commercial and the County staff feels that it should be a combination of parking and residential.

Ms. Duensing: And I even think that, as far as parking on Pioneer Mill goes, I know there's been community groups that would like to adaptively reuse the mill for, you know, a parking structure, and if that can't be done, we could build something, you know, years down the road that would, I don't want to say pay tribute to the mill, but, you know, imitate what was there and be useful but, at the same time, put in the context of the adjacent historic places.

Mr. Kaopuiki: Dawn, what if you fund the position of district officer and see what happens. Somebody going be squawking and you find out who are the guys that squawk. If we're not going to make any moves --

Ms. Duensing: Yeah, I mean it needs to be done. I mean like the Matsumoto Service Station. You know when I first took this job, I went out and took pictures of the place because I sat on the Commission when we permitted all that. It really makes me angry that those guys just laugh and, you know, I was out there taking pictures, he says, "Yeah, go ahead and get the County to enforce it." And, you know, I gave it to somebody and they said, "We don't have time to bother with it." And, you know, I'd like to see the problems corrected too and I think the historic district officer is a really good start because it is going to take somebody that's dedicated, that has, you know, the training and the ability of working in historic districts to get things straightened out. You know, the other solution is update the Lahaina District Rules and Regulations. We've got the guidelines. The guidelines still need some, I see them as minor revisions to make them workable. I disagree with Elizabeth Anderson that we need another \$50,000. I don't know what she's thinking of; where she's coming from on that. But, you know, we've made some significant steps so, hopefully, that can be the first step, get that accomplished; then, you know, if this doesn't fly, I don't know why the Council is dragging its feet and couldn't at least discuss doing parts of it, but, yeah, the historic district officer needs to come sooner or later.

Ms. Sablas: So what does it take to get the County to charge for parking? I guess I should ask --

Mr. Freeland: Excuse me. Say again.

Ms. Sablas: What would it take to get the County to start charging for parking in Lahaina?

Mr. Freeland: They just need to decide to do it.

Ms. Sablas: Is it Council action?

Ms. Long: Is it an ordinance?

Mr. Freeland: Yeah.

Mr. Kalalau: Yeah. Just like ...(inaudible)...

Ms. Sablas: So is that something we can propose? Or is that something we could recommend?

Mr. Foley: You can recommend it to the Council.

Mr. Kalalau: Yeah, we can recommend it.

Mr. Freeland: This, the JDI buy out, the pay off of that was to start charging parking.

Ms. Sablas: I know. That was the whole discussion.

Mr. Freeland: But, like I said, it's never been implemented. So what I'm saying is that they already approved but nobody started to turn on the engine. It's still parked over there.

Ms. Sablas: That was my understanding. The County bought that so that it would offset revenue by parking.

Mr. Kaopuiki: Open that phantom account and see where it goes.

Mr. Freeland: I'd just like to reiterate --

Ms. Long: Stand there and collect money, Keoki.

Mr. Freeland: I want to reiterate one more comment about the historic district officer. I really think this is a very important person, more than the normal type of enforcement officer that we presently have. There's one thing about people coming in and asking for a permit and another guy saying, "No, I'm not going to do this," and, you know, you can react to those kind of people, or another guy is doing something and somebody reports the problem and you can react to that, but we need a person that can take a walk down Front Street every day and see what's going on and he can stop and say, "Hey, what's going on

here? You're not allowed to do this. You gotta do this, this, this." He can inform the person right there before it becomes a real problem, you know. The poor Mr. Suzuki, I mean I sat listening to him, whenever that was, it was just unbelievable. The poor guy got taken down the road and nobody knew what the hell to do with him. But if you had an enforcement officer that was walking along, he could have stopped the project way early and get it all cleaned up, and that's why I said we need a specific person that has to be in the historic district and specifically trained in the rules of the historic district. Now we have office space for the person in the courthouse; that was part of the courthouse lease arrangement that we're suppose to provide a office space for a person like that so, right now, Theo's occupying it, but she's easy to move.

Ms. Long: Oh yeah?

Mr. Foley: Give her ...(inaudible)... she just left ...(inaudible)...

Mr. Freeland: ...(inaudible)... right behind me wanting the same guy.

Ms. Duensing: And I think that the person out there is important because some of the things that you've cited in here, I know they came in for permits, even in addition to the ones that you mentioned, they came in and asked for permits, they were denied, and they did it anyway, like the Four Winds. And then to make matters worse, not only did they do whatever they wanted after their permit was denied, they installed steel doors on the next one too.

Ms. Sablas: Well, that's why I say, we've talked and we've talked and we've talked and we've talked about this issue. When are we going to take action? And even if we take that one, step one, charge for parking and make something happen, you know --

Mr. Freeland: That's right. Then you can move on after that.

Ms. Sablas: Yeah. You know, it's -- I don't know. I'm getting impatient because this is something we all agree about and we spend a lot of time here to make, you know, to keep Lahaina historic but you know what? If we're not going to do what you're suggesting, then our time is just wasting.

Mr. Kalalau: Well --

Ms. Long: Can we send a letter --

Mr. Kalalau: Recommendation. Make our --

Ms. Long: To Corporation Counsel, whatever, cc it to Dain Kane or whoever the chair, send it to the Mayor.

Ms. Sablas: But they all loved it. He already said that.

Ms. Long: And say, okay, and, okay, work with Keoki. You guys said this. It was in your buy out of the four million dollar buy out. What's holding it up? When can it start? Can we please have a report from you? How can we make this happen? Ask them.

Mr. Foley: The bottom line is money. The parking decision is money and the other recommendations here are money, and this is the start of the budget process, next month, so the timing is actually perfect. And the way to probably get the ball rolling would be for the CRC, for Lori to sign a letter to the Council and, you know, make a list, not just start charging for parking, but also hire a historic district officer and charge for parking, and whatever else you want to recommend. But, you know, they don't probably read your minutes so --

Ms. Long: No.

Mr. Foley: They -- you need to send them -- you need to send them a specific -- several recommendations that -- and don't -- you know, and then remind them, and you're going to have budget meetings, and there'll be a hearing in Lahaina, and, you know, you can put pressure on for whatever your priorities are and I would prioritize them.

Ms. Long: Okay.

Mr. Foley: And the parking can be the funding for the historic district officer --

Ms. Long: Sure.

Mr. Foley: And it should actually far exceed that need so you can fund other things.

Ms. Sablas: At least we can get going.

Mr. Foley: So you can make a list and send it to the Council and then just keep pressuring them.

Ms. Sablas: And they usually like a recommendation that comes with a solution.

Mr. Foley: Yeah. Yeah.

Ms. Sablas: With financial especially.

Mr. Foley: Yeah, they don't particularly like requests for money that don't have a recommendation for the source of the funding, so this would be a, you know --

Mr. Freeland: Well, that's the reason why it was -- they liked the program when we presented it.

Mr. Foley: Yeah.

Mr. Freeland: We weren't asking for five cents.

Ms. Sablas: But so why wasn't -- why didn't anybody take action earlier? This has been --

Mr. Freeland: The house isn't burning that's why. Other houses are burning.

Ms. Sablas: So then --

Ms. Duensing: Just to make a comment. This Commission sent one of the Councilmembers a letter about a Hana bridge more than two years ago, and we've sent follow up letters, and we still have not gotten a reply. Just ignore the stuff.

Ms. Long: And you want a raise.

Ms. Duensing: I mean, you know, there again, we didn't offer money on something, but we had a specific proposal, and we wanted to talk to the person about it, and the letter has not been answered after several follow ups.

Ms. Sablas: Well, let's write the letter and if we have to hand -- if I have to hand deliver it and talk to whoever, I will.

Ms. Long: Can we specifically say that this item will be on our agenda on such and such date, we'll let the *Maui News* know, and you -- we will expect someone from your office to report at that meeting? Can we really be specific and pin it down?

Ms. Duensing: You can do whatever you want.

Ms. Long: We can try. Let's try.

Mr. Foley: The actual, with respect to the budget, the person to deal with, at least at this time, is Councilmember Hokama, he's chairman of the budget committee. However, he may not be chairman of the budget committee in a couple of months. After the election, they're probably going to reorganize. Although I would guess he would continue to be chairman. But he would be the person, probably, to direct your letter to and maybe that'll --

that would be the best way to start would be the Commission to direct a letter with recommendations directly to the budget chair.

Ms. Long: Could we send a delegation to Councilman Hokama?

Mr. Foley: Sure. Yeah. And you can also appear at any one of the 10 or 15 budget hearings, you know, or several of them. They're in different districts.

Ms. Long: Yeah.

Mr. Foley: You know, you can appear at the one in Kula, and Lori can appear at the one in Lahaina, and Keoki can be at the one in Lahaina.

Mr. Freeland: I can be in Kula.

Mr. Foley: Pardon?

Mr. Freeland: I can be in Kula.

Mr. Foley: Yeah, I mean I -- the departments are represented at all of them so --

Ms. Long: I'd be happy to go see Riki. Would you or anybody else?

Ms. Sablas: Okay. Okay. I'd like to hand-carry the letter to him just to let him know the importance of this item that we've been, you know, talking about and the urgency so that --

Mr. Foley: Yeah. Well, the timing is perfect.

Ms. Sablas: So that, you know, sometime if you just give a letter, they read, they put it aside. But if we're there, in their face, if they have a question, we can respond to it and we can say, "Okay, what's your next step? What are you going to do?" You know, so we can have more accountability on actions. So that's what I'd like to propose that we --

Ms. Long: Be happy to go. Anybody else?

Ms. Sablas: That I hand-carry and have an appointment with the budget chair. Anybody else want to come, you're welcome. All of you -- why? The more the merrier.

Mr. Kapu: I get one kind of interesting comment based on this. While we're waiting on all these things to happen, what's going to happen about this right now? Because, you know, going to the budget and finance committee and trying to, you know, find some kind of clarity

but then the laws are being, basically, violated right now so we're talking about something way down the road, but we need to really talk about doing something right now.

Ms. Sablas: Well, our director said he did hire, yeah.

Mr. Foley: Yeah, we do have a new person who started yesterday, and I haven't even met him yet, but, you know, we do have a little bit more enforcement then we had a year ago and so we'll try to address some of the violations in Lahaina, but, you know, you have to keep in mind that now we have three enforcement people for three islands and we have a tremendous amount of activity so it -- the squeaky wheel gets the response.

Ms. Duensing: Mike, would it be okay if, like what I did with the JDI thing, if I would pick some of the more flagrant violations and do the research, take the pictures, and ask for enforcement?

Mr. Foley: Yeah, that definitely helps. The other thing we can do is Dawn and I can come up with some concerted effort to train all of our enforcement people more, not only the new, the two new ones, but the other two as well, on the historic district regulations and make them more familiar with the seriousness of the violations and the fact that the enforcement responsibility in Lahaina is really different then it is everywhere else.

Mr. Kapu: Okay, I need to draw one concern based on the Prison Street property, that's where, I guess it's right here on this Page 6, Duke's Surf Shop.

Mr. Foley: Yeah.

Mr. Kapu: There's an adjoining building and it used to be old Sushiya building, that also turned into Lahaina Surf Academy, and the great concern in that area is you got pedestrians standing in the middle of the road now waiting for their surfboards and, from Duke's, you get them washing off their boards and washing themselves where it's creating puddles on the side of the road and it's happening right now. Yeah, so that's one of the -- that's kind of a great concern for us because we're always driving in that area and we're always getting impacted by pedestrians standing on the side of the road or standing on the road.

Ms. Long: Well just hit them a couple times. They won't do it again.

Mr. Kapu: So --

Ms. Duensing: They just get worse and worse.

Mr. Kapu: Oh yeah, getting worse.

Ms. Duensing: There's vinyl banners out there now. It's terrible. I have all the pictures.

Mr. Kapu: I think something needs to be done about this right away.

Ms. Long: Well, prioritize the things. Could we do something too, and I really love the idea of the letter, can we do something about the phantom parking? Is it possible for Planning Department to give us an analysis? Supposedly, we have a drawer full of lease arrangements from businesses mitigating their parking requirements through - is it possible that we could have a list of what businesses have those arrangements, on what lots, and how many stalls? Just so that -- and maybe Corp. Counsel or somebody could advise us on how we can go to them and say, "Okay, instead of paying these lots, you're paying the County." How do we set that up?

Mr. Foley: I'd love to say, "yes," but I'd have to say, "no." We have probably 15 or 20 projects like this. You know, we were supposed to revise the parking regulations for all land uses and we haven't done parking study. We were asked to do that by the Planning Commission a year ago. There are a lot of things like this that we just can't possibly do. I don't have any idea where that research would even start but, you know, we put it on our list of things to do but, to be honest with you, it's not going to happen in the near future. It needs to have a dedicated, you know, a person dedicated to addressing that problem and it could be somebody in Planning or somebody in Public Works but, right now, that person doesn't exist.

Ms. Long: Do we even need to do it? I'm just wondering why can't we go to -- I don't know. Let me think about this one ...(inaudible)...

Mr. Foley: I mean I've talked to Keoki and the Mayor and lots of other people about the phantom parking thing and it's a quagmire of -- it's a very complicated problem to solve that's been created over a very long period of time. We do need to address it, and I don't mean to belittle the issue.

Ms. Long: No, I know.

Mr. Foley: I was involved in it myself for four years when I worked on Front Street so I know it pretty well, but we really don't have anybody right now to address something like that.

Ms. Duensing: And isn't the better solution in the long term, for all of our small towns, not just the historic districts, is to assess parking impact fees so that you can start looking to correct these ...(inaudible)...

Ms. Long: Yeah, that's where I'm going.

Mr. Foley: Yeah, that's one alternative. You'd have a huge objection from the merchants and for new development saying their having to pay and the old ones aren't and --

Ms. Long: No, you have to be ...(inaudible)...

Mr. Foley: But it's pretty complicated because there's a lot of merchants on Front Street that were never required to provide any parking and they include some very well-known large restaurants that don't have any parking, weren't required to pay, and they're grandfathered, and we can't go back and require them to have parking now. So it's a pretty complicated issue. But one way we can address it is to provide more parking that is in more remote areas; that'll have an impact on these lots that are charging a tremendous amount and it'll have an impact on, you know, if the merchants would have their employees park in those less convenient locations. One of the problems we've always had is that a lot of employees park in the best parking spaces for the shoppers and we need to move the employees further away from the shops. So it takes a concerted effort and part of it is to, you know, come up with some more -- more parking and we do need to get some more data but, you know, I think that's going to be more difficult, actually, then providing some new parking.

Ms. Sablas: And a caution, a word of caution on off-site parking because, you know, I personally had a -- we had to off-site park and employees usually -- you have to spend at least another 10 to 20 minutes extra if you're going to be shuttled, and another consideration is the shuttle expense can be tremendous to -- from an off-site parking to take people from Point A to Point B, or whatever, because it's been our experience that it cost a heck of a lot of money, so when we built parking on property, that was all eliminated, not to mention happier employees because, you know again, with time, you have to, with traffic, it's already stressful to drive from wherever you're coming to work, then you have to add another 20 minutes and park and wait for the shuttle, and if you just missed the shuttle, then there goes another 15 minutes and you're late for work, and that's another stress, so just some practical thoughts on off-site parking. And, also, I was reminded by Counsel that we cannot send all nine of us to the budget, we only can send three.

Ms. Cindy Young: Let me clarify that. What I was referring to is if you wanted to meet with Councilmember Hokama, if there's more than two of you, then there's Sunshine Law issues and then there would have to be a agenda; that's the thing. So if you wanna keep it informal and not have an agenda, then there can be no more than two of you that's going to meet with Councilmember Hokama at a time.

Ms. Sablas: Thank you for the clarification. So, Barb, you and I.

Ms. Duensing: And, you know, I want -- I'd like to add one other thing too because past experience from being on the Commission is the commissioners, for instance, when they

designated me to handle the Hana Highway and bridge issues, the commissioners put it to a vote and made a formal motion, and I might recommend that you do that so that all commissioners can state whether they are in support of this or not.

Ms. Sablas: Okay, good point.

Mr. Kapu: What about regular budget and finance meetings?

Ms. Young: I guess that would depend on if somebody is appearing on behalf of the Commission in which that should be voted upon or, you know, any member of the Commission can appear at a budget hearing on their own, you know, as an individual and not as a -- not, per se, as a member of the Commission and that would not require a vote of the board.

Ms. Long: Shall I move to do that?

Ms. Sablas: Okay, make a motion.

Mr. Kalalau: I think -- who the two decided that was going? Okay, I think we should -- I make the motion. I make the motion that Barbara and the Chair represent this Commission at the meeting with the budget -- I mean the chair of budget.

Mr. Kapu: Second.

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

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

VOTED: that Chair Sablas and Barbara Long represent the Commission at a meeting with the Chair of the Council Budget and Finance Committee.

Ms. Sablas: Motion carried. So thank you. We just need to have the letter. I'll work with Dawn on that and then we'll let you know as far as the time. We need to check with budget chair when would be a time convenient for him for us to meet, but I would like to meet as soon as possible. Is that okay? Thank you. Thank you very much, Keoki, and you're still on the agenda, huh? Are we okay with this item? Can we move on to the next Item No. 3.

Ms. Long: Oh, wait, there's more.

3. MR. KEOKI FREELAND, LAHAINA RESTORATION FOUNDATION speaking to the CRC about his proposal to Pioneer Mill Company for a building to be used as a museum at the Pioneer Mill site. Public testimony will be accepted.

Ms. Sablas: Do we have any public testimony on this particular agenda item at this time? Yes, sir?

Mr. Kahan: My name is Stuart Kahan. We have a plan to reconstruct that mill building, the first factory mill building, which is really close to Lahainaluna Road, and do something similar to the Cannery Mall, which has been suggested here. Also, I just want to make mention that we too are negotiating for that property with the mill owners and we plan to put in 600 parking stalls.

Ms. Sablas: But when you say "we," who do you mean we?

Mr. Kahan: Lahaina Historic Center. And, like I said, we are currently in negotiation. I would think that if we, as private individuals, could come up with the money, then perhaps the County wouldn't have to come up with the money for the parking. We plan to use it only for parking. We're looking at a substance called grass pave two so that the parking would not be asphalt, it would be grass. If you've not seen that, there's a website called Invisible Structures that describes that kind of stuff. But the basic thing is that that property, being outside the historic district, lends itself to a meeting place for County CRC, County Council. It needs to be in the west side, so, again, I support whatever you guys come to conclude that such space be available; that we've included it -- that in our plan.

Ms. Sablas: Thank you. Okay, no others to public -- so, Keoki, would you like to do your presentation?

Mr. Freeland: The purpose of me being here today was, at your last meeting with Kaanapali Development's proposal of virtually tearing everything down except the smokestack, it was kind of uncomfortable to sit in the room with what they were proposing, so, you know, I talked to Dawn a little bit afterwards and whatnot and that's the reason why I'm here. But when Jim Wriston was alive, we had approached him, and this is the part I want to share with you folks, it's just like what Mike was saying earlier, that we've been talking with Jim Wriston about the mill yard area and whatnot, and now things have gone kinda quiet, and that's what we're experience as well. But we had approached Jim Wriston, initially, when I say "we," this is Lahaina Restoration Foundation, of the possibility of the foundation taking over the smoke stack and what is termed the mill office, that's the green building on the makai side of the mill on Lahainaluna Road, the one with the big gear in front of it, and the intention there was to possibly make that little green building a small museum of the plantation where a lot of the old items that were talked about in your last

meeting, which all they were going to do is take pictures and, as Barbara said, it's going to end up in a book in a drawer somewhere, could instead be put into a little display, and we were moving along quite well, but we don't have any agreement or anything, we were just beginning to move. Prior to Jim Wriston, there was no movement with anybody. You couldn't talk to anybody. But when Jim was given some authority, we began to see some movement and we got a potential agreement. He had to go and check it out with the people in Chicago and whatnot. Unfortunately, he passed away. We've been trying to get back to talk to whoever and my latest understanding is I can't talk to anybody until after September 15 and check with them at that time.

But what I'm just trying to share with you is that there are other ideas, like Stuart just mentioned, other people are interested in saving some of the facilities there. It's not that your only choice is to tear everything down because it's all going to hell. There are other organizations interested in possibly doing some stuff and that's what I just wanted to share with you folks. We were moving along on the smoke stack and what we call the mill office building, but it's come to a roaring halt at the present time. Hopefully, it'll light up again.

Ms. Duensing: One thing I'd like to add for Keoki's information and everybody else who's probably interested in the mill is I did contact the Western Regional Office of the National Trust for Historic Preservation and forwarded them the article that was on Pioneer Mill and told them about our meeting, and they have funding available for feasibility studies as to some of the things that might be able to happen on that too but we would need a community or a non-profit or a government agency to, you know, work together to come up with how we're going to do this and who we're going to hire to do such a feasible study -- feasibility study, so that might be something that the Lahaina Restoration Foundation or Lahaina Historic Center are interested in as well.

Ms. Sablas: Comments? Thank you and just keep us abreast of what's happening in that area. Thank you very, very much for your patience today, Keoki. God bless you for your efforts. Okay, moving along. Next Item No. 4. Okay, can we take a quick five minute break. I really would like to move on the meeting so a quick five minute.

(A recess was called at 12:35 p.m., and reconvened at 12:40 p.m. Mr. Foley left the meeting.)

- 4. COMMISSIONER KAPU REQUESTING CRC CONSIDERATION OF SHPD LETTER DATED JUNE 10, 2004. This item was deferred from August 5, 2004 meeting; the SHPD letter was included with your August agenda. The Commission may provide advisory review on this matter. Public testimony will be accepted.**

Ms. Sablas: Do we have anyone here who would like to testify on this item? Okay, hearing none, then we'll go on. And then for those of you who did not bring the letter maybe, Keeaumoku, would you mind or, Dawn, you have it handy?

Ms. Duensing: I've got it.

Ms. Sablas: Just read it so we can just -- I had it.

Ms. Duensing: The gist of this letter is regarding the Mahanalua Nui Subdivision and PHRI conducted an archeological inventory survey, which included the subject property which is in Launiupoko Ahupua`a in the Lahaina District. They identified 47 historic sites. The report documenting the findings of this survey have been reviewed and accepted by this office. Sixteen of the historic sites identified during the inventory survey have been slated for preservation. A preservation plan was reviewed and accepted by the SHPD, and I gave you a portion of that document. I gave the entire document to Keeaumoku and also Lisa has it. The preservation plan is currently in place. Several of the preserved sites are located within or immediately adjacent to the proposed project area. We believe that any affect that the proposed undertaking may have on the known historic sites will be mitigated through adherence to the approved preservation plan.

Mr. Kapu: Okay. Well, the reason why I requested this issue to be in front of the Cultural Resources Commission is because when the archeological inventory survey that was basically done comprised in 1991 by PHRI, what was involved? And this one was done in 1991 and it was revised in 1997 consisting of those 46, 47 sites was in here. So what I've given everybody was -- everybody was a map, yeah, of all the sites and the site numbers. Now, mahalo for Dawn Duensing for also giving the commissioners a map from the project area, Mahanalua Nui project area. If everyone was to look at that map that was given and the map that was comprised in 1997, you'll see large clusters of archeological sites, yeah, sites that had different determinations on them. But there's a lot of sites in the area, by doing some research within the book that was provided by PHRI in 1997 on the revisions, that there is a lot of sites that were in here that were prehistoric but no longer exist in the archeological preservation plan that was done by Launiupoko. So this -- this is supposed to be so-called revised plan now in comparison of looking at the 1997 site plan. If you notice, there's a lot of numbers that are basically missing here, yeah.

Now what I wanted was some kind of clarity basically, you know, maybe we can sort of request for State Historic Preservation's Melissa Kirkendall to come and fill us in as pertaining to a lot of sites because I came across some sites, and it was prehistoric, and it was listed as prehistoric sites 2644 in this document but this, in here, it doesn't exist anymore. Not only prehistoric sites, pre-contact sites, but also possible petroglyphs. Now the area where the development is, if you look at your map that you have, it's been subdivided. If you ever have an opportunity to go to Launiupoko, you'll see all those --

there's a lot of houses that are built within the area, a lot of houses. My concern is based upon what happened to all those sites. I mean if it was just a recommendation from State Historic Preservation that the site didn't need to be monitored or, you know, because once the private -- these lands are subdivided and sold to private landowners, it's to their discretion, yeah, based upon what needs to be done in the mitigation pertaining to the site. There's a lot of sites here that need to be answered for and they no longer exist on the final approval archeological plan that they have, their final plan, final preservation plan, Launiupoko Associates.

So I need maybe some kokua from the commissioners, some help from the commissioners, and some kind of advisory as pertaining to what needs to be done in this matter requesting, like I said again, for State Historic Preservation to possibly come to one of our meetings and explain to me, basically, I have -- I only listed, for the short time I had this plan from Saturday, I only listed a total of six, maybe seven on here. But now if they're saying they only was going protect 16 sites out of 46 sites, that's a lot of sites from the original plan, so I wanna know what's going on.

Ms. Duensing: Can I respond?

Mr. Kapu: Yeah.

Ms. Duensing: I had asked Lisa to review this and, unfortunately, she not here today cause she's much better versed in archeological matters than I am and, you know, I think that it probably is a good idea to ask Melissa if she could come, we can put this on a future agenda, so that she could address Keeaumoku's concerns and I'd be happy to speak to her about whether she could make it to next month's meeting.

I did review the archeological site plan as I best I can with my limited experience in archeology and it appears to me, and I'm not sure if this is the answer, but a lot of the site numbers have multiple features and it's hard to tell with your map here, this extra copy, as to whether these are individual sites, individual features, it's not clear, and I think Melissa could better address that along with Lisa cause I know she's familiar with this report.

As far as your points about the private residences, I thought that was kind of odd when I went through this because on Page 13, and I only gave the commissioners the bulk of the preservation plan, not, you know, the whole thing, tried to save a couple trees I guess as well as clerical time, but on the recommendation for homeowners, it does say preservation of these sites through the homeowners association will be undertaken. These sites will be surveyed and marked. Homeowners will not be able to alter or destroy these sites. They go into the buffer zone. Homeowners can plant, landscape within the buffer zone. And then in the next paragraph, this seems to be a contradiction to me, homeowners will be allowed to remove these sites from preservation by review of the homeowners association.

So, yeah, it's a direct contradiction so, you know, it'd be a good idea to have Melissa here because, as Keeaumoku said, as we read the letter, you know, this is an accepted plan by SHPD and since they did the accepting, they're the accepting authority, they're probably the only ones that can answer this. But monitoring of the sites will be the responsibility of the individual homeowner so, you know, that really does not make any sense to me. If I was reviewing that, I would have some questions about that but, again, I'm not an archeologist. So those are a couple of the things that I noted and, you know, the differences between these maps may be because of sites and/or specific features because of archeologists, how they, I don't know if lumping together is the right term, but they lump them together and then I can see if we can get Melissa to the next meeting.

Mr. Kapu: Let me draw your attention to where all the cluster of sites are within this one bulk area, this area right here, that's a riverbed yeah, so what they found was multiple terraces. There was one site they found ten terraces. The site no longer exist. It's gone. Okay.

Ms. Sablas: And when you say it's gone because of homeowners or because of development?

Mr. Kapu: Well because there's a house standing there now.

Ms. Duensing: Well they didn't schedule all of those terraces for preservation, if you read the plan, that's really obvious.

Mr. Kapu: But it sort of struck me, you know, kinda odd to that point when they said that the site was possibly pre-contact in 1510 to like 1800's, so now if they put the site down based upon the type of site and how old it was, then why wasn't it set for preservation? Or why didn't State Historic Preservation also, you know, give high recommendations based upon that? And the map that you have, there's two brown sites, Sites 2653 and 2656, those two sites went through the archeological site of interest homeowners association review. Now if you look at the site, what did they actually preserve? One was an old road. It was only a remnant of a road, yeah. So if it's just a remnant of an old road, then doesn't the terraces also follow the same criteria?

Ms. Long: So we wouldn't know their criteria?

Mr. Kapu: And they, a lot of the sites that they did destroy, said that it fell under Criteria D so --

Ms. Duensing: And, again, you know, the criteria is subject to individual interpretation, I'm sure you all know that, and, basically, what commissioner -- and I mean, you know, the other thing is is Criteria D is the potential to yield and, in that case, what they might have

done is they might have undertaken data recovery and then gotten rid of the site. And if you read through Rosendahl's report, there were a lot of things that he would recommend preservation of portions of the site, data recovery, or preservation period. And, in some cases, he recommended preservation or data recovery and they said they were going to preserve, you know. Did they change their mind? We don't know but I'll ask Melissa to be at your next meeting so that she can address your questions.

Mr. Kapu: Okay. Mahalo.

Ms. Duensing: Okay?

Ms. Sablas: And, hopefully, Lisa will be there also, so thank you for bringing this our attention.

(Due to mechanical difficulty, a portion of the following was not recorded; therefore, is being summarized.)

F. UNFINISHED BUSINESS - None

G. NEW BUSINESS - None

H. SIGN ENFORCEMENT PROGRAM IN THE LAHAINA HISTORIC DISTRICTS

Ms. Sablas noted that the sign enforcement program in the Lahaina Historic Districts was already covered by Mr. Foley previously during the discussion of Item E.2.

I. DIRECTOR'S REPORT

- 1. National Preservation Conference, September 28 - October 2, 2004**
- 2. October 7, 2004 meeting agenda.**
- 3. Administrative Permit Reports**
 - a. Demolition Permits**
 - b. Historic District Approvals Report**

Ms. Duensing noted that she and Chair Sablas will be attending the conference in Louisville, Kentucky.

Ms. Duensing: ...(inaudible)... it's not a second-hand group that thinks they know a lot about it so, hopefully, I'll learn a lot about that and that will be of use. The other thing is for the October 7, 2004 meeting agenda, and also in regards to today's agenda, the things that you should receive, I thought you had the letter to the DLNR. I did get that on our first recess for you. There's the Banyan Tree Policy Letter. I will be revising this to include

what you took action on today with the food, and Corporation Counsel has advised me on how to make this a better legal document, so, hopefully, you'll be getting that in the next couple weeks with the entire policy stated. So all the letters were taken care of for the last meeting. And for the next meeting, we will have -- we'll invite Melissa Kirkendall for this agenda item we just finished. There's a new half marathon planned. I expected them to be at this meeting, which I told you last month and they won't be ready, so I deferred that item and they should come in for permits probably next month; hopefully, they'll have everything they need together. And I can't really think of any other pressing items for the October meeting so --

Ms. Long: May I? Okay, in reading the minutes, it reminds me of things that we talked about and wanted to talk about in the future. One of those things was the suggestion to the Parks Department, it came from me, about an information card on the Banyan Tree. When I spoke to Sue Kiang about that, and asked her to pursue that -- Perry, this was a card that the Parks Department would prepare that had a picture of the Banyan Tree one side, and on the other side, something that visitors and residents would learn about the tree, where it came from, blah, blah. Listening to the testimony this morning, is it -- was it Uncle Bill, William, whatever, yeah, if it turns out that, yes, truly this was the Hawaiian gathering place that had that specific name, then that would be wonderful to include that in the information, and I know that Sue was going to pursue it, but it would be really nice if we could remind Parks that, yeah, let's do this. I think it's a really good educational tool. That's not necessarily for our agenda.

Ms. Duensing: I can follow up with her on that. She's been keeping me informed of the Arborist Committee. They'll be doing a site visit to the Banyan Tree next Wednesday for their regular meeting, just for your information, so I'm keeping in touch with her. She's keeping me informed.

Ms. Long: Yeah. Okay, where was I.

Ms. Duensing: Oh, and then there might be one building design review. I just remembered I got that earlier this week, and I haven't had a chance to look at it because I was getting ready for today, and that might be on the next agenda as well.

Ms. Long: I don't wanna open a whole other can of worms but on Monday, August 23, in the *Maui News*, there was a photograph taken under the Banyan Tree of the Lahaina Arts Society Arts Fair showing a very nice young lady hanging her original crocheted tops for sale in the art fair. Now we've talked a lot to Na Kupuna about criteria. We have not talked to the Arts Society. There's also this fellow, you guys may know him, Master Carver Kulolo Tongea Tailoa of Island Wood Carving, doing some things that, to me, would be appropriate in the Na Kupuna festival, but he's showing them at the art fair.

I also faxed over to Theo yesterday a list that I got up at Bailey House, I looked up a book called *Arts and Crafts of Hawaii*, Bishop Museum Press, and sent to Theo a list of traditional Hawaiian crafts mentioned in that book, I just took it from the table of contents, and my whole thing is, you know, they can be modern interpretations of ancient crafts, they can be whatever, but they need to reflect the creativity, pride, accomplishment, and culture of our host culture and enhance the historic importance of the Banyan Tree and the Lahaina Historic District. Setting high standards would ultimately benefit all who participate and would allow all to better understand and share in Hawaiian values and the aloha spirit. And I just wanna give you these for filing or whatever.

But it's my recollection that we did request some criteria from LahainaTown Action Committee and we talked about their admission form and that there was no place to sign it and say that this person would comply with the rules. I don't want to micro-manage this thing. All I want is for -- if we're going to let commercial stuff happen in the historic district, in the Banyan Tree Park, my feeling is it should be the best stuff that we can possibly get and the only way to do that is to talk about it, and establish criteria, and work with LahainaTown Action Committee and the Arts Society. So however you want to handle that, but I think we should go for the best we possibly can.

Ms. Duensing: Yeah, and that has been brought to my attention by several other individuals as well as that we did discuss He U'i and talked about their criteria and approved their amended permit last month, or whatever you want to call it, and Lahaina Arts Society hasn't been here for a long time. So I'd like to pick a time when we can best do that. They're up to their ears in problems right now. I'm up to my ears in emails, phone calls, letters, threatened appeals, and everything else from them, so I'm not really, really sure when I want to take this on, and I'm hoping that we can find another planner who might want to take it on. But, yeah, in mentioning Lahaina Arts Society and this in mind with future agendas is that they have asked about doing an appeal or contested case hearing on the decision. You got on your pile of stuff today my letter back to them and that was in response to them writing and complaining about our recommendations to Council. I informed them that your decision last month were not advisory, it was not recommendations, it was policy. It was done with the authority of Chapter 19. I cited everything, gave them their options as to whether they want to do an appeal. Their third option would be to come back and, you know, ask the Commission for reconsideration, which is what they did in 1999; it didn't work then, and, you know, usually when they ask for reconsideration it's because some new information has come to light and I think, you know, I personally feel like we've been over the ringer for hours on that already. So I'm not really sure how that's going to proceed but, in light of the appeal, you're right, they also should have their criteria be examined and everything. I think it's just a matter of finding the appropriate time to deal with this cause, right now, as your staff person, I've got a lot on my plate as well.

One of the things I'd like to get on the agenda sooner rather than later is getting these Lahaina Design Guidelines and getting the appropriate corrections for that because probably all of you don't know, we did that last year, it was done under great duress with time limits and constraints, financial constraints, and I, personally, feel that there's a lot of things in there that shouldn't be in there. For instance, and it's mostly manini things, but it's things like using the picture of a building to show that something is architecturally appropriate and the building is full of all kinds of illegal signs. You know, what kind of -- if we're going to do that, we should at least put in the caption "The building is great, but the signs are terrible." You know, we need to qualify that anyway rather than giving the idea that they go, gee, look he's got two signs on his awning so I think I better paint mine up too if he can do it, right? So there's some things that need to be addressed and this is one of the things that I need to find enough time so I can get copies made for you guys. We can get this on the agenda, I hope, in the next several months, probably not October, but maybe if I can find enough time for the November agenda, we can aim for that and get moving with that because we really need to get that done. We need to get the historic district, you know, that's going to probably be ordinance change, go through Council. It's going to be a big project and we need to get started on that too. So I'm a little bit hesitant to take on the Lahaina Arts Society for more than the appeal they might want.

Ms. Long: Well, you tell them that if they come back and appeal, I've also got a couple other more stringent suggestions for them.

Ms. Duensing: Okay. Point well taken.

Ms. Long: They're going to have to meet up with me.

Mr. Kahan: A point of information.

Ms. Sablas: On what topic?

Mr. Kahan: I just received notice from the Department of Health that the Pioneer Mill base yard is no longer contaminated with hazardous materials and requires no more digging up stuff. They've given it a clean bill of health so that that should not be an issue regarding whatever happens at the mill.

Ms. Sablas: Thank you very much and thank you for your dedication for being here from the beginning to end as a citizen. We appreciate that. Thank you for coming. No other -- Commissioner's Announcement.

Ms. Duensing: Oh, in Administrative Permit Reports, I do have one correction to make on that on the demolition reports that you got, it listed the Wailuku Church of God had been -- had received administrative approval for the destruction of two buildings, and there was a

letter sent out to them but they did not receive approval and, as it turns out, the two structures, it's the not the church itself, but it's the building behind the church as well as a lanai, and from my site visit, I couldn't quite tell what that meant and, hopefully, right now they're looking at just destroying the lanai and they're reconsidering whether the old house can be renovated, so that may have a positive outcome and I just wanted to bring that to your attention cause they're not tearing the down the church, right.

Ms. Long: Not that it's a beautiful church.

Ms. Duensing: No, but it is a nice little vernacular piece of architecture.

Ms. Long: It's cute.

J. COMMISSIONER'S ANNOUNCEMENTS

K. NEXT MEETING DATE: October 7, 2004

Ms. Sablas: Okay, our next meeting is October 7, 2004, so do I have a motion to adjourn?

Mr. Whelchel: So moved.

Mr. Kapu: Second.

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

VOTED: to adjourn the meeting.

L. ADJOURNMENT

There being no further business brought before the Commission, the meeting was adjourned at 1:05 p.m.

Respectfully submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards and Commissions I

RECORD OF ATTENDANCE

Present

Lori Sablas, Chair
Keeaumoku Kapu, Vice-Chair
Lon Whelchel
Barbara Long
Perry Artates
Samuel Kalalau, III
Solomon Kaopuiki

Excused

Lisa Rotunno-Hazuka
Camellia Hamakua-Napoleon

Others

Mike Foley, Planning Director
Dawn Duensing, Planning Staff
Cindy Young, Deputy Corporation Counsel
James Giroux, Deputy Corporation Counsel